



# Camden Council

## Business Paper

**Ordinary Council Meeting**  
**8 December 2015**

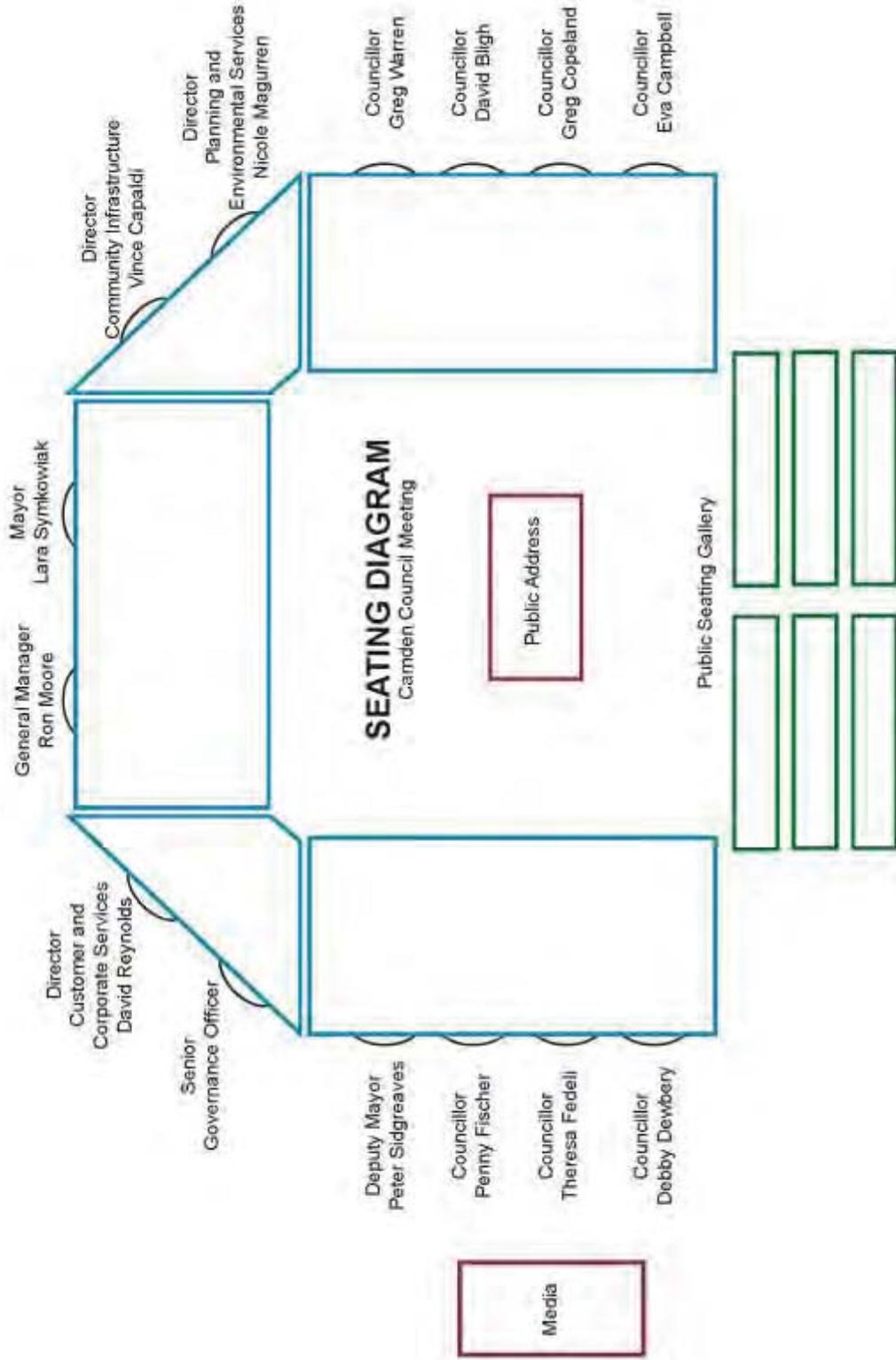
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**Camden Civic Centre**  
**Oxley Street**  
**Camden**



## 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**

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### 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

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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)*

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## **ORDINARY COUNCIL**

**SUBJECT:      ACKNOWLEDGEMENT OF COUNTRY**

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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.

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## **ORDINARY COUNCIL**

**SUBJECT: RECORDING OF COUNCIL MEETINGS**

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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.

No other recording by a video camera, or any other electronic device capable of recording speech, is permitted without the prior approval of the Council. The Council has not authorised any other recording of this meeting. A person may, as provided by section 10(2)(a) or (b) of the Local Government Act be expelled from a meeting of a Council for using or having used a recorder in contravention of this clause.

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## ORDINARY COUNCIL

**SUBJECT: APOLOGIES**

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

**RECOMMENDED**

**That leave of absence be granted.**

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## ORDINARY COUNCIL

**SUBJECT:       DECLARATION OF INTEREST**

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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.**

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## ORDINARY COUNCIL

**SUBJECT: PUBLIC ADDRESSES**

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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 via telephone to Council's Governance Team 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. The commencement and conclusion of time shall be advised by the Mayor/Chairperson.

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.**

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## ORDINARY COUNCIL

**SUBJECT: CONFIRMATION OF MINUTES**

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Confirm and adopt Minutes of the Ordinary Council Meeting held 24 November 2015 and the Local Traffic Committee Minutes held 20 October 2015.

**RECOMMENDED**

**That the Minutes of the Ordinary Council Meeting held 24 November 2015 and the Local Traffic Committee Minutes held 20 October 2015, copies of which have been circulated, be confirmed and adopted.**



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## **ORDINARY COUNCIL**

**SUBJECT:      MAYORAL MINUTE**

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Consideration of Mayoral Minute (if any).



ORD01

## ORDINARY COUNCIL

ORD01

**SUBJECT: ADDENDUM REPORT, NEW CARPARK FOR EXISTING WEDDINGS, FUNCTIONS, AMENITIES BUILDING AND MARQUEE - 332 CAWDOR ROAD CAWDOR**

**FROM:** Director Planning & Environmental Services

**TRIM #:** 15/333997

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**APPLICATION NO:** DA/2015/419  
**PROPOSAL:** New carpark for existing weddings, functions, amenities building and marquee  
**PROPERTY ADDRESS:** 332 Cawdor Road, Cawdor  
**PROPERTY DESCRIPTION:** LOT: 100 DP: 814326  
**ZONING:** RU1 – Primary Production  
**OWNER:** Chandou Road Developments  
**APPLICANT:** Reg Hawkins

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA/419/2015) for a new carpark to service the existing Burnham Grove Function Centre at 332 Cawdor Road, Cawdor.

This application was originally reported to Council on 24 November 2015. At this meeting, Council resolved to defer the matter to enable the submission writer an opportunity to review the amended plans and documents provided by the applicant in response to their submissions, and for Council to liaise with the submitter regarding the nature of their concerns. **A copy of the original report is provided as attachment 1.**

Following Council's resolution to defer the matter, written and verbal dialogue was undertaken with the submitter. The amended plans and documentation were forwarded to the submitter for review. A further written and verbal response was received raising concern with the acoustic report and vehicle congestion in the locality. The application is referred to Council due to unresolved issues. **A copy of the additional submission is provided in the Business Paper supporting documents.**

### RECOMMENDATION

That Council determine DA 419/2015 for a new carpark to service the existing Burnham Grove Function Centre pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to conditions in this report.

### MAIN REPORT

#### Submission Issues

The issues raised by the submitter related to the accuracy of the acoustic report and traffic conflict with the school. These issues are addressed below.

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### Issue Raised

The acoustic report submitted by the applicant is deficient with respect to the nominated distance to the closest sensitive receiver (residence) and the report has failed to address the location of the access road and its relationship to the closest residential lot.

### Officer Response

The acoustic report was reviewed by Council's Environmental Health Officer at the time of its receipt in August. During Council's assessment it was recognised that the location of the access road was a minimum of 50m from the nearest residential neighbour as opposed to the 100m quoted in the report.

In addition, Council's Environmental Health Officer noted that the acoustic report modelled a car park for 42 spaces as opposed to the 81 spaces proposed.

To compensate for the above, the Council's Environmental Health Officer added an additional +3dB for the reduced distance to the driveway and +3dB for the increased size of the car park to the "Resultant Noise Levels at Sensitive Received" table as provided in the acoustic report. The additional +3dB for both the car park and driveway was considered to be more representative of the noise emanating from the car park and the access road 50m away.

Having regard to the above, to remain compliant with Council's Environmental Noise Policy, a 1.6m acoustic fence along the southern side of the access road and car park was considered warranted to attenuate the noise at the closest residential property. A condition is recommended which requires the construction of the 1.6m acoustic fence.

### Issue Raised

Potential traffic conflict between the function centre and school.

### Officer Response

The hours relating to the function centre are being considered under DA 2004/357/4. Consideration has been given to the school pick up and drop off times of Camden High School. In order to reduce potential traffic conflict in this location, an additional condition has been recommended for DA 2004/357/4 which does not permit functions to commence or conclude during the school peak pickup times (school zone hours).

## 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, DA419/2015 is recommended for approval subject to the conditions outlined below.

## CONDITIONS

### **1.0 - General Conditions of Consent**

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

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
15333D Sheet C1	Site Plan and Drainage Concept for Proposed Carpark	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015
15333D Sheet C2	Carpark Drainage Concept	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015
15333D Sheet C3	Sections and Details	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015
15333D Sheet C4	Calculations Sheet	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015

Document Title	Prepared by	Date
Acoustic Report	Rodney Stevens Acoustics Consultants	20 August 2015
SOEE		May 2015
Waste Management Plan		May 2015

- (3) **Engineering Specifications** - The entire development shall be designed and constructed in accordance with Council's Engineering Specifications and the relevant DCP.
- (4) **Protect Existing Vegetation and Natural Landscape Features** - Approval must be sought from Council prior to the removal, pruning, impact upon or any disturbance of the existing vegetation and natural landscape features, other than any existing vegetation and/or natural landscape feature authorised for removal, pruning, impact upon or disturbance by this Consent.

The following procedures shall be strictly observed:

- a) no additional works or access/parking routes, transecting the protected vegetation shall be undertaken without Council approval,
- b) pedestrian and vehicular access within and through the protected vegetation shall be restricted to Council approved access routes.

The protection of existing trees and other landscape features, other than any existing trees and natural landscape features authorised for removal, pruning, impact upon or disturbance by this Consent, must be carried out as specified in the Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

All initial procedures for the protection of existing trees and landscape features, as detailed in AS 4970-2009, must be installed prior to the commencement of any earthworks, demolition, excavation or construction works on the Development site.

The works and procedures involved with the protection of existing trees and other landscape features are to be carried out by suitable qualified and experienced persons or organisations. This work should only be carried out by a fully insured and qualified Arborist.

Suitable qualifications for an Arborist are to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

- (5) **Outdoor Lighting** - All lighting shall comply with AS 1158 and AS 4282.

## 2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Construction Certificate** - The following information shall be provided to the Certifying Authority with the Construction Certificate application:
- a) The owner shall engage the services of a suitably qualified wastewater consultant to undertake a review of the existing onsite sewage management system. The consultant shall provide a wastewater report detailing recommendations for any upgrade or replacement works to the system. The consultant engaged shall be an independent 3<sup>rd</sup> party who has not been previously involved with the supply, construction, or installation of the existing system. Consideration shall be given to the feasibility of connection of the site to the private sewer main servicing the neighbouring premises.
  - b) The Owner shall submit to Council an Application to “Install, Construct, Alter a Commercial On-site Sewage Management System” under section 68 of The Local Government Act 1993. Such application shall be supported by all relevant documentation as per Camden Councils On-site Sewage Management Strategy and fees and charges in accordance with Council’s Fees and Charges schedule.
  - c) Prior to issuing of the construction certificate for the car park a Section 68 Approval shall be obtained from Council and works shall be completed on the on-site sewage management system as per the approval issued.
- (2) **Acoustic Report** - The development shall be constructed in accordance with Acoustic Report prepared for Cawdor Read Developments Pty Ltd by Rodney Stevens Acoustics dated 20 August 2015. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.

- (3) **Driveway Gradients and Design** - For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design shall comply with AS 2890.1-2004 'Off street car parking' and:
- the driveway shall comply with Council's Engineering Specifications;
  - the driveway shall be at least 1m from any street tree, stormwater pit or service infrastructure;
  - the level for the driveway across the footpath area shall achieve a gradient of 4%; and
  - a Public Road Activity approval must be obtained prior to the commencement of any works.

Details demonstrating compliance shall be provided to the Certifying Authority prior to issue of a Construction Certificate.

- (4) **Civil Engineering Plans** - Civil engineering plans indicating drainage, roads, accessways, earthworks, pavement design, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, shall be prepared in accordance with the approved plans and Council's Engineering Design and Construction Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.

**Note.** Under the *Roads Act 1993*, only the Council can approve commencement of works within an existing road reserve.

- (5) **Soil, Erosion, Sediment and Water Management** - An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with Council's Engineering Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (6) **Car park and pedestrian path materials** - The carpark and associated works are to be finished in compacted gravel with application of a light-coloured binder. Details to be shown on the Construction Certificate plans and documentation.

The pedestrian pathway connecting the carpark to the marquee is to be of decomposed sandstone. Details to be shown on the Construction Certificate plans and documentation.

- (7) **Detailed Lighting Plan Required** – A detailed lighting plan for any proposed car park lighting and driveway lighting shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for building works. The plan must demonstrate that the orientation and intensity of lights will comply with the Australian Standard 4282-1997 "Control of the obtrusive effects of outdoor lighting".
- (8) **Acoustic Car Park and Driveway Fence** - A solid acoustic fence at least 1.6 metres high is to be constructed along the southern side of the entire length of driveway that provides access to the rear car park. The fence must also extend along the entire southern boundary of the car park. The acoustic fence is to be constructed from durable material with a minimum mass of 15 kg/m<sup>2</sup> to prevent

noise transmission and have no gaps. Landscaping on both sides of the fence is to be planted to screen the fence with the planting to extend along the western side of the carpark. The species to be planted is to be photinia or viburnum or similar.

Details to be shown on the Construction Certificate plans and documentation.

- (9) **Landscape Screening** – The western edge of the car park is to be planted with be photinia or viburnum or similar species. Details to be shown on the Construction Certificate plans and documentation.

### 3.0 - Prior to Commencement of Works

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

- (1) **Notice of PCA Appointment** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 103 of the EP&A Regulation 2000. The notice shall include:
- a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the registered number and date of issue of the relevant development consent;
  - d) the name and address of the PCA, and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, his, her or its accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes
- (2) **Notice Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 104 of the EP&A Regulation 2000. The notice shall include:
- a) the name and address of the person by whom the notice is being given;
  - b) a description of the work to be carried out;
  - c) the address of the land on which the work is to be carried out;
  - d) the registered number and date of issue of the relevant development consent and construction certificate;
  - e) a statement signed by or on behalf of the PCA to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and

f) the date on which the work is intended to commence.

(3) **Construction Certificate Required** - In accordance with the provisions of Section 81A of the *EP&A Act 1979*, construction or subdivision works approved by this consent shall not commence until the following has been satisfied:

- a) a Construction Certificate has been issued by a Consent Authority;
- b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*;
- c) if Council is not the PCA, Council is notified of the appointed PCA at least two (2) days before building work commences;
- d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and

the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

(4) **Sign of PCA and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:

- a) that unauthorised entry to the work site is prohibited;
- b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
- c) the name, address and telephone number of the PCA.

The sign shall be maintained while the work is being carried out, and shall be removed upon the completion of works.

(5) **Performance Bond** - Prior to commencement of works a performance bond of must be lodged with Camden Council in accordance with Camden Council's Engineering Construction Specifications.

(6) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with „Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures shall be maintained during construction works and shall 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).

(7) **Protection of Existing Street Trees** - No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) shall be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation),

construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

The protection methods for existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) during all works applicable to this consent, shall be installed in accordance with AS 4970-2009 'Protection of Trees on Development Sites'.

- (8) **Protection of Trees to be Retained** - Protection of trees to be retained shall be in accordance with Council's Engineering Specifications. The area beneath the canopies of the tree(s) to be retained shall be fenced. Tree protection signage is required to be attached to each tree protection zone, and displayed in a prominent position.

#### 4.0 - During Works

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

- (1) **Construction Hours** - All work (including delivery of materials) shall be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
- (2) **Excavations and Backfilling** - All excavations and backfilling associated with this development consent shall be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified structural engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation shall:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, shall contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- (3) **Unexpected Finds Contingency (General)** - Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc) be encountered during any stage of works (including earthworks, site preparation or construction works, etc), such works shall cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works shall cease in the vicinity of the contamination and Council shall be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (5) **Offensive Dust** – vehicle access and egress from the on-site car park shall not give rise to offensive dust as defined in the Protection of the Environment Operations Act 1997” when measured at the property boundary.
- (6) **Construction Noise Levels** – Noise levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA’s Environmental Noise Control Manual. This manual recommends;

Construction period of 4 weeks and under:

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

Construction period greater than 4 weeks:

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

- (7) **Salinity Management For Driveway and Carpark** – the driveway and car park must be built in accordance with the mandatory infrastructure requirements referenced within Camden Council’s current Policy – “Building in a Saline Prone Environment.”
- (8) **Fill Material** – For importation and/or placement of any fill material on the subject site, a validation report and sampling location plan for such material must be submitted to and approved by the Principal Certifying Authority.

The validation report and associated sampling location plan must:

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

For Virgin Excavated Natural Material (VENM):

- (i) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
- (ii) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Second Edition) - Soil Investigation Levels for Urban Development Sites in NSW".

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

Sampling of VENM for salinity of fill volumes:

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

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

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

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

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

**5.0 - Prior to Issue of an Occupation Certificate**

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

- (1) **Footpath Crossing Construction** - A footpath crossing and driveway shall be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
- (2) **Completion of Road Works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the *Roads Act* Approval.
- (3) **Directional Traffic Flow Signs** - The second driveway shall be used for both ingress and egress for function purposes only. All driveways shall be suitably signposted and directional arrows painted on the internal driveways. All signs shall be maintained in good repair at all times.
- (4) **Acoustic Car Park and Driveway Fence** – Prior to the issue of an Occupation Certificate, a solid acoustic fence at least 1.6 metres high is to be constructed

along the southern side of the entire length of driveway that provides access to the rear car park. The fence must also extend along the entire southern boundary of the car park. The acoustic fence is to be constructed from durable material with a minimum mass of 15 kg/m<sup>2</sup> to prevent noise transmission and have no gaps. Landscaping on both sides of the fence is to be planted to screen the fence. The species to be planted is to be either photinia or viburnum.

- (5) **Landscape Screening** – Prior to the issue of the occupation certificate the western edge of the car park is to be planted with be photinia or viburnum or similar species.

## 6.0 – Ongoing Use

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

- (1) **Manoeuvring of Vehicles** - All vehicles shall enter and exit the site in a forward direction.
- (2) **Driveways to be Maintained** - All access crossings and driveways shall be maintained in good order for the life of the development.
- (3) **Parking Areas to be Kept Clear** - At all times, the loading, car parking spaces, driveways and footpaths shall be kept clear of goods and shall not be used for storage purposes.
- (4) **Amenity** - The business shall be conducted and customers controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations and residential or business premises.
- (5) **Erection of signs** - The following sign must be erected and be placed in prominent locations prior to each function commencing:
  - Leave Function Quietly – A sign noting that patrons must leave the function quietly must be erected at the car park exit point.

## RECOMMENDED

**That Council approve DA 419/2015 for a new carpark at 332 Cawdor Road, Cawdor subject to the conditions listed above.**

## ATTACHMENTS

1. Original Report
2. Additional Submission - *Supporting Document*
3. Proposed Plans
4. Historic DA Consents
5. Submissions - *Supporting Document*
6. Public Exhibition and Submissions Map draft - *Supporting Document*



## ORDINARY COUNCIL

ORD02

**SUBJECT:** NEW CARPARK FOR EXISTING WEDDINGS, FUNCTIONS, AMENITIES, BUILDING AND MARQUEE AT 332 CAWDOR ROAD, CAWDOR  
**FROM:** Director Planning & Environmental Services  
**TRIM #:** 15/304467

**APPLICATION NO:** 419/2015  
**PROPOSAL:** New carpark for existing weddings, functions, amenities, building and marquee  
**PROPERTY ADDRESS:** 332 Cawdor Road, Cawdor  
**PROPERTY DESCRIPTION:** LOT: 100 DP: 814326  
**ZONING:** RU1 – Primary Production  
**OWNER:** Chandou Road Developments  
**APPLICANT:** Reg Hawkins

### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for a new carpark to service the existing Burnham Grove Function Centre at 332 Cawdor Road, Cawdor.

The DA is referred to Council for determination as there remain unresolved issues received in submissions from 1 owner.

### SUMMARY OF RECOMMENDATION

That Council determines DA419/2015 for a new carpark to service the existing Burnham Grove Function Centre 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 new carpark for 81 car spaces, which includes 3 accessible spaces to service the Burnham Grove Function Centre for weddings and functions.

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 total period of 28 days in accordance with the Camden DCP 2011. Three (3) submissions were received from 1 owner objecting to the proposed development. **A copy of the submissions is provided with the Business Paper supporting documents.**

This is the report submitted to the Ordinary Council held on 24 November 2015

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Attachment 1

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Attachment 1



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Council staff contacted the submitter (1 submitter 3 letters) to discuss their concerns, however were unsuccessful in resolving the issues raised in the submissions.

The issues raised in the submissions relate to the impact of the proposed carpark, the permissibility of the use, operation outside of current consent hours, and noise and traffic issues.

The proposed car park is ancillary to a lawfully approved function centre.

In 2004 Council granted consent to construct a marquee and amenities building to host functions and weddings within the grounds of Burnham Grove. Council permitted these works and the use under the heritage incentive provisions of the Camden Local Environmental Plan 2002. At the time of the assessment 81 carparking spaces were required to be made available. The parking was provided via a lease agreement with the NSW Department of Education and Training which allowed the carparking within Camden High School. The lease agreement expired in December 2014.

The 2004 consent is conditional on having access to at least 81 car parking spaces. In the event that this DA is not approved, alternative car parking arrangements will need to be made to ensure that the use can continue.

The proposed car parking includes 81 spaces which is consistent with that required by the existing consent in 2004. The numbers nominated are considered sufficient to service the wedding and function centre whilst maintaining residential amenity and in keeping with the established rural character.

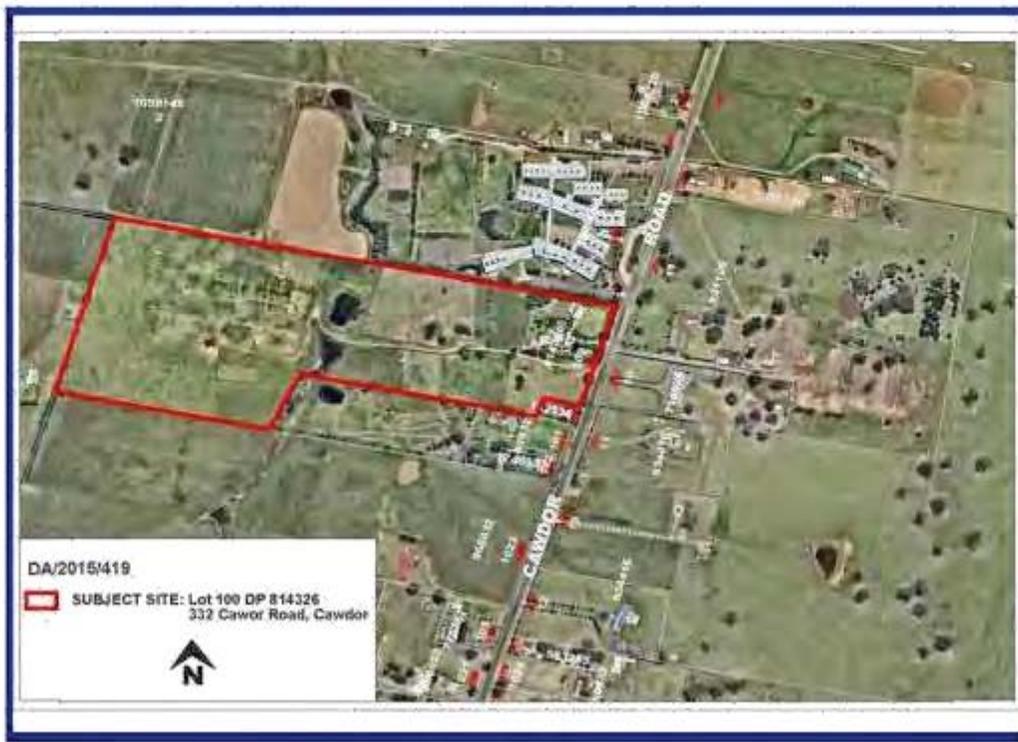
The proposal does not seek to increase the amount of car parking from that which was previously proposed, albeit in a new arrangement where the carparking is accommodated on site, and accessed via a driveway along the southern side of the dwelling. As such the traffic demand is effectively unchanged from the existing approved situation.

An acoustic report which has accompanied the application recommends the construction of a 1.6m high lapped and capped timber fence along the southern edge of the driveway leading to the proposed car park to attenuate the noise impacts. This is considered to suitably address the noise concerns.

Based on the assessment, it is recommended that DA419/2015 be approved subject to the conditions contained in this report.



## AERIAL PHOTO



## THE SITE

The site is commonly known as 332 Cawdor Road, Cawdor and is legally described as Lot 100 DP 814326.

The site has a frontage of approximately 149.04m to Cawdor Road, a rear width of 260.19m, a site a depth of approximately 720.78m. The site is relatively flat and currently accommodates the heritage listed property Burnham House, marquee, amenities buildings, two dams and a vast grassed area at the rear.

It is located within the rural area of Cawdor. The site is surrounded in the general area by other rural allotments and immediately adjoining property is Camden High School.

The site is known as the Burnham Grove property and is listed as a heritage item under Camden Local Environmental Plan 2010 (LEP). While the whole site is listed as a heritage item, there are varying levels of heritage significance across the site. The front complex containing the homestead, outbuildings and landscaped setting are of greatest significance. The view of the homestead from Cawdor Road, the rural view from Cawdor Road and the mature trees on-site are also of heritage significance yet to a lesser extent.

## HISTORY

The use as a function centre and associated carparking was granted consent in 2004 (DA 357/2004). At the time the parking for the function centre was being provided via a lease agreement with NSW Department of Education and Training within Camden High



School. The lease agreement with the school permitted the use of the southern car park, which comprises 81 parking spaces according to the stamped approved plans.

This consent imposed a 2 year trial, with the marquee having a maximum capacity of 125 patrons. Prior to the expiry of the 2 year period, a Section 96 application was lodged to remove the reference to the 2 year approval, thereby granting consent for the use of the marquee and associated buildings as a function/wedding venue.

The lease agreement for carparking expired in December 2014. At this time the owners sought to extend the trading hours of the function centre to operate 7 days a week via a section 96 application to amend DA 357(4)/2004. The Section 96 application is being assessed concurrently with this DA and will be considered by Council at its meeting of 24 November 2015.

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

DA	Development
DA 357/2004	Weddings, function, amenities building and marquee. The original DA was approved on the basis that the use is required to ensure the conservation of the heritage buildings.
DA 357(2)/2004	S96 modification to delete condition 1.0 (2). This condition related to the duration of consent becoming invalid if Camden High School elects not to renew their agreement for use of their car park.
DA 357(3)/2004	S96 modification to install a new acoustics system, introduce amplified music and extend hours of operation. Conditions 1.0 (8) & (9) were deleted, which relate to the submission of a noise management plan and requirement for noise emissions to comply with noise limiting criteria. Operational conditions 6.0 (1) to (12) were also replaced.
DA 357(4)/2004	Modification to trading hours of existing Burnham Grove Wedding and Function Centre. Currently being assessed.

### THE PROPOSAL

DA419/2015 seeks approval for the construction of a new carpark. Specifically the proposed development involves:

- construct a new carpark for 81 spaces including 3 spaces for disabled persons;
- associated civil and hydraulic works including upgrading existing driveway; and
- modification / relocation of the existing approved onsite sewer system, septic tank and effluent disposal area.
- construction of a 1.6m high lapped and capped timber acoustic fence to the southern side of the driveway adjacent to the homestead.

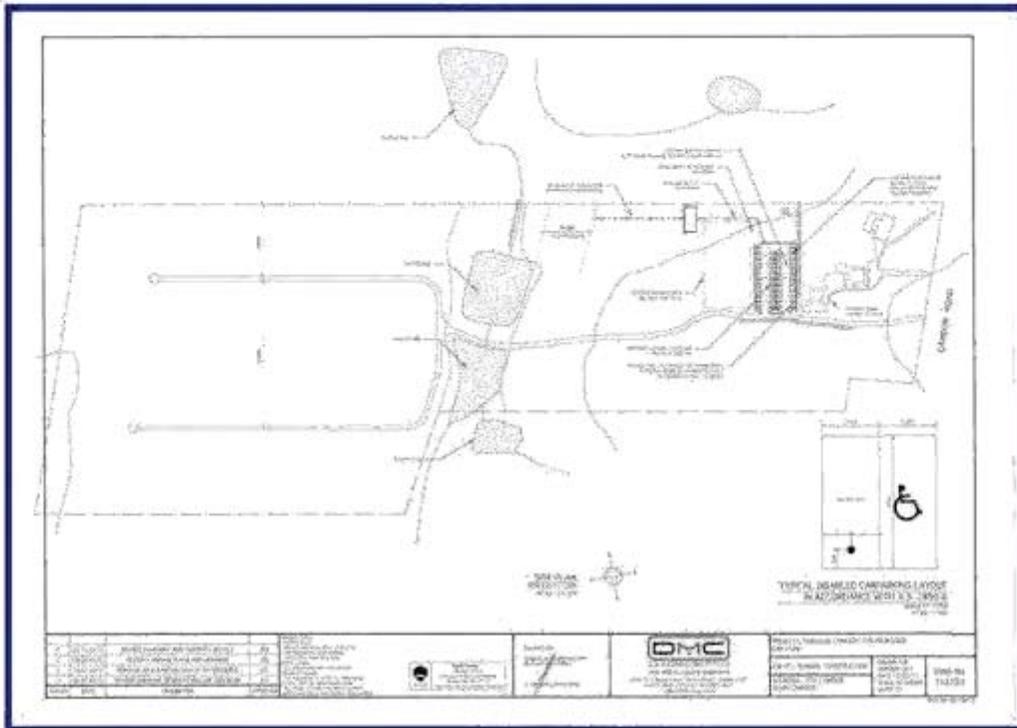
This DA was lodged concurrently with a S96(2) modification to extend the approved hours of operation of the approved function centre (DA 357(4)/2014).

The value of the cost of works is \$49,775.00.



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

### PROPOSED CARPARK AND DRAINAGE PLAN



### 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:

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

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

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

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



There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the proposed development. Appropriate erosion and sediment control measures have been proposed and a condition is recommended to provide a water pollution control device as part of the proposed development.

#### Camden Local Environmental Plan (LEP ) 2010

##### *Permissibility*

The site is zoned RU1 Primary Production under the provisions of the LEP. The proposed carpark is ancillary to the lawfully approved function centre.

##### *Zone Objectives*

The objectives of RU1 Primary Production zone applicable on this application are as follows:

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

##### Officer comment:

The property is used for grazing purposes. The existing function centre and proposed carparking area will not substantially alter the primary land use and therefore is consistent with this objective.

- *To minimise the fragmentation and alienation of resource lands.*

##### Officer comment:

The proposed car park will not result in the further fragmentation or alienation of resource land noting it is to be located in an area previously used for effluent disposal. The effluent disposal area can be adequately accommodated elsewhere on the site without undermining the primary use of the land.

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

##### Officer comment:

The proposed carpark is ancillary to the lawfully approved function centre.

- *To maintain the rural landscape character of the land*

##### Officer comment:

The carpark and road works are reversible and appropriate for its rural setting.

The carpark and required acoustic fencing is to be screened by appropriate landscaping which is consistent with the rural and heritage setting.

##### *Relevant Clauses*

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



Clause	Requirement	Provided	Compliance
5.10 Heritage	Consent is required to demolish or alter a heritage item and also to erect a building on land where a heritage item is located	A development application has been lodged.	Yes
	Consider the effect of the proposed development on the heritage significance of the item or area concerned	<p>The proposed carpark and road surfacing works are reversible and appropriate for its rural heritage setting.</p> <p>The carpark and required acoustic fencing is to be screened by landscaping on both sides of the fence which is appropriate to the setting.</p> <p>The works are not considered to detract from the heritage significance of the item and are acceptable.</p>	Yes
6.2 Public Utility Infrastructure	Appropriate public utility infrastructure to service the development	This application involves the relocation of the waste water and septic system. There is sufficient space for this to be adequately accommodated without impacting on the functionality of the heritage listed homestead and associated function centre.	Yes
7.4 Earthworks	Consider a number of matters relating to earthworks including detrimental effects on drainage patterns, fill quality and amenity of adjoining properties	The matters listed by this clause have been considered. Subject to the recommended conditions, the proposed earthworks are considered to be acceptable.	Yes

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



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

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

Camden Development Control Plan 2011 (DCP)

The following is an assessment of the proposed development's compliance with the controls in the DCP. Discussion of any variations of the controls is provided after the compliance table.

Control	Requirement	Provided	Compliance
B1.1 Erosion and Sedimentation	Erosion, sediment and dust control measures	Appropriate erosion and sedimentation control measures have been proposed.	Yes
B1.4 Water management	Compliance with Council's engineering specifications	A standard condition is recommended requiring compliance with Council's engineering specifications.	Yes
B1.16 Acoustic Amenity	Compliance with Council's Environmental Noise Policy	The development will comply with Council's Environmental Noise Policy.	Yes
B2 Landscape Design	A landscape plan is required.	No trees or vegetation will be removed.	Yes
B5.1 Off-street Car Parking Rates and Requirements	1 space per 3 seats for off-street car parking spaces and service vehicle provision (42 spaces)	81 off-street car parking spaces have been provided which exceeds the minimum required by the DCP.	Yes
D4.2.10 Noise and Vibration	Compliance with Council's Environmental Noise Policy	The application includes a Noise Impact Assessment Report and the development will comply with Council's Environmental Noise Policy subject to the imposed conditions	Yes
D4.3.1 Landscaping and Public Domain	Detailed landscaping plans and street tree planting	No trees or vegetation are proposed to be removed. The existing line of trees along the proposed carpark will be retained.  Conditions have been recommended by Council's Heritage Officer to appropriately screen the required acoustic fence.	Yes
D4.4 Parking and	Compliance with DCP Section B5	The proposal complies with the DCP's Section B5 in that 81	Yes



Control	Requirement	Provided	Compliance
Access	and maximum of one driveway	off-street car parking spaces are being provided which exceeds that required by Council's current DCP, being 42. Three (3) accessible spaces have been provided.	

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

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

**(a)(iv) The Regulations**

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

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

Acoustic Impacts

In January 2010 an acoustic assessment was required to establish the operational noise levels of the Burnham Grove Function Centre, under DA 357(3)/2004. As a result of this report noise measures were required to reduce the noise emanating from the marquee to compliant levels. These noise measures were added as conditions of consent to DA 357(3)/2004.

As part of this DA, an updated acoustic report was completed in August 2015. The assessment had regard to the noise impact associated with the proposed car park and the extension of hours (DA/2004/357/4); these applications are being considered concurrently.

The closest residential dwellings identified in the assessment were 105 Cawdor Road to the east (approximately 135m from the function centre to the dwelling) on the opposite side of the road (Council references this property as 299 Cawdor Road), and 336 Cawdor Road to the south (approximately 120m from the function centre to the dwelling).

In order to maintain the acoustic amenity to nearby residential dwellings the assessment recommended the construction of a 1.6m high lapped and capped timber acoustic fence along the southern edge of the driveway and carpark (see diagram 1 below) to mitigate noise. A condition is recommended ensuring the construction of the fence.



Council staff are satisfied that the development, with the incorporation of the recommended fencing, is acceptable.

#### Heritage Impacts

The site contains a heritage listed dwelling Burnham Grove which includes its curtilage.

The proposed carpark and road surfacing works are simple, reversible and appropriate for this rural heritage setting.

The location of the proposed carpark will be well screened, and constructed to be sensitive to its location. A condition is recommended to ensure landscape screening is provided around the western and southern perimeters of the car park, and be consistent with the heritage officer's recommendations regarding the vegetation to be planted.

A 1.6m high lapped and capped timber fence is required along the southern edge of the driveway extending from the car park to the front of the site. This is acceptable from a heritage perspective subject to the planting of vegetation on both sides of the fence. A condition is recommended accordingly.



**Diagram 1 - Indicative location of the proposed 1.6m high lapped and capped acoustic fence**

The pedestrian pathway connecting the carpark to the marquee will be of decomposed sandstone.

The proposed carpark does not adversely impact the heritage significance of the Burnham Grove property, as the views from the dwelling to the rural setting and the sightlines toward the homestead are maintained. As a result the heritage value and heritage significance of the site is not undermined by the proposal.

#### **(c) The suitability of the site**



As demonstrated by the above assessment, the site is considered suitable for the proposed development. The carpark will adequately service the wedding and function centre needs which can be accommodated wholly within the subject site.

The relocation of the on-site sewerage system and septic is considered acceptable by Council's Environmental Officers. Conditions have been imposed to ensure the required information to support the construction stage will be proposed and certified prior to the finalisation of the project.

***(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 24 June to 8 July 2015. Council re-notified the application for an additional 14 days from 28 September to 11 October 2015.

Three (3) submissions were received from one resident, objecting to the proposed development. **A copy of a Public Exhibition and Submissions Map is provided with the Business Paper supporting documents.**

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

1. *The carparking spaces used by the school accounts to 80 spaces. The proposed 116 parking spaces is a 45% increase in the number of car movements.*

Officer comment:

A lease agreement existed with the NSW Department of Education and Training, with Louis Albert Whitton (Licensee) to utilise the Camden High School's carpark (81 spaces) to service the approved function and wedding centre. This lease agreement expired on 31 December 2014.

The applicant originally proposed a carpark for 115 spaces. The applicant has reduced its carparking spaces from 115 to 81 spaces.

Under the provisions of the Camden DCP, the parking rate for a single room function centre, with one principal area (single marquee) for functions is 1 space per 3 seats.

The function centre approval in 2004 limited patron numbers to 125. There is no change proposed to the number of patrons, therefore, the parking rate for 'single room function centre' is at a rate of 1 space per 3 seats, which requires the use to provide 42 carpark spaces. The proposed 81 spaces have been provided to be consistent with the carparking required in 2004.

The proposed new carpark will be contained wholly within the site to be utilised for the approved function and wedding centre.

The applicant is seeking to operate from 9am to 5pm Monday to Thursday (DA 357(4)/2004 which is being assessed concurrently) which is during school operating hours, the school carpark will therefore not be available. The proposed carpark will enable carparking to be provided for the lawful function centre use.

2. *Noise and amenity impacts from the increased traffic, and request for an acoustic report.*

Officer comment:

This is the report submitted to the Ordinary Council held on 24 November 2015 - Page 11



The proposed modification does not seek to increase the number of patrons, only to provide carparking on site which is consistent with the lawful approval, and hence the traffic demand of the function centre is considered comparable to the existing approved situation.

In January 2010 an acoustic assessment was required to establish the operational noise levels of the Burnham Grove Function Centre, under DA/2004/357/3. As a result of this report noise measures were required to reduce the noise emanating from the marquee to compliant levels. These noise measures were added as conditions of consent to DA 357(3)/2004.

As part of this DA, an updated acoustic report was completed in August 2015. The assessment had regard to the noise impact associated with the extension of hours (DA/2004/357/4) and the proposed carpark; these applications are being considered concurrently.

The assessment recommended the construction of a 1.6m high lapped and capped timber acoustic fence along the southern edge of the driveway and carpark (see diagram 1 above) to mitigate noise. A condition is recommended ensuring the construction of the fence.

3. *A Function Centre is a prohibited use within the RU1 zone, pursuant to the Camden Local Environmental Plan 2011. The proposed modification to the approved hours will result in the application no longer being substantially the same.*

Officer comment:

The function centre is an existing approved use. The proposed carpark is ancillary to the approved use and therefore permissible.

4. *Owner is currently breaching consent and operating outside of approved hours.*

Officer comment:

The concerns relating to the current breaching of consent noted in the submissions associated with this DA have been referred to Council's compliance section for further investigation. There have not been any complaints received by Council in the last year relating to the breaching of consent for the function centre use.

Notwithstanding, the modification application (DA 357(4)/2004), which is being reported to Council at its meeting on 24 November 2015, seeks to regularise the approved hours of operation.

5. *Substantial impact on amenity as a result of the carparking for the function/wedding centre being within the site accessed via the southern driveway rather than using Camden High which is to be north of the site.*

DA 357/2004 and subsequent Section 96 modifications contained a condition that required the carparking being provided by lease arrangement from Camden High School. A section 96 application DA 357(4)/2004 is seeking to extend the hours of the function centre to be business hours, which conflict with the carparking arrangement with Camden High. The carpark is being proposed to ensure there is carparking for the



approved use. In order to assess the impact on adjoining neighbours an acoustic report was required. This report has recommended a 1.6m high lapped and capped timber acoustic fence to be constructed along the southern side of the driveway, extending from the carpark to the front of the site to reduce the noise emanation as a result of vehicles entering and leaving the site. See diagram 1 above.

As an indirect consequence, the height of the fence will mitigate headlights from shining into the adjoining property.

A condition of consent has been imposed to ensure this fence is constructed in accordance with the acoustic report prepared by Rodney Stevens Acoustics dated 20 August 2015.

6. *The carparking for the site is proposing considerably more than was provided within Camden High via a lease agreement.*

The application initially proposed 115 spaces, this has since been reduced to 81 which is consistent with the number provided via lease agreement.

**(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**

No external referrals were required.

**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, DA419/2015 is recommended for approval subject to the conditions contained in this report.

**CONDITIONS**

**1.0 - General Conditions of Consent**

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

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

ORD01

Attachment 1



Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
15333D Sheet C1	Site Plan and Drainage Concept for Proposed Carpark	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015
15333D Sheet C2	Carpark Drainage Concept	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015
15333D Sheet C3	Sections and Details	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015
15333D Sheet C4	Calculations Sheet	D & M Consulting Pty Ltd Civil and Structural Engineers	23 October 2015

Document Title	Prepared by	Date
Acoustic Report	Rodney Stevens Acoustics Consultants	20 August 2015
SOEE		May 2015
Waste Management Plan		May 2015

- (3) **Engineering Specifications** - The entire development shall be designed and constructed in accordance with Council's Engineering Specifications and the relevant DCP.
- (4) **Protect Existing Vegetation and Natural Landscape Features** - Approval must be sought from Council prior to the removal, pruning, impact upon or any disturbance of the existing vegetation and natural landscape features, other than any existing vegetation and/or natural landscape feature authorised for removal, pruning, impact upon or disturbance by this Consent.

The following procedures shall be strictly observed:

- a) no additional works or access/parking routes, transecting the protected vegetation shall be undertaken without Council approval,
- b) pedestrian and vehicular access within and through the protected vegetation shall be restricted to Council approved access routes.

The protection of existing trees and other landscape features, other than any existing trees and natural landscape features authorised for removal, pruning, impact upon or disturbance by this Consent, must be carried out as specified in the Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

All initial procedures for the protection of existing trees and landscape features, as detailed in AS 4970-2009, must be installed prior to the commencement of any earthworks, demolition, excavation or construction works on the Development site.



The works and procedures involved with the protection of existing trees and other landscape features, are to be carried out by suitable qualified and experienced persons or organisations. This work should only be carried out by a fully insured and qualified Arborist.

Suitable qualifications for an Arborist are to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

- (5) **Outdoor Lighting** - All lighting shall comply with AS 1158 and AS 4282.

## 2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Construction Certificate** - The following information shall be provided to the Certifying Authority with the Construction Certificate application:
- a) The owner shall engage the services of a suitably qualified wastewater consultant to undertake a review of the existing onsite sewage management system. The consultant shall provide a wastewater report detailing recommendations for any upgrade or replacement works to the system. The consultant engaged shall be an independent 3<sup>rd</sup> party who has not been previously involved with the supply, construction, or installation of the existing system. Consideration shall be given to the feasibility of connection of the site to the private sewer main servicing the neighbouring premises.
  - b) The Owner shall submit to Council an Application to "Install, Construct, Alter a Commercial On-site Sewage Management System" under section 68 of The Local Government Act 1993. Such application shall be supported by all relevant documentation as per Camden Councils On-site Sewage Management Strategy and fees and charges in accordance with Council's Fees and Charges schedule.
  - c) Prior to issuing of the construction certificate for the car park a Section 68 Approval shall be obtained from Council and works shall be completed on the on-site sewage management system as per the approval issued.
- (2) **Acoustic Report** - The development shall be constructed in accordance with Acoustic Report prepared for Cawdor Read Developments Pty Ltd by Rodney Stevens Acoustics dated 20 August 2015. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (3) **Driveway Gradients and Design** - For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design shall comply with AS 2890.1-2004 'Off street car parking' and:
- a) the driveway shall comply with Council's Engineering Specifications;



- b) the driveway shall be at least 1m from any street tree, stormwater pit or service infrastructure;
- c) the level for the driveway across the footpath area shall achieve a gradient of 4%; and
- d) a Public Road Activity approval must be obtained prior to the commencement of any works.

Details demonstrating compliance shall be provided to the Certifying Authority prior to issue of a Construction Certificate.

- (4) **Civil Engineering Plans** - Civil engineering plans indicating drainage, roads, accessways, earthworks, pavement design, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, shall be prepared in accordance with the approved plans and Council's Engineering Design and Construction Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.

**Note.** Under the *Roads Act 1993*, only the Council can approve commencement of works within an existing road reserve.

- (5) **Soil, Erosion, Sediment and Water Management** - An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with Council's Engineering Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (6) **Car park and pedestrian path materials** - The carpark and associated works are to be finished in compacted gravel with application of a light-coloured binder. Details to be shown on the Construction Certificate plans and documentation.

The pedestrian pathway connecting the carpark to the marquee is to be of decomposed sandstone. Details to be shown on the Construction Certificate plans and documentation.

- (7) **Detailed Lighting Plan Required** – A detailed lighting plan for any proposed car park lighting and driveway lighting shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for building works. The plan must demonstrate that the orientation and intensity of lights will comply with the Australian Standard 4282-1997 "Control of the obtrusive effects of outdoor lighting".
- (8) **Acoustic Car Park and Driveway Fence** - A solid acoustic fence at least 1.6 metres high is to be constructed along the southern side of the entire length of driveway that provides access to the rear car park. The fence must also extend along the entire southern boundary of the car park. The acoustic fence is to be constructed from durable material with a minimum mass of 15 kg/m<sup>2</sup> to prevent noise transmission and have no gaps. Landscaping on both sides of the fence is to be planted to screen the fence with the planting to extend along the western side of the carpark. The species to be planted is to be photinia or viburnum or similar.

Details to be shown on the Construction Certificate plans and documentation.



- (9) **Landscape Screening** – The western edge of the car park is to be planted with be photinia or viburnum or similar species. Details to be shown on the Construction Certificate plans and documentation.

### 3.0 - Prior to Commencement of Works

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

- (1) **Notice of PCA Appointment** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 103 of the EP&A Regulation 2000. The notice shall include:
- a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the registered number and date of issue of the relevant development consent;
  - d) the name and address of the PCA, and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, his, her or its accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes
- (2) **Notice Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 104 of the EP&A Regulation 2000. The notice shall include:
- a) the name and address of the person by whom the notice is being given;
  - b) a description of the work to be carried out;
  - c) the address of the land on which the work is to be carried out;
  - d) the registered number and date of issue of the relevant development consent and construction certificate;
  - e) a statement signed by or on behalf of the PCA to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
  - f) the date on which the work is intended to commence.
- (3) **Construction Certificate Required** - In accordance with the provisions of Section 81A of the *EP&A Act 1979*, construction or subdivision works approved by this consent shall not commence until the following has been satisfied:



- a) a Construction Certificate has been issued by a Consent Authority;
- b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*;
- c) if Council is not the PCA, Council is notified of the appointed PCA at least two (2) days before building work commences;
- d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and

the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

- (4) **Sign of PCA and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:
  - a) that unauthorised entry to the work site is prohibited;
  - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
  - c) the name, address and telephone number of the PCA.

The sign shall be maintained while the work is being carried out, and shall be removed upon the completion of works.

- (5) **Performance Bond** - Prior to commencement of works a performance bond of must be lodged with Camden Council in accordance with Camden Council's Engineering Construction Specifications.
- (6) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures shall be maintained during construction works and shall 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).

- (7) **Protection of Existing Street Trees** - No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) shall be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

The protection methods for existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) during



all works applicable to this consent, shall be installed in accordance with AS 4970-2009 'Protection of Trees on Development Sites'.

- (8) **Protection of Trees to be Retained** - Protection of trees to be retained shall be in accordance with Council's Engineering Specifications. The area beneath the canopies of the tree(s) to be retained shall be fenced. Tree protection signage is required to be attached to each tree protection zone, and displayed in a prominent position.

#### 4.0 - During Works

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

- (1) **Construction Hours** - All work (including delivery of materials) shall be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
- (2) **Excavations and Backfilling** - All excavations and backfilling associated with this development consent shall be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified structural engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation shall:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, shall contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing that that condition not applying.

- (3) **Unexpected Finds Contingency (General)** - Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc) be encountered during any stage of works (including earthworks, site preparation or construction works, etc), such works shall cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works shall cease in the vicinity of the contamination and Council shall be notified immediately.



Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (5) **Offensive Dust** – vehicle access and egress from the on-site car park shall not give rise to offensive dust as defined in the Protection of the Environment Operations Act 1997" when measured at the property boundary.
- (6) **Construction Noise Levels** – Noise levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends:

Construction period of 4 weeks and under:

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

Construction period greater than 4 weeks:

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

- (7) **Salinity Management For Driveway and Carpark** – the driveway and car park must be built in accordance with the mandatory infrastructure requirements referenced within Camden Council's current Policy – "Building in a Saline Prone Environment."
- (8) **Fill Material** – For importation and/or placement of any fill material on the subject site, a validation report and sampling location plan for such material must be submitted to and approved by the Principal Certifying Authority.

The validation report and associated sampling location plan must:

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

For Virgin Excavated Natural Material (VENM):

- (i) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
- (ii) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Second Edition) - Soil Investigation Levels for Urban Development Sites in NSW".
- (d) confirm that the fill material:



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

Sampling of VENM for salinity of fill volumes:

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

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

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

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

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

### 5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Footpath Crossing Construction** - A footpath crossing and driveway shall be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
- (2) **Completion of Road Works** - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the *Roads Act* Approval.
- (3) **Directional Traffic Flow Signs** - The second driveway shall be used for both ingress and egress for function purposes only. All driveways shall be suitably signposted and directional arrows painted on the internal driveways. All signs shall be maintained in good repair at all times.
- (4) **Acoustic Car Park and Driveway Fence** - Prior to the issue of an Occupation Certificate, a solid acoustic fence at least 1.6 metres high is to be constructed along the southern side of the entire length of driveway that provides access to the rear car park. The fence must also extend along the entire southern

This is the report submitted to the Ordinary Council held on 24 November 2015 - Page 21



boundary of the car park. The acoustic fence is to be constructed from durable material with a minimum mass of 15 kg/m<sup>2</sup> to prevent noise transmission and have no gaps. Landscaping on both sides of the fence is to be planted to screen the fence. The species to be planted is to be either photinia or viburnum.

- (5) **Landscape Screening** – Prior to the issue of the occupation certificate the western edge of the car park is to be planted with be photinia or viburnum or similar species.

#### 6.0 – Ongoing Use

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

- (1) **Manoeuvring of Vehicles** - All vehicles shall enter and exit the site in a forward direction.
- (2) **Driveways to be Maintained** - All access crossings and driveways shall be maintained in good order for the life of the development.
- (3) **Parking Areas to be Kept Clear** - At all times, the loading, car parking spaces, driveways and footpaths shall be kept clear of goods and shall not be used for storage purposes.
- (4) **Amenity** - The business shall be conducted and customers controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations and residential or business premises.
- (5) **Erection of signs** - The following sign must be erected and be placed in prominent locations prior to each function commencing:
  - **Leave Function Quietly** – A sign noting that patrons must leave the function quietly must be erected at the car park exit point.

#### RECOMMENDED

That Council approve DA 419/2015 for a new carpark at 332 Cawdor Road, Cawdor subject to the conditions listed above.

#### ATTACHMENTS

1. Proposed Plans
2. Historic DA Consents
3. Submissions - *Supporting Document*
4. Public Exhibition and Submissions Map - *Supporting Document*

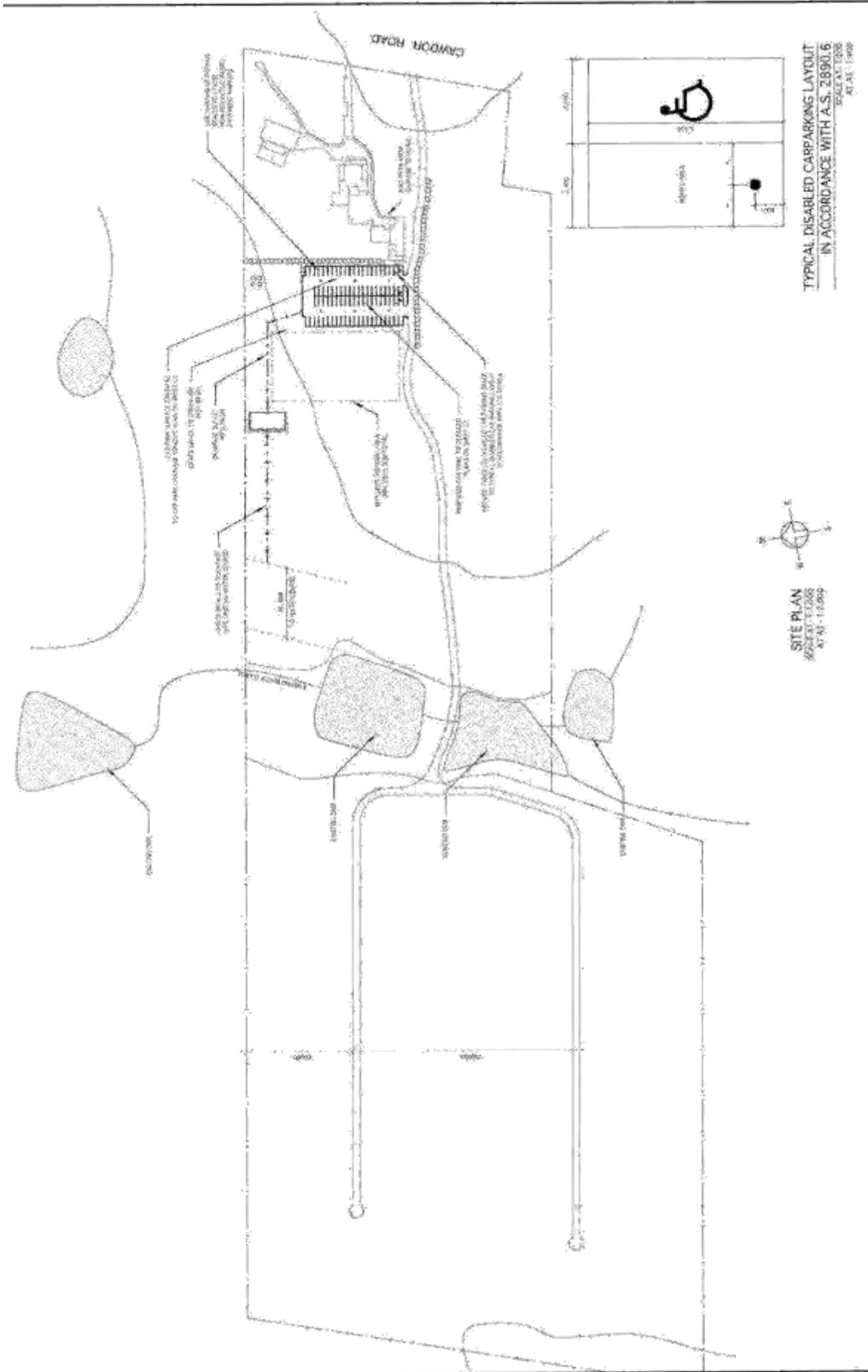


**ORD01**

**Attachment 1**

ORD01

Attachment 3



NO.	DATE	DESCRIPTION
1	02.02.2013	REVISED PAVEMENT AND ACCESSORY DETAILS
2	04.08.2013	REVISED CARPARK PAVING AND DRAINAGE
3	10.07.2015	REVISED DRIVEWAY WITHIN LIMITS OF PROPOSED DRIVE
4	04.07.2015	REVISED DRAINAGE DESIGN TO INCLUDE ROAD BARRIERS
		APPROVAL:

PROJECT - DRAINAGE CONCEPT FOR PROPOSED CAS PARK	DESIGNER - B.M. CONSTRUCTION	DWG No: 15333D
CLIENT - ADHARC CONSTRUCTION	SCALE AS SHOWN	15333D
PROJECT - DRAINAGE CONCEPT FOR PROPOSED CAS PARK	SCALE AS SHOWN	15333D

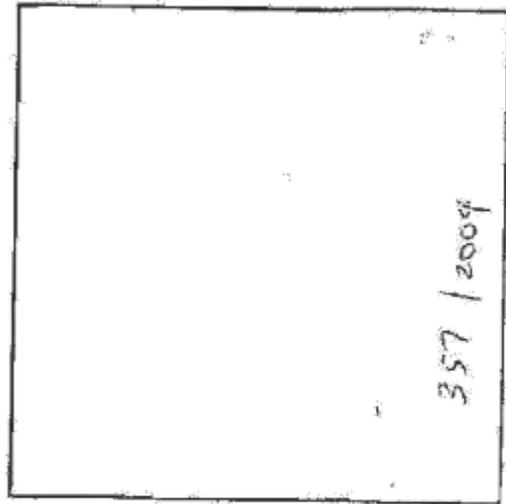
<b>DMC</b>	<b>DMC</b>
DRAINAGE MANAGEMENT CONSULTANTS	15333D
15333D	15333D



Camden Council  
 37 John Street, Camden NSW 2570 DX 25807  
 PO Box 183, Camden 2570 ABN: 31 117 341 784  
 Telephone: 02 4654 7777 Fax: 02 4654 7829  
 Email: mail@camden.nsw.gov.au

RDOW

Mr LA Whitton  
 332 Cawdor Road  
 CAWDOR NSW 2570



**NOTICE OF DETERMINATION FOR MODIFICATIONS TO  
 DEVELOPMENT CONSENT No. 357/2004**

Granted under Section 96 of the Environmental Planning and Assessment Act 1979

<b>LAND TO BE DEVELOPED:</b>	<b>332 Cawdor Road CAWDOR DP 814326 Lot 100</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>Weddings, Functions, Amenities Building and Marquee</b>

<b>MODIFIED CONSENT No.:</b>	<b>357(3)/2004</b>
<b>MADE ON:</b>	<b>15 March 2010</b>
<b>DETERMINATION:</b>	<b>Pursuant to Section 96(1A) of the <i>Environmental Planning &amp; Assessment Act 1979</i>, the development consent is modified in the manner set out in the attached schedule of modified conditions</b>
<b>CONSENT TO LAPSE ON:</b>	<b>3 April 2008 (unless substantially commenced)</b>

ORD001

Attachment 4



DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: Weddings, Functions, Amenities Building  
 and Marquee

### Schedule of modified conditions:

The following conditions of the development consent are modified:

- A. **Deletion of Conditions (8) and (9) under the heading "1.0 General Requirements":**
- B. **Deletion of Conditions (1) to (12) (inclusive) under the heading "6.0 Operations Conditions" and replace with the following:**

#### 6.0 Operational Conditions

- (1) **Hours of Operation** – The hours of operation for the approved land use are:

1.30pm to 10.30pm Friday to Sunday (inclusive) and on Public Holidays;

In addition to the above:

Music to cease by 10.00 pm;

Patrons to be off-site by 11.00pm;

Staff and caterers to be off-site by 11.30pm.

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

- (2) **Vehicle Movements and Deliveries** – are only permitted between the hours of 1.30pm and 11.30pm on any approved day of operation.
- (3) **Installation and Operation of Sound System** – In accordance with the recommendations of the "Noise Survey: Burnham Grove Function Centre 332 Cawdor Road Camden NSW 2570, Prepared by RSA Acoustics, Ref No 4339, Dated 2/11/09 Amended 15/01/10," an in-house sound system using directional speakers must be installed within the marquee with the speakers set to a maximum sound level to achieve external noise criteria. The speakers must face North West and the speaker system must be fitted with a suppression limiter and be calibrated and set by a qualified acoustical consultant. A letter from the consultant must be provided to the Consent Authority (Camden Council) prior to the issue of an occupation certificate confirming that the sound system is installed and meets the relevant noise criteria when in operation.



DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: Weddings, Functions, Amenities Building  
 and Marquee

ORD01

Attachment 4

- (4) **Noise Management Plan** – the operation of the function centre must be undertaken in compliance with the *"Noise Management Plan, For Burnham Grove Function Centre: Lot 100 DP 814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No 332, dated 19 February 2010, DA 357/2004."*
- (5) **Additional Noise Criteria** – All noise emissions from the operation of the function Centre must fully comply at all times with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) and Council's Environmental Noise Policy.
- (6) **Offensive Noise** - The use and occupation of the premises, including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (7) **Amplified Music, Public Address System, Live Entertainment** – is permitted subject to compliance with the conditions of this consent and requirements of the *"Noise Management Plan, For Burnham Grove Function Centre: Lot 100 DP 814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No 332, dated 19 February 2010, DA 357/2004."*
- (8) **Location of Live Entertainment** – The performance of live entertainment that includes the playing of music must be located within the marquee only.
- (9) **Operation of Live Music** – shall be prohibited beyond 10.00pm on any evening of operation.
- (10) **Light Spill** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (11) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (12) **Closing and Vacating of Function Centre** – Patrons must leave the premises no later than 11.00pm on any evening of operation. All staff and caterers are to vacate the premises by 11.30pm.

**All other conditions of development consent 357/2004 issued on 7 October 2004 are to remain valid and applicable.**

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DA No: 357/2004  
Property: 332 Cawdor Road CAWDOR  
Proposal Description: Weddings, Functions, Amenities Building  
and Marquee

**Appeals:**

The applicant has the right to appeal this decision to the Land and Environment Court. The right to appeal is only valid for a period of 60 days from the date of this notice (Clause 7.1 of the *Land and Environment Court Rules 2007*).

SIGNED on behalf of  
Camden Council

**Mr R P Dowd**  
**DEVELOPMENT OFFICER**  
(Development Branch)

Attachment 4



DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: Weddings, Functions, Amenities Building  
 and Marquee

### Advice:

The following matters are included as advice as relevant to this determination.

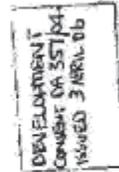
1. **Offences** - Section 125 of the *Environmental Planning and Assessment Act, 1979* provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.
2. **Penalties** - Section 126 of the *Environmental Planning and Assessment Act, 1979* provides that any person guilty of an offence against this Act shall, for every such offence, be liable to penalties as stated in this section.
3. **Contributions** - The contributions (if required) under Section 94 of the *Environmental Planning and Assessment Act, 1979* are set out in the stated Contribution Plans which can be viewed at Camden Council's Customer Service counter during normal business hours.
4. **Construction Certificate Required** - Where building or subdivision works are proposed, this consent does not allow site, building or demolition works to commence. Such works shall only take place after a Construction Certificate has been issued.
5. **Tree Preservation** - This consent does not authorise any tree removal unless specifically shown on approved plans and referred to in this development consent. All trees are protected in all areas of Camden. Separate consent is required for any proposal affecting existing trees and native vegetation. Any person who contravenes or causes or permits the removal of a tree/s without consent shall be guilty of an offence and liable to penalty as stated in this advice.

**ORD01**

**Attachment 4**

CMAC

Mr LA Whitton  
332 Cawdor Road  
CAWDOR NSW 2570



**NOTICE OF DETERMINATION OF DEVELOPMENT  
APPLICATION No. 357/2004**

Issued under Section 81 (1) (a) of the  
Environmental Planning and Assessment Act 1979  
*(For privacy reasons, the applicant's details only appear in the notice to the applicant)*

<b>LAND TO BE DEVELOPED:</b>	332 Cawdor Road CAWDOR DP 814326 Lot 100
<b>PROPOSED DEVELOPMENT:</b>	Weddings, Functions, Amenities Building and Marquee
<b>BUILDING CODE OF AUSTRALIA:</b> (If the development involves a building)	Building Classification 9(b) & 10(a)

**DETERMINATION:** Consent granted subject to conditions described below.

**DATE FROM WHICH THE CONSENT OPERATES:** 3 April 2006

**DATE THE CONSENT EXPIRES:** 3 April 2008  
(unless works commenced)

**DATE OF THIS DECISION:** 7 October 2004

**INFORMATION ATTACHED TO THIS DECISION:**

➤ Advice listed in Attachment A.

ORD01

DA No.: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

## Details of Conditions:

### 1.0 - General Requirements

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by J-Designs Architectural Drafting Services, dated 21 November 2003 and numbered 1/2; 2/2.

The development must also comply with the conditions of approval imposed by Council hereunder.

**Amendments** – Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (Camden Council). The procedure for applying to amend the approved plans is to submit an "Amended Development Application" form pursuant to section 96 of the *Environmental Planning & Assessment Act 1979*.

- (2) **Duration Of Consent** – This consent will become invalid if at any time, Camden High School elects not to renew the agreement for use of their car park for functions. The applicant is advised that a fresh development application is required to continue to use beyond that time, which nominates an alternative car park.
- (3) **Timber Framing** – The timber frame must be constructed in accordance with the requirements of the most current edition of AS1684 - 'Residential Timber-frame Construction'. The applicant is advised that the wall and roof framework including bracing must be designed and anchored to withstand a wind velocity for the particular area.
- (4) **Wet Area Water Proofing** - The application of waterproof membranes in wet areas must comply with the requirements of PART 3.8.1 of the Building Code of Australia and the current edition of AS 3740.
- (5) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Protect Existing Landscape** – All existing trees/shrubs grasses and natural landscape features other than those trees and vegetation authorised for removal by consent must be retained and protected during all construction works. Approval must be granted by Council prior to the removal or any disturbance of the development site's existing /adjoining or surrounding landscape and vegetation.
- (7) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be

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DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

submitted and approval granted by the Consent Authority (ie Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and DCP 96 "Outdoor Advertising Code".

- (8) **Noise Management Plan** – a site specific noise management plan shall be devised and submitted to the Consent Authority (Camden Council) within 2 months from the commencement of operation that addresses the following issues in relation to noise generated from live music and patrons exiting the function centre and car park.
- (a) The appointment of a responsible person to undertake regular noise monitoring and supervision of patrons with a view to identify all areas on non-compliance and take appropriate corrective action.
  - (b) A set of procedures that will demonstrate how noise complaints will be addressed and reported to complainants.
  - (c) Information that includes a noise complaint telephone contact person and phone number and the provision of a site register to record all noise complaints and action taken.
- (9) **Additional Noise Criteria** – All noise emissions from the operation of the wedding functions must fully comply with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) at all times.
- (10) **Stable Building Conservation** – within 2 years from the commencement of the approved use of the land, the applicant is to submit to Council a Conservation plan for the intended preservation of the stable building that specifies a commencement date for works to be undertaken within 12 months from the conservation Plan being submitted to Council.

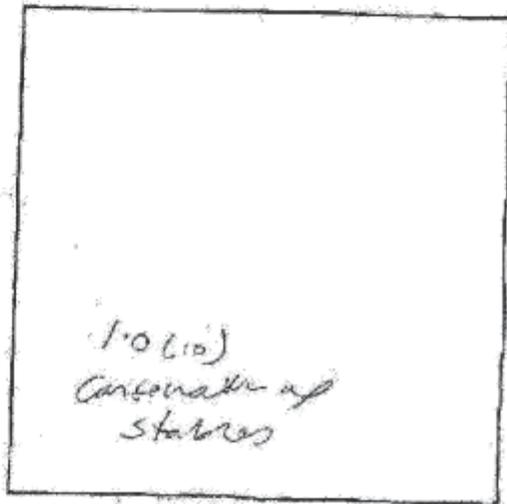
## 2.0 – Construction Certificate Requirements

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

- (1) **Obscured Glazing** - All windows from bathrooms including any ensuite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.
- (2) **Parking Spaces** - The developer must provide parking for cars in the manner indicated on the approved plans. Of that number, parking spaces must be available at all times for the parking of *residents/ visitors/ customers/ employees/ services* vehicles. Those parking spaces must be clearly marked and an adequate sign indicating that parking is available on-

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Attachment 4



DA No.: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

site must be erected in a position where it is legible to drivers of vehicles entering the land.

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

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

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

- (a) existing and final contours
  - (b) the location of all earthworks including roads, areas of cut and fill and re-grading
  - (c) location of impervious areas other than roads
  - (d) location and design criteria of erosion and sediment control structures
  - (e) location and description of existing vegetation
  - (f) site access (to be minimised)
  - (g) proposed vegetated buffer strips
  - (h) catchment area boundaries
  - (i) location of critical areas (vegetated buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
  - (j) location of topsoil or other stockpiles
  - (k) signposting
  - (l) diversion of uncontaminated upper catchment around areas to be disturbed
  - (m) proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
  - (n) procedures for maintenance of erosion and sediment controls
  - (o) details for staging of works
  - (p) details and procedures for dust control.
- (4) Prior to the Construction Certificate being issued the applicant is required to submit to Camden Council an application to install a "Commercial System of Sewerage Management". Such application is to be approved by Camden Council prior to the issue of the Construction Certificate.

The application is to be accompanied by a report from a suitably qualified hydraulic consultant addressing on site sewage management. The report shall address disposal of effluent, details specifications of the proposed system, operation requirements and wet weather disposal. In accordance

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DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
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with Councils Draft Policy "Sewage Management Strategy", the Environment & Protection Guidelines "Onsite Sewage Management for Single Households" and relevant Australian Standards. The required capacity of the system is greater than that of a domestic system and as such a commercial wastewater treatment system will be required.

The items in Councils **attached** table must be addressed in the application.

- (5) **Colour Schedule** – A detailed colour schedule must be submitted to the Consent Authority for approval prior to the issue of the **Construction Certificate**.

### 3.0 - Prior To Works Commencing

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

- (1) **Notice of Commencement of Work** – Notice in the form prescribed by the *Environmental Planning and Assessment Regulation 2000* shall be lodged with the Consent Authority (Camden Council) **at least 2 days prior to commencing building works**. The notice shall provide details relating to any Construction Certificate Issued by a certifying authority and the appointed Principal Certifying Authority.
- (2) **Construction Certificate Before Work Commences** - This consent does not allow site works, building or demolition works to commence, nor does it imply that the plans attached to this consent comply with the specific requirements of the Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

### 4.0 - During Construction

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

- (1) **Hours Of Operation** - All construction and demolition work must be restricted to between:
- (a) 7am and 6pm Mondays to Fridays (inclusive);
  - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
  - (c) work on Sundays and Public Holidays is prohibited.

Attachment 4

DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

- 
- (2) **Roofwater Destination** - The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:
- (a) an approved water storage tank;
  - (b) the existing dam and/or natural water course on the subject allotment;
- (3) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA, the following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

**Note:** If Council is appointed as the PCA, Council agrees to the commencement inspection to be combined with the first required inspection.

- (a) **Slab On Ground** - When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.
- (b) **Pool Fencing** - The swimming pool safety fence prior to filling the pool with water.
- (c) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to internal lining.
- (d) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.
- (e) **Sewer Line-work** - When external line-work has been laid and connected to the approved waste-water treatment system.

**Note:** Septic tank(s) excavation must be inspected prior to backfilling.

- (f) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

**Note:** That the *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

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- (4) **Subterranean Termite Protection** - Treatment for the protection of the building from subterranean termites must be carried out in accordance with AS3660.1 "Termite Management – New Building Work".

A durable notice must be permanently fixed to the inside of the meter box indicating:

- (a) the method of protection;
  - (b) the date of installation of the system;
  - (c) the life expectancy of any chemical used;
  - (d) the need to maintain and inspect the system.
- (5) **Site Management (No Nuisance Creation)** - The developer must carry out work at all times in a manner which will not cause a nuisance by the generation of unreasonable noise dust or other activity, to owners and occupiers of adjacent properties.

#### 5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority **prior to occupation or use of the development**. The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination, together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (2) 3750 square metres of land is to be made available for the disposal of effluent from the existing dwelling and the proposed wedding facility.
- (3) No more than 125 people are to attend the wedding reception facility on any day.

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## 6.0 - Operational Conditions

- (1) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises (AS ).
- (2) **Offensive Noise** - The use and occupation of the premises, including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (3) **Hours of Operation** - The hours of operation for the approved land-use are:  

Friday & Saturday: 1.30pm to 9.30pm  
 Sunday & Public Holidays: 1.30pm to 9.30pm

All vehicle movements, deliveries and any other operations associated with the use of the premises must be restricted to approved hours of operation. Any alteration to these hours will require the prior approval of the Consent Authority.
- (4) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (4) **Marquee Openings** - All marquee openings that allow access and egress for patron usage are to face a westerly direction in-order to reduce potential noise impacts on neighbouring residential dwellings.
- (5) **Amplified Music** - No amplified music is allowed to be played on the property or within the marquee at any time.
- (6) **Public Address Systems** - Public Address systems are prohibited from use on the property or within the marquee.
- (7) **Rock Bands and Disco Music** - Music from rock bands and discos is prohibited from being played on the property or within the marquee.
- (8) **Location and Type of Live Entertainment** - The performance of live entertainment that includes the playing of music must be located within the marquee only. The playing of live music that forms this entertainment must be limited to the form of either a string quartet or a piano /guitar duo. Drums of any kind are prohibited.

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- (9) **Operation of Live Music** – The playing of live music shall be prohibited beyond 9.30pm on any evening of operation.
- (10) **Off Street Parking** – All vehicles participating in the use of the site must utilise off street parking at all times.
- (11) **Off Street Parking Signage** – Suitable signage is to be provided in the off street car park that advises patrons to not congregate and to exit the car park in a quite manner.
- (12) **Closing of the Wedding Function Facility** – Patrons are required to leave the no later than 10.00pm on the evening of operation and should be encouraged to leave the car park in a timely and quite manner. Caterer and staff are to vacate the site by 11.00pm.

#### **Reasons for Conditions:**

- (1) To ensure that the proposed development complies with the requirements of *Environmental Planning and Assessment Act 1979 and Regulations* made thereto.
- (2) To ensure that the building complies with the *Local Government Act 1993 and Regulations*.
- (3) To ensure that the building complies with the requirements of the Building Code of Australia (BCA) and applicable Australian Standards.
- (4) To ensure that the development meets the aims, objectives and requirements of Council's Local Environmental Plan, Development Control Plans and Policies which relate to the subject land.
- (5) To ensure that the development does not adversely impact on the heritage significance of a building or place and that it complies with the objectives of Council's Heritage Controls.
- (6) To ensure that the development complies with the submitted plans and supporting documentation.
- (7) To ensure that the land and/or building will be developed so as to minimise the impact on the existing and likely future amenity of the neighbourhood and environment.
- (8) To ensure that the proposed site works/associated activities development does not create a noise nuisance to other tenants within the subject building or those on adjoining properties.

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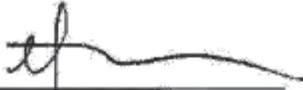
- (9) To ensure that the building and/or works do not affect public safety and amenity.
- (10) To ensure that outdoor advertising and advertising structures comply with DCP 96 "Guidelines for Outdoor Advertising".
- (11) To ensure that an adequate and a safe public access has been provided to the site for both pedestrian and vehicular traffic and that the development complies with Council's "Car Parking Code", ie. DCP 97.

**RIGHTS OF APPEAL      If you are the applicant:**

You can appeal against this decision in the Land and Environment Court within 12 months of the date of this notice. You cannot appeal, however, if a Commission of Inquiry is or is to be held and the development is designated development or state significant development.

**DETERMINATION REVIEW**

If you are an applicant and you are dissatisfied with the determination, you may within 12 months from the date of determination, request Council, in writing, to review the determination.

<p><b>SIGNED</b> on behalf of Camden Council</p>	 <hr style="width: 100%;"/> <p><b>Mr C J Mackey</b>  <b>DEVELOPMENT OFFICER</b>          (Development Branch)</p>
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**ATTACHMENT A**

The following matters are included as advice as relative to this application.

1. Section 82A of the EP&A Act 1979 provides that the applicant may request a review of this determination within twelve months of the date of the determination, following the payment of the prescribed fee.
2. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.

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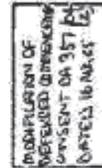
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3. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the requirements of Council's Tree Preservation Policy shall be guilty of an offence.
4. Section 126 of the EP&A Act, 1979 provides that a person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed to a penalty not exceeding 1000 penalty units and to a further daily penalty not exceeding 100 penalty units.
5. The contributions required under Section 94 of the EP & A Act, 1979 are set out in the stated Contribution Plans which can be viewed at Council's Customer Service during normal business hours.
6. This consent does not allow site, building or demolition works to commence. Such works shall only take place after a Construction Certificate has been applied for and been issued.
7. **SYDNEY WATER** requires the submission of stamped approved plans to their office prior to commencement of work.
8. **INTEGRAL ENERGY** requires electrical installations to be in accordance with their standards. All enquiries relating to electrical installations should be directed to that Authority.
9. **TELSTRA** requests that prior to any excavation commencing in connection with the approved work, contact should be made with Telstra "Cable Locations", Telephone 1100. Calls to this number are free.
10. A home warranty certificate must have been issued for the project **Prior To Issue of the Construction Certificate.**

CMAC: 1500.3320



Mr LA Whitton  
332 Cawdor Road  
CAWDOR NSW 2570

**NOTICE OF DETERMINATION FOR MODIFICATIONS TO  
DEFERRED COMMENCEMENT CONSENT No. 357/2004**

Granted under Section 96 of the Environmental Planning and Assessment Act 1979

<b>LAND TO BE DEVELOPED:</b>	<b>332 Cawdor Road CAWDOR DP 814328 Lot 100</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>Function Centre, Construction of Marquee and Amenities Building</b>
<b>BUILDING CODE OF AUSTRALIA:</b>	<b>Building Classification 9(b) and 10(a)</b>

**DETERMINATION**

**MODIFIED CONSENT No.:** 357(2)/2004

**MADE ON:** 16 August 2005

**DETERMINATION:** Consent granted subject to conditions described below.

**CONSENT TO OPERATE FROM:** To be Advised

**CONSENT TO LAPSE ON:** To be Advised

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Marquee and Amenities Building

Property: 332 Cawdor Road CAWDOR  
 Proposal Description: DA Modification - Function Centre

DA No: 357/2004

### Details of Modified Conditions:

The consent is modified by deleting Condition 1.0 (2) and replacing it with the following condition.

- (1) **Duration Of Consent** – This consent will become invalid if at any time, Camden High School elects not to renew the agreement for use of their carpark for the functions. The applicant is advised that a fresh development application will be required to continue the use beyond that time, which nominates an alternative car park location.

All other conditions of Deferred Commencement Consent No. 357/2004 issued 7 October 2005 are to remain valid and applicable.

**RIGHT OF APPEAL** If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

*\*section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.*

<p>SIGNED on behalf of Camden Council</p>	 <hr/> <p><b>Mr C J Mackey</b>  <b>DEVELOPMENT OFFICER</b>          (Development Branch)</p>
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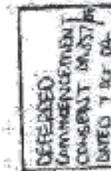
### ADVICE

The following matters are included as advice as relative to this application.

- Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.

CMAC: 1500.3320

Dr LA Whitton  
332 Cawdor Road  
CAWDOR NSW 2570



**NOTICE OF DETERMINATION OF DEVELOPMENT  
APPLICATION No. 357/2004**

**Deferred Commencement Consent**

Issued under Section 80 (3) and 81 (1)(a) of the  
Environmental Planning and Assessment Act 1979

*(For privacy reasons, the applicant's details only appear in the notice to the applicant)*

<b>LAND TO BE DEVELOPED:</b>	332 Cawdor Road CAWDOR DP 814326 Lot 100
<b>PROPOSED DEVELOPMENT:</b>	Two Year Trial Approval for Function Centre, Construction of Marquee & Amenities Building
<b>BUILDING CODE OF AUSTRALIA:</b> (If the development involves a building)	Building Classification 9(b) and 10(a)

**DETERMINATION:** Deferred Commencement Consent granted subject to conditions described below.

**DETERMINATION MADE ON:** 7 October 2004

**DATE FROM WHICH THE CONSENT OPERATES:** To be Advised

**DATE THE CONSENT EXPIRES:** To be Advised  
(unless works commenced)

**INFORMATION ATTACHED TO THIS DECISION:**

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> **Advice listed in Attachment A.**

This development consent shall not operate until the application satisfies the Council in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000, in relation to the matters listed in Schedule A hereto. The applicant has been given a period of 12 months in which to provide evidence sufficient enough to enable it to be satisfied as to those matters. Upon submission of evidence to the Council and the applicant receiving written notification that Council is satisfied as to the relevant matters, then the consent shall become operative, subject to compliance with the conditions specified in Schedule B hereto.

If the matters listed in Schedule A are not addressed within the specified time period, this Deferred Commencement consent will become permanently inoperative.

The conditions of Schedule A are as follows:

1. The written agreement for use of the Camden High School car park shall be signed by both parties and submitted to Camden Council.
2. Detailed Kitchen Plans – the applicant shall prepare detailed kitchen fitout plans to the satisfaction of Camden Council. Such plans must comply with Camden Councils Food Premises Code, The Food Act 2003 and the Food Regulations 2004 (incorporating the Food Standards Code).
3. Disabled Toilet – A detailed plan of the proposed disabled toilet shall be submitted to Council for approval. Such plan shall be to a scale of 1:20 and shall demonstrate compliance with AS1428, Parts 1 & 4.

The conditions specified in Schedule B are as follows:

### **Details of Conditions:**

#### **1.0 - General Requirements**

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by J-Designs Architectural Drafting Services, dated 21 November 2003, and numbered 1/2; 2/2.

The development must also comply with the conditions of approval imposed by Council hereunder.

**Amendments** – Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (Camden Council).

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The procedure for applying to amend the approved plans is to submit an "Amended Development Application" form pursuant to section 96 of the *Environmental Planning & Assessment Act 1979*.

- (2) **Duration Of Consent** – This consent will lapse two (2) years from the date that the operational consent is issued by Camden Council. The applicant is advised that a further development application is required to continue to use beyond the prescribed date. Council, in determining any further application, will have regard to the operation of the use within the initial approval period. The applicant is advised to lodge such application at least one (1) month prior to the expiration of this consent.
- (3) **Timber Framing** – The timber frame must be constructed in accordance with the requirements of Australian Standard 1684 - 1992 'National Timber Framing Code'. The applicant is advised that the wall and roof framework including bracing must be designed and anchored to withstand a wind velocity for the particular area.
- (4) **Wet Area Water Proofing** - The application of waterproof membranes in wet areas must comply with the requirements of PART 3.8.1 of the Building Code of Australia and AS 3740 - 1994.
- (5) **Building Code Of Australia** - All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Protect Existing Landscape** - All existing trees/shrubs/grasses and natural landscape features other than those trees and vegetation authorised for removal by this consent, must be retained and protected during all construction works. Approval must be granted by Council prior to the removal or any disturbance of the development site's existing/adjoining or surrounding landscape and vegetation.
- (7) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (ie Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and DCP 96 "Outdoor Advertising Code".

- (8) **Noise Management Plan** – A site specific noise management plan shall be devised and submitted to the Consent Authority (Camden Council) within 2 months from the commencement of operation that addresses the following issues in relation to noise generated from live music and patrons exiting the function centre and car park:

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- a) The appointment of a responsible person to undertake regular noise monitoring and supervision of patrons with a view to identify all areas of non-compliance and take appropriate corrective action.
- b) A set of procedures that will demonstrate how noise complaints will be addressed and reported to complainants.
- c) Information that includes a noise complaint telephone contact person and phone number and the provision of a site register to record all noise complaints and action taken.
- (9) **Additional Noise Criteria** – All noise emissions from the operation of the wedding functions must fully comply with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) at all times.
- (10) **Stable Building Conservation** – within two years from the commencement of the approved use of the land, the applicant is to submit to Council a Conservation Plan for the intended preservation of the stable building that specifies a commencement date for works to be undertaken within 12 months from the Conservation Plan being submitted to Council.

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## 2.0 - Construction Certificate Requirements

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

- (1) **Obscured Glazing** - All windows from bathrooms including any en-suite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.
- (2) **Parking Spaces** - The applicant must provide parking for 50 cars on the adjacent high school site in the manner indicated in the agreement with Camden High School.
- (3) **Soil Erosion And Sediment Control Plans** - Soil erosion and sediment control plans must be designed and installed in accordance with the Consent Authority's (ie Camden Council) "Soil Erosion and Sediment Control Policy".
- Control measures must be maintained during the entire development procedure and can only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised.

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

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- (a) existing and final contours
  - (b) the location of all earthworks including roads, areas of cut and fill and re-grading
  - (c) location of impervious areas other than roads
  - (d) location and design criteria of erosion and sediment control structures
  - (e) location and description of existing vegetation
  - (f) site access (to be minimised)
  - (g) proposed vegetated buffer strips
  - (h) catchment area boundaries
  - (i) location of critical areas (vegetated buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
  - (j) location of topsoil or other stockpiles
  - (k) signposting
  - (l) diversion of uncontaminated upper catchment around areas to be disturbed
  - (m) proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
  - (n) procedures for maintenance of erosion and sediment controls
  - (o) details for staging of works
  - (p) details and procedures for dust control.
- (4) Prior to the **Construction Certificate** being issued the applicant is required to submit to Camden Council an application to install a "Commercial System of Sewerage Management". Such application is to be approved by Camden Council prior to the issue of the Construction Certificate.

The application is to be accompanied by a report from a suitably qualified hydraulic consultant addressing on site sewage management. The report shall address disposal of effluent, details specifications of the proposed system, operation requirements and wet weather disposal. In accordance with Councils Draft Policy 'Sewage Management Strategy', the Environment & Protection Guidelines 'On Site Sewerage Management for Single Households' and relevant Australian Standards. The required capacity of the system is greater than that of a domestic system and as such a commercial wastewater treatment system will be required.

The items in Councils **attached** table must be addressed in the application.

- (5) **Colour Schedule** – A detailed colour schedule must be submitted to the Consent Authority for approval prior to the issue of the **Construction Certificate**.

### 3.0 - Prior To Works Commencing

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

- (1) **Notice Of Commencement Of Work** – Notice in the form prescribed by the *Environmental Planning and Assessment Regulation 2000* shall be lodged with the Consent Authority (Camden Council) **at least 2 days prior** to commencing building works. The notice shall provide details relating to any Construction Certificate issued by a certifying authority and the appointed Principal Certifying Authority.
- (2) **Construction Certificate Before Work Commences** - This consent does not allow site works, building or demolition works to commence nor does it imply that the plans attached to this consent comply with the specific requirements of Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

#### 4.0 - During Construction

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

- (1) **Hours Of Operation** - All construction and demolition work must be restricted to between:
  - (a) 7am and 6pm Mondays to Fridays (inclusive);
  - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
  - (c) work on Sundays and Public Holidays is prohibited.
- (2) **Roof-Water Destination** - The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:
  - (a) an approved water storage tank; or
  - (b) the existing dam and/or natural water course on the subject allotment;
- (3) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA,

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the following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

**Note:** If Council is appointed as the PCA, the council agrees to the commencement inspection to be combined with the first required inspection.

- (a) **Slab On Ground** – When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.
- (b) **Pool Fencing** - The swimming pool safety fence prior to filling the pool with water.
- (c) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to internal lining.
- (d) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.
- (e) **Sewer Line-work** - When external line-work has been laid and connected to the approved waste-water treatment system.

**Note:** Septic tank(s) excavation must be inspected prior to backfilling.

- (f) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

**Note:** That the *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

- (4) **Subterranean Termite Protection** - Treatment for the protection of the building from subterranean termites must be carried out in accordance with AS 3660.1. "Termite Management – New Building Work".

A durable notice must be permanently fixed to the inside of the meter box indicating:

- (a) the method of protection;
- (b) the date of installation of the system;

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- (c) the life expectancy of any chemical used;
  - (d) the need to maintain and inspect the system.
- (5) **Site Management - No Nuisance Creation** - The developer must carry out work at all times in a manner which will not cause a nuisance by the generation of unreasonable noise dust or other activity, to owners and occupiers of adjacent properties.

### 5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (2) 3750 square metres of land is to be made available for the disposal of effluent from the existing dwelling and the proposed wedding facility.
- (3) No more than 125 people are to attend the wedding reception facility on any day.

### 6.0 - Operational Conditions

- (1) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises. AS.
- (2) **Offensive Noise** - The use and occupation of the premises including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.

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- (3) **Hours of Operation** - The hours of operation for the approved land-use are:

Friday and Saturday: 1.30pm to 9.30pm  
 Sunday & Public Holidays: 1.30pm to 9.30pm

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

- (4) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (5) **Marquee Openings** - All marquee openings that allow access and egress for patron usage are to face a westerly direction in-order to reduce potential noise impacts on neighbouring residential dwellings.
- (6) **Amplified Music** - No amplified music is allowed to be played on the property or within the marquee at any time.
- (7) **Public Address Systems** - Public Address systems are prohibited from use on the property or within the marquee.
- (8) **Rock Bands and Disco Music** - Music from rock bands and discos is prohibited from being played on the property or within the marquee.
- (9) **Location and Type of Live Entertainment** - The performance of live entertainment that includes the playing of music must be located within the marquee only. The playing of live music that forms this entertainment must be limited to the form of either a string quartet or a piano /guitar duo. Drums of any kind are prohibited.
- (10) **Operation of Live Music** - The playing of live music shall be prohibited beyond 9.30pm on any evening of operation.
- (11) **Off Street Parking** - All vehicles participating in the use of the site must utilise off street parking at all times.
- (12) **Off Street Parking Signage** - Suitable signage is to be provided in the off street car park that advises patrons to not congregate and to exit the car park in a quite manner.
- (13) **Closing of the Wedding Function Facility** - Patrons are required to leave the no later than 10.00pm on the evening of operation and should

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be encouraged to leave the car park in a timely and quite manner. Caterers and staff are to vacate the site by 11.00pm.

### Reasons for Conditions:

- (1) To ensure that the proposed development complies with the requirements of *Environmental Planning and Assessment Act 1979 and Regulations* made thereto.
- (2) To ensure that the building complies with the *Local Government Act 1993 and Regulations*.
- (3) To ensure that the building complies with the requirements of the Building Code of Australia (BCA) and applicable Australian Standards.
- (4) To ensure that the development meets the aims, objectives and requirements of Council's Local Environmental Plan, Development Control Plans and Policies which relate to the subject land.
- (5) To ensure that the development does not adversely impact on the heritage significance of a building or place and that it complies with the objectives of Council's Heritage Controls.
- (6) To ensure that the development complies with the submitted plans and supporting documentation.
- (7) To ensure that the land and/or building will be developed so as to minimise the impact on the existing and likely future amenity of the neighbourhood and environment.
- (8) To ensure that the proposed site works/associated activities development does not create a noise nuisance to other tenants within the subject building or those on adjoining properties.
- (9) To ensure that the building and/or works do not affect public safety and amenity.
- (10) To ensure that outdoor advertising and advertising structures comply with DCP 96 "Guidelines for Outdoor Advertising".
- (11) To ensure that an adequate and a safe public access has been provided to the site for both pedestrian and vehicular traffic and that the development complies with Council's "Car Parking Code", ie. DCP 97.

Attachment 4

Property: 332 Cawdor Road CAWDOR  
 DA No: 357/2004  
 Proposal Description: WEDDING FUNCTION CENTRE

### RIGHTS OF APPEAL If you are the applicant:

You can appeal against this decision in the Land and Environment Court within 12 months of the date of this notice. You cannot appeal, however, if a Commission of Inquiry is or is to be held and the development is designated development or state significant development.

### DETERMINATION REVIEW

If you are an applicant and you are dissatisfied with the determination, you may within 12 months from the date of determination, request Council, in writing, to review the determination.

SIGNED on behalf of  
 Camden Council



Mr C J Stewart  
**DEVELOPMENT OFFICER**  
 (Development Branch)

### ATTACHMENT A

The following matters are included as advice as relative to this application.

1. Section 82A of the EP&A Act 1979 provides that the applicant may request a review of this determination within twelve months of the date of the determination, following the payment of the prescribed fee.
2. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.
3. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the requirements of Council's Tree Preservation Policy shall be guilty of an offence.
4. Section 126 of the EP&A Act, 1979 provides that a person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed to a penalty not exceeding 1000 penalty units and to a further daily penalty not exceeding 100 penalty units.

ORD01

Property: 332 Cawdor Road CAWDOOR  
DA No: 357/2004  
Proposal Description: WEDDING FUNCTION CENTRE

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Attachment 4

5. The contributions required under Section 94 of the EP & A Act, 1979 are set out in the stated Contribution Plans which can be viewed at Council's Customer Service during normal business hours.
6. This consent does not allow site, building or demolition works to commence. Such works shall only take place after a Construction Certificate has been applied for and been issued.
7. **SYDNEY WATER** requires the submission of stamped approved plans to their office prior to commencement of work.
8. **INTEGRAL ENERGY** requires electrical installations to be in accordance with their standards. All enquiries relating to electrical installations should be directed to that Authority.
9. **TELSTRA** requests that prior to any excavation commencing in connection with the approved work, contact should be made with Telstra "Cable Locations", Telephone 1100. Calls to this number are free.



## ORDINARY COUNCIL

ORD02

ORD02

**SUBJECT: ADDENDUM REPORT - MODIFICATION TO TRADING HOURS OF EXISTING BURNHAM GROVE WEDDING AND FUNCTION CENTRE, 332 CAWDOR ROAD CAWDOR**

**FROM:** Director Planning & Environmental Services

**TRIM #:** 15/334000

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**APPLICATION NO:** 357(4)2004  
**PROPOSAL:** Modification to trading hours of existing Burnham Grove Wedding and Function Centre.  
**PROPERTY ADDRESS:** 332 Cawdor Road, Cawdor  
**PROPERTY DESCRIPTION:** LOT:100 DP: 814326  
**ZONING:** RU1 – Primary Production  
**OWNER:** Chandou Road Developments  
**APPLICANT:** Reg Hawkins

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a Section 96(2) modification application to modify the current operating hours of the Burnham Grove Wedding and Function Centre at 332 Cawdor Road, Cawdor.

This application was originally reported to Council on 24 November 2015. At that meeting, Council resolved to defer the matter to enable the submission writer an opportunity to review amended plans and documents lodged at the time of the re-notification of the proposal, and for Council to liaise with the submitter regarding the nature of their concerns. **A copy of the original report is provided as attachment 1.**

Following Council's resolution to defer the matter, written and verbal dialogue was undertaken with the submitter. The amended plans and documentation were forwarded to the submitter for review. A further written and verbal response was received raising concern with the acoustic report and vehicle congestion in the locality. The application is referred to Council due to unresolved issues. **A copy of the additional submission is provided in the Business Paper supporting documents.**

### RECOMMENDATION

That Council determine DA 357(4)/2004 to modify the current operating hours of the Burnham Grove Wedding and Function Centre at 332 Cawdor Road, pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to conditions in this report and subject to the approval of DA 419/2015 for the construction of a new car park.

### ASSESSMENT

#### Submission Issues:

The issues raised by the submitter related to the accuracy of the acoustic report and traffic conflict with the school. As a result of the concerns of the submitter, it is recommended that the commencement and conclusion of function events does not



occur within peak drop off and pick up hours of the school. As such, an additional condition to reflect this is recommended as part of this Addendum Report.

The issues are discussed in more detail below.

#### Issue Raised

The acoustic report submitted by the applicant is deficient with respect to the nominated distance to the closest sensitive receiver (residence) and the report has failed to address the location of the access road and its relationship to the closest residential lot.

#### Officer Response

The construction of the car park and access road is the subject of DA 419/2015 which is being separately considered by Council. Council's Environmental Health Officer noted the inaccuracies of the report at the time of the assessment an adjusted results accordingly. To remain compliant with Council's Environmental Noise Policy, a 1.6m acoustic fence along the southern side of the access road and car park was considered warranted to attenuate the noise at the closest residential property to compliant levels.

A condition is recommended as part of DA 419/2015 which requires the construction of the 1.6m acoustic fence.

#### Issue Raised

Potential traffic conflict between the function centre and school.

#### Officer Response

The Section 96(2) modification application seeks to modify the operating hours of the existing approved Burnham Grove Wedding and Function Centre to allow functions from 10am to 5pm on Monday to Thursday. The original proposal sought to start at 9am on Monday to Thursday.

The use of Burnham Grove as a Wedding and Function Centre was approved under DA 357/2004. The current approved operating hours are as follows:

- 1:30pm – 10:30pm Friday to Sunday (inclusive) and on public holidays; and
- Music is to cease by 10pm, with patrons offsite by 11pm, and staff and caterers offsite by 11:30pm.

The approval under DA357/2004 limits the number of patrons at any one function to 125. The modification application does not seek to vary the patron numbers.

Consideration has been given to the school pick up and drop off times of Camden High School. In order to reduce potential traffic conflict in this location, an additional condition is recommended which does not permit functions to commence or conclude during the school peak pickup times (school zone hours).

### **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 357(4)/2004 is recommended for approval subject to the conditions

outlined in this report and subject to the approval of DA 419/2015 for the construction of a new car park.

## CONDITIONS

### 1.0 - General Conditions of Consent

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

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
1855 – 11 Issue H Amendment	Site Plan	Reggies Residential Design + Drafting	22/05/2014

Document Title	Prepared by	Date
Acoustic Report	Rodney Stevens Acoustics Consultants	20 August 2015
SOEE	Reggies Residential Design + Drafting	May 2015
Waste Management Plan	Reggies Residential Design + Drafting	May 2015

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 8 December 2015).**

- ~~(2) **Duration of Consent** – This consent will become invalid if at any time, Camden High School elects not to renew the agreement for use of their car park for functions. The applicant is advised that a fresh development application is required to continue to use beyond that time, which nominates an alternative carpark.~~

**(This condition is proposed to be deleted by Section 96 Modification 357(4)/2004 on 8 December 2015, subject to approval of DA 419/2015)**

- (3) **Timber Framing** – The timber frame must be constructed in accordance with the requirements of the most edition of AS1684 – „Residential Timber-frame Construction“. The applicant is advised that the wall and roof framework including bracing must be designed and anchored to withstand a wind velocity for the particular area.
- (4) **Wet Area Water Proofing** – The application of waterproof membranes in wet areas must comply with the requirements of PART 3.8.1 of the Building Code of Australia and the current edition of AS3740.
- (5) **Building Code of Australia** – All works must be carried out in accordance with the requirements of the Building Code of Australia.

- (6) **Protect Existing Landscape** – All existing trees/shrubs grasses and natural landscape features other than those trees and vegetation authorised for removal by consent must be retained and protected during all construction works. Approval must be granted by Council prior to the removal or any disturbance of the development site's existing/adjoining or surrounding landscape and vegetation.
- (7) **Advertising Signs Application** – Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (i.e. Camden Council) prior to the erection of any advertising signs.
- (8) **Noise Management**  
**Deleted via Modification (3) dated 15 March 2010.**
- (9) **Additional Noise Criteria**  
**Deleted via Modification (3) dated 15 March 2010.**
- (10) **Stable Building Conservation** - within 2 years from the commencement of the approved use of the land, the applicant is to be submit to Council a Conservation plan for the intended preservation of the stable building that specifies a commencement date for works to be undertaken within 12 months from the conservation Plan being submitted to Council.
- (11) **Waste Water** -The owner shall engage the services of a suitably qualified wastewater consultant to undertake a review of the existing onsite sewage management system. The consultant shall provide a wastewater report detailing recommendations for any upgrade or replacement works to the system. The consultant engaged shall be an independent 3<sup>rd</sup> party who has not been previously involved with the supply, construction, or installation of the existing system. Consideration shall be given to the feasibility of connection of the site to the private sewer main servicing the neighbouring premises.
- (12) **Section 68 Approval** - The Owner shall submit to Council an Application to "Install, Construct, Alter a Commercial On-site Sewage Management System" under section 68 of The Local Government Act 1993. Such application shall be supported by all relevant documentation as per Camden Councils On-site Sewage Management Strategy and fees and charges in accordance with Council's Fees and Charges schedule.
- (13) **Section 68 Approval** - A Section 68 Approval shall be obtained from Council and works shall be completed on the on-site sewage management system as per the approval issued.

## 2.0 – Construction Certificate Requirements

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

- (1) **Obscure Glazing** – All windows from bathrooms including any ensuite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.

- (2) **Parking Spaces** – The developer must provide parking for cars in the manner indicated on the approved plans. Of that number, parking spaces must be available at all times for the parking of residents/visitors. Customers/employees/service vehicles. Those parking spaces must be clearly marked and an adequate sign indicating that parking is available on-site must be erected in a position where it is legible to drivers of vehicles entering the land.
- (3) **Soil Erosion and Sediment Control Plans** – Soil erosion and sediment control plans must be designed and installed in accordance with the Consent Authority's (i.e. Camden Council) "Soil and Erosion and Sediment Control Policy".

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

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

- (a) Existing and final contours
  - (b) The location of all earthworks including roads, areas of cut and fill and re-grading
  - (c) Location of impervious areas other than roads
  - (d) Location of design criteria of erosion and sediment control structure's
  - (e) Location and description of existing vegetation
  - (f) Site access (to be minimised)
  - (g) Proposed vegetated buffer strips
  - (h) Catchment area boundaries
  - (i) Location of critical areas, (vegetation buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
  - (j) Location of topsoil or other stockpile's
  - (k) Signposting
  - (l) Diversion of uncontaminated upper catchment around areas to be disturbed
  - (m) Proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
  - (n) Procedures for maintenance of erosion and sediment control
  - (o) Details of staging of works
  - (p) Details and procedures for dust control.
- (4) Prior to the Construction Certificate being issued with applicant is required to submit to Camden Council an application to install a "Commercial System of Sewerage Management". Such application is to be approved by Camden Council prior to the issue of the Construction Certificate.

The application is to be accompanied by a report from a suitably qualified hydraulic consultant addressing on-site sewage management. The report shall address disposal of effluent, details specifications of the proposed system, operation requirements and wet weather disposal. In accordance with Council's Draft Policy "Sewage Management Strategy", the Environment and Protection Guidelines "Onsite Sewage Management for Single Households" and relevant Australian Standards. The required capacity of the system is greater than of a domestic system and as such a commercial wastewater treatment system will be required.

The items in Councils **attached** table must be addressed in the application.

- (5) **Colour Schedule** – A detailed colour schedule must be submitted to the Consent Authority for approval to the issue of the **Construction Certificate**.

### 3.0 - Prior To Works Commencing

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

- (1) **Notice of Commencement of Work** – Notice in the form prescribed by the Environmental Planning and Assessment Regulation 2000 shall be lodged with the Consent Authority (Camden Council) at least 2 days prior to commencing building works. The notice shall provide details relating to any Construction Certificate issued by a certifying authority and the appointed Principal Certifying Authority.
- (2) **Construction Certificate Before Work Commences** – This consent does not allow site works, building or demolition works to commence, nor does it imply that the plans attached to this consent comply with the specific requirements of the Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

### 4.0 – During Construction

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

- (1) **Hours of Operation** – All construction and demolition work must be restricted to between:
  - (a) 7am and 6pm Mondays to Fridays (inclusive);
  - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
  - (c) Work on Sundays and Public Holidays is prohibited.
- (2) **Roofwater Destination** – The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:
  - (a) An approved water storage tank;
  - (b) The existing dam and/or natural water course on the subject allotment.
- (3) **Building Inspections** – The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA, for following stages must be inspected and passed prior to the proceeding to the subsequent stage of construction.

**Note:** If Council is appointed as the PCA, Council **agrees** to the commandment inspection to be combined with the first required inspection.

- (a) Slab on Ground – When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.
- (b) Pool Fencing – The swimming pool safety fence prior to filling the pool with water.
- (c) Wall and Roof Framing – When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to the internal lining.
- (d) Wet Area Flashing – When wall and floor junctions have been flashed with an approved product prior to the installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, ensuite and the like.
- (e) Sewer Line-work – When external line-work has been laid and connected to the approved waste-water treatment system.

**Note:** Septic tank(s) excavation must be inspected prior to backfilling.

- (f) Occupation Certificate (final inspection) – Upon completion of the development and before occupation or commencement of use.

**Note:** That the Environmental Planning and Assessment Act 1979 and Regulation may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

- (4) **Subterranean Termite Protection** – Treatment for the protection of the building from subterranean termites must be carried out in accordance with AS3660.1 “Termite Management – New Building Work”.

A durable notice must be permanently fixed to the inside of the meter box indicating:

- (a) The method of protection;
- (b) The date of installation of the system;
- (c) The life expectancy of the chemical used;
- (d) The need to maintain and inspection the system.

- (5) **Site Management (No Nuisance Creation)** – The developer must carry out work at all times in a manner which will not cause a nuisance by the generation of unreasonable noise, dust, or other activity, to owners and occupiers of adjacent properties.

## 5.0 Prior to the Issue of Occupation Certificate

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

- (1) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority **prior to the occupation or use of the development**. The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (i.e. Camden Council) within

seven (7) days from the date of determination, together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (2) 3750 square metres of land is to be made available for the disposal of effluent from the existing dwelling and proposed wedding facility.
- (3) No more than 125 people are to attend the wedding reception facility on any day.

**6.0 Operational Conditions**

- (1) **Hours of Operation** – The hours of operation for the approved land use are:

Monday to Thursday inclusive	10.00am to 5.00pm
Friday to Sunday inclusive	1:30pm – 10:30pm
Public Holidays	1:30pm – 10:30pm

In addition to the above:

- No functions are to start or conclude during the weekdays in school term between 2.30pm and 4.00pm (school zone hours) to avoid conflict with the peak times of Camden High.
- Music to cease by 10.00pm;
- Patrons to be off-site by 11.00pm;
- Staff and caterers to be off-site by 11.30pm Friday to Sunday, and 6.00pm Monday to Thursday.

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

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 8 December 2015).**

- (2) **Vehicle Movements and Deliveries** – are only permitted between the hours of 10am and 5pm Monday to Thursday and 1.30pm and 11.30pm on Friday to Sunday.

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 8 December 2015).**

- (3) **Installations and Operation of Sound System** – In accordance with the recommendations of the “Noise Survey: Burnham Grove Function Centre 332 Cawdor Road Camden NSW 2570, Prepared by RSA Acoustics, Ref No 4339, Dated 2/11/09 Amended 15/1/10,” an in-house sound system using directional speakers must be installed within the marquee with the speakers set to a maximum sound level to achieve external noise criteria. The speakers must face North West and the speaker system must be fitted with a suppression limiter and be calibrated and set by a qualified acoustical consultant. A letter from the consultant must be provided to the Consent Authority (Camden

Council) prior to the issue of an occupation certificate confirming that the sound system is installed and meets the relevant noise criteria when in operation.

- (4) **Noise Management Plan** – the operation and function centre must be undertaken in compliance with the “Noise Management Plan, For Burnham Grove Function Centre: Lot 100 DP814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No332, dated 19 February 2010, DA357/2004, and Acoustic report prepared by Rodney Stevens Acoustics report numbered 150301R0 revision 0 dated 20 August 2015.

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 8 December 2015).**

- (5) **Additional Noise Criteria** – All noise emissions from the operation of the function Centre must fully comply at all times with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) and Council’s Environmental Noise Policy.
- (6) **Offensive Noise** – The use and occupation of the premises, including all plans and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (7) **Amplified Music, Public Address System, Live Entertainment** – is permitted subject to compliance with the conditions of this consent and requirements of the “Noise Management Plan, For the Burnham Grove Function Centre: Lot 100 DP814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No332, dated 19 February 2010, DA357/2004.”
- (8) **Location of Live Entertainment** – The performance of live entertainment that includes the playing of music must be located within the marquee only.
- (9) **Operation of Live Music** – Live music shall be prohibited beyond 10.00pm on any Friday to Sunday evening operation. No live music is permitted beyond 5pm on Monday to Thursday.

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 8 December 2015).**

- (10) **Light Spill** – The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (11) **Amenity** – The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupants, and residential premises.
- (12) **Closing and Vacating of Function Centre** – Patrons must leave the premises no later than 5pm on Monday to Thursday and 11.00pm on Friday to Sunday. All staff and caterers are to vacate the premises by 6pm on Monday to Thursday and 11.30pm on Friday to Sunday.

No functions are to start or conclude during the weekdays in school term between 2.30pm and 4.00pm (school zone hours) to avoid conflict with Camden High.

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(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 8 December 2015).

**RECOMMENDED**

That Council approve Section 96(2) Modification Application 357(4)/2004 for the modification to previously approved operating hours at 332 Cawdor Road, Cawdor, subject to the modified conditions listed above and subject to the approval of DA 419/2015 for the construction of a new car park.

ATTACHMENTS

1. Original Report
2. Additional Submission - *Supporting Document*
3. Historic DA Consents
4. Public Exhibition and Submissions Map - *Supporting Document*
5. Submissions - *Supporting Document*



## ORDINARY COUNCIL

**ORD03**

**SUBJECT:** MODIFICATION TO TRADING HOURS OF EXISTING BURNHAM GROVE WEDDING AND FUNCTION CENTRE - 332 CAWDOR ROAD, CAWDOR  
**FROM:** Director Planning & Environmental Services  
**TRIM #:** 15/305433

**APPLICATION NO:** 357(4)/2004  
**PROPOSAL:** Modification to trading hours of existing Burnham Grove Wedding and Function Centre  
**PROPERTY ADDRESS:** 332 Cawdor Road, Cawdor  
**PROPERTY DESCRIPTION:** LOT: 100 DP: 814326  
**ZONING:** RU1 – Primary Production  
**OWNER:** Chandou Road Developments  
**APPLICANT:** Reg Hawkins

### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a Section 96(2) modification application to modify the current operating hours of the Burnham Grove Wedding and Function Centre at 332 Cawdor Road, Cawdor.

The DA is referred to Council for determination as there remain unresolved issues received in submissions from 1 owner.

### SUMMARY OF RECOMMENDATION

That Council determine Section 96(2) modification application DA 357(4)/2004 to modify the operating hours of the existing approved Burnham Grove Wedding and Function Centre pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979* subject to the modified conditions contained in this report and subject to the approval of DA 419/2015 for the construction of a new car park.

### EXECUTIVE SUMMARY

Council is in receipt of a Section 96(2) modification application to modify the operating hours of the existing approved Burnham Grove Wedding and Function Centre to allow functions from 9am to 5pm on Monday to Thursday.

The use of Burnham Grove as a Wedding and Function Centre was approved under DA 357/2004. The current approved operating hours are as follows:

- 1:30pm – 10:30pm Friday to Sunday (inclusive) and on public holidays; and
- Music is to cease by 10pm, with patrons offsite by 11pm, and staff and caterers offsite by 11:30pm.

The approval under DA357/2004 limits the number of patrons at any one function to 125. The modification application does not seek to vary the patron numbers.

This is the report submitted to the Ordinary Council held on 24 November 2015

Page 1

ORD02

Attachment 1

ORD02

Attachment 1



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

DA 419/2015 for the construction of a new car park at Burnham Grove has been assessed concurrently with this modification application. Approval of this modification application is subject to the approval of the new car park noting that the existing approved use as function centre is conditional on having access to at least 81 car parking spaces. DA 419/2015 for the construction of a new car park at Burnham Grove is being considered at Council Meeting of 24 November 2015.

The modification application was publicly exhibited for a total period of 28 days in accordance with the Camden DCP 2011. Three (3) submissions were received from 1 owner objecting to the proposed development. **A copy of the submissions is provided with the Business Paper supporting documents.**

Council staff contacted the submitter (1 submitter 3 letters) to discuss their concerns, however were unsuccessful in resolving the issues raised in the submissions.

The issues raised in the submissions relate to the impact of the proposed carpark, the permissibility of the use and noise and traffic issues.

The concerns relating to the proposed car park have been addressed separately in the report for DA 419/2015.

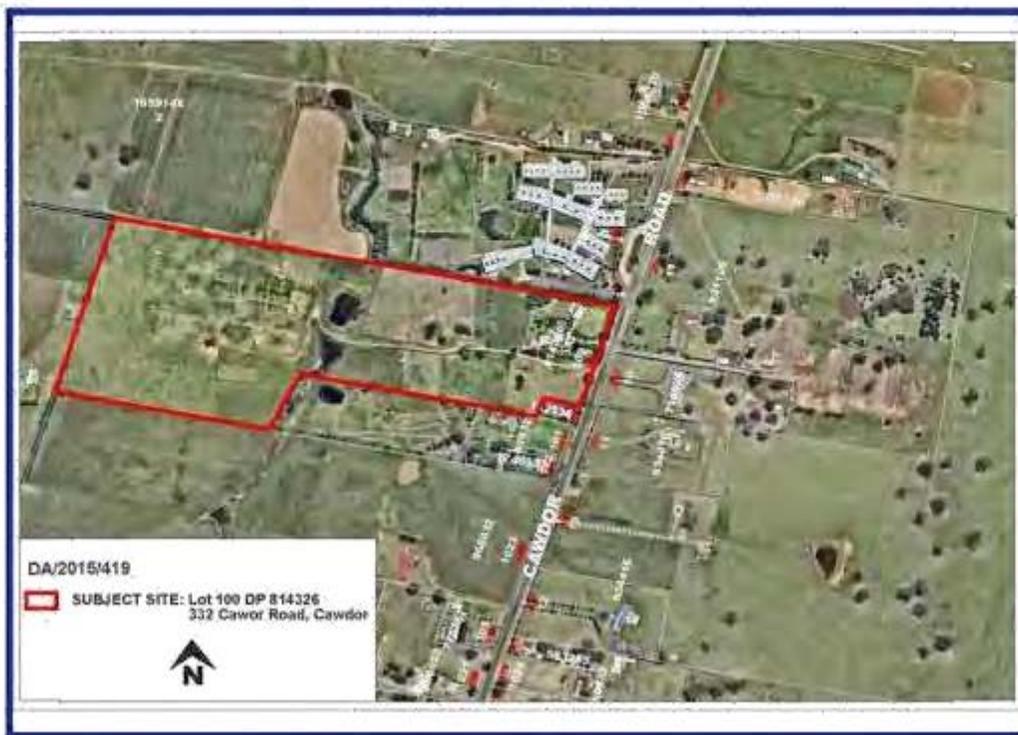
The proposed modification to the operating hours relate to an existing approved use.

There is no proposed change to the approved patron numbers of 125. As such the noise and traffic impacts are considered to be comparable to the existing approved situation.

Based on the assessment, it is recommended that the modification application be approved subject to the modified conditions contained in this report and subject to the approval of DA 419/2015 which is being considered by Council at its meeting on 24 November 2015.



## AERIAL PHOTO



## THE SITE

The site is commonly known as 332 Cawdor Road, Cawdor and is legally described as Lot 100 DP 814326.

The site has a frontage of approximately 149.04m to Cawdor Road, a rear width of 260.19m, a site a depth of approximately 720.78m. The site is relatively flat and currently accommodates the heritage listed property Burnham House, marquee, amenities buildings, two dams and a vast grassed area at the rear.

It is located within the rural area of Cawdor. The site is surrounded in the general area by other rural allotments and immediately adjoining the property is Camden High School.

The site is known as the Burnham Grove property and is listed as a heritage item under Camden Local Environmental Plan 2010 (LEP). While the whole site is listed as a heritage item, there are varying levels of heritage significance across the site. The front complex containing the homestead, outbuildings and landscaped setting are of greatest significance, the view of the homestead from Cawdor Road, the rural view from Cawdor Road and the mature trees on-site are also of heritage significance yet to a lesser extent.

## HISTORY

The use as a function centre was granted consent in 2004 (DA357/2004 - weddings, function, amenities building and marquee) under Camden Local Environmental Plan 2002. At the time the parking for the function centre was being provided via a lease



agreement with NSW Department of Education and Training within Camden High School. The lease agreement with the school permitted the use of the southern car park, which comprises 81 parking spaces according to the stamped approved plans.

The consent imposed a 2 year trial, with the marquee having a maximum capacity of 125 patrons. Prior to the expiry of the 2 year period, a Section 96 application was lodged to remove the reference to the 2 year approval, thereby granting consent for the use of the marquee and associated buildings as a function/wedding venue.

The lease agreement for carparking expired in December 2014.

This application seeks to extend the operating hours of the function centre, and if supported the lease agreement with the school would not suffice as the carparking could not be provided in the school grounds during business hours Monday to Thursday as requested by this application. The owners have lodged a DA for the construction of a carpark for 81 vehicles and associated pathway connections, and the relocation of waste water and septic. This DA is being considered by Council on 24 November 2015 via DA 419/2015.

There is currently no lawful parking for the function centre.

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

DA Number	Development Details
DA 357/2004	Weddings, function, amenities building and marquee. The original DA was approved on the basis that the use is required to ensure the conservation of the heritage buildings.
DA357(2)/2004	S96 modification to delete condition 1.0 (2). This condition related to the duration of consent becoming invalid if Camden High School elects not to renew their agreement for use of their car park.
DA 357(3)/2004	S96 modification to install a new acoustics system, introduce amplified music and extend hours of operation. Conditions 1.0 (8) & (9) were deleted, which relate to the submission of a noise management plan and requirement for noise emissions to comply with noise limiting criteria. Operational conditions 6.0 (1) to (12) were also replaced.
DA 419/2015	DA for a new carpark proposing 81 carparking spaces currently being considered by Council.

### THE PROPOSAL

DA 357(4)2004 seeks approval to modify the current operating hours to allow use from Monday to Thursday in addition to the approved Friday, Saturday and Sunday hours associated with the Burnham Grove Wedding and Function Centre.

Specifically the proposed modification involves:

- Extending operating hours from 9am to 5pm Monday to Thursday; and
- Retaining the approved hours of 1:30pm – 10:30pm Friday to Sunday.



The approved maximum number of patrons being 125 is not proposed to be changed.

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

## **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:

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

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

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

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

There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the proposed development. Appropriate erosion and sediment control measures have been proposed and a condition is recommended to provide a water pollution control device as part of the proposed development.

#### **Camden Local Environmental Plan (LEP) 2010**

##### ***Permissibility***

The site is zoned RU1 Primary Production under the provisions of the LEP. This instrument prohibits 'Function Centres'. Notwithstanding, a function centre has been approved on the site under DA 357/2004.

The proposed extension of hours is not considered significant, as the additional operating hours are within business hours (9am to 5pm Monday to Thursday), the occupant numbers are not proposed to increase, and there is no additional floor area associated with the function/wedding use.

##### ***Zone Objectives***

The objectives of RU1 Primary Production zone applicable on this application are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base; To minimise the fragmentation and alienation of resource lands; To permit non-agricultural uses which support the primary*



*production purposes of the zone; To maintain the rural landscape character of the land.*

Officer comment:

The proposed modification does not seek to vary the approved land use of the site.

*Relevant Clauses*

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

Clause	Requirement	Provided	Compliance
5.10 Heritage	Consider the effect of the proposed development on the heritage significance of the item or area concerned	The proposed modification is for the extension of operating hours for an existing approved function centre. The extension of operating hours will ensure the ongoing viability of the use and, as a result, facilitate the ongoing maintenance of the heritage item.  The additional hours of operation are not considered to detract from the heritage significance of the item and are acceptable.	Yes
6.2 Public Utility Infrastructure	Appropriate public utility infrastructure to service the development	The site is serviced by appropriate public utility infrastructure including water and sewer.	Yes

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

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

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

Camden Development Control Plan 2011 (DCP)

The following is an assessment of the proposed development's compliance with the controls in the DCP. Discussion of any variations of the controls is provided after the compliance table.

Control	Requirement	Provided	Compliance
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Control	Requirement	Provided	Compliance
B1.9.9 Waste Management Plan	Waste management plan	A waste management plan has been provided for the ongoing use of the function centre.	Yes
B1.16 Acoustic Amenity	Compliance with Council's Environmental Noise Policy	The development can comply with Council's Environmental Noise Policy subject to compliance with the imposed conditions.	Yes
D4.2.10 Noise and Vibration	Compliance with Council's Environmental Noise Policy	The development can comply with Council's Environmental Noise Policy subject to compliance with the imposed conditions.	Yes

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

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

**(a)(iv) The Regulations**

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

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

Acoustic Impacts

In January 2010 an acoustic assessment was required to establish the operational noise levels of the Burnham Grove Function Centre, under DA 357(3)/2004. As a result of this report noise measures were required to reduce the noise emanating from the marquee to compliant levels. These noise measures were added as conditions of consent to DA 357(3)/2004.

As part of this modification application, an updated acoustic report was completed in August 2015. The assessment had regard to the noise impact associated with the extension of hours and the proposed car park (DA 419/2015); these applications are being considered concurrently.

The closest residential dwellings identified in the assessment were 105 Cawdor Road to the east (approximately 135m from the function centre to the dwelling) on the opposite side of the road (Council references this property as 299 Cawdor Road), and 336 Cawdor Road to the south (approximately 120m from the function centre to the dwelling).



Noting the existing conditions of consent relating to noise mitigation measures, Council staff are satisfied that the proposed extension of hours will not have any adverse acoustic impacts.

In order to maintain the acoustic amenity to nearby residential dwellings associated with noise generated by the proposed car park (DA 419/2015), the acoustic assessment recommended the construction of a 1.6m high lapped and capped timber acoustic fence along the southern edge of the driveway and carpark. A condition is recommended ensuring the construction of the fence as part of DA 419/2015.

**(c) The suitability of the site**

As demonstrated by the above assessment, the site is considered to be suitable for the approved function centre maintained wholly within the site.

**(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 24 June to 8 July 2015. Council re-notified the application for an additional 14 days from 28 September to 11 October 2015.

Three (3) submissions were received from one resident, objecting to the proposed development. **A copy of a Public Exhibition and Submissions Map is provided with the Business Paper supporting documents.**

The following discussion addresses the issues and concerns raised in the submissions relating to the modification to the approved operating hours.

1. *A Function Centre is a prohibited use within the RU1 zone, pursuant to the Camden Local Environmental Plan 2011. The proposed modification to the approved hours will result in the application no longer being substantially the same.*

Officer comment:

The function centre is an existing approved use. The proposed modification to the approved hours of operation are not considered to cause the existing approved uses to no longer be substantially the same as the original approved DA. This is based on the following:

- that the modification seeks approval for additional hours; and
- the existing approved use will not be intensified by way of additional usable floor area or increased number of attendees.

The proposal is for the extension of hours only, there is no change to the marquee floor area and the number of patrons remains capped at 125.

2. *Noise and amenity impacts from the increased traffic, and request for an acoustic report.*

Officer comment:

The proposed modification does not seek to increase patron numbers and hence the traffic demand of the function centre is considered comparable to the existing approved situation.



In January 2010 an acoustic assessment was required to establish the operational noise levels of the Burnham Grove Function Centre, under DA/2004/357/3. As a result of this report noise measures were required to reduce the noise emanating from the marquee to compliant levels.

As part of this modification, an updated acoustic report was completed in August 2015. The assessment had regard to the noise impact associated with the extension of hours and the proposed car park (proposed under DA 419/2015) which is being considered concurrently with this modification.

The assessment recommended the construction of a 1.6m high lapped and capped timber acoustic fence along the southern edge of the driveway and car park (see diagram below) to mitigate noise. A condition is recommended requiring this to be constructed as part of the DA for the car park.



**Indicative location of the proposed 1.6m high lapped and capped acoustic fence**

3. *Owner is currently breaching consent and operating outside of approved hours.*

Officer comment:

The concerns relating to the current breaching of consent noted in the submissions associated with this DA have been referred to Council's compliance section for further investigation. There have not been any complaints received by Council in the last year relating to the breaching of consent for the function centre use.

This modification application seeks to regularise the approved hours of operation.

4. *Substantial impact on amenity as a result of the carparking for the function/wedding centre being within the site accessed via the southern driveway rather than using Camden High which is to be north of the site.*



The 2004 determination and subsequent Section 96 modifications contained a condition that required the carparking being provided by lease arrangement from Camden High School, as the use was operating outside of the school hours. The carpark is being proposed under DA 419/2015, which is being assessed concurrently. It is acknowledged the extension of hours is directly related to the carpark construction by virtue of the need to provide carparking associated with the use. In order to assess and mitigate the impact into adjoining neighbours an acoustic report was required. This report has recommended a 1.6m high lapped and capped timber acoustic fence be constructed along the southern side of the driveway, extending from the carpark to the front of the site to reduce the noise emanation as a result of vehicles entering and leaving the site.

As an indirect consequence, the height of the fence will mitigate headlights from shining into the adjoining property.

A condition of consent has been imposed on the carparking DA requiring this fence to be constructed in accordance with the acoustic report prepared by Rodney Stevens Acoustics dated 20 August 2015.

5. *The carparking for the site is proposing considerably more than was provided within Camden High via a lease agreement.*

The application initially proposed 115 spaces; this has since been reduced to 81 which is consistent with the number provided via lease agreement.

**(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**

No external referrals were required.

**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 357(4)/2004 is recommended for approval subject to the conditions contained in this report and subject to the approval of DA 419/2015 for the construction of a new car park.

**CONDITIONS**

**1.0 - General Conditions of Consent**

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



- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
1855 – 11 Issue H Amendment	Site Plan	Reggies Residential Design + Drafting	22/05/2014

Document Title	Prepared by	Date
Acoustic Report	Rodney Stevens Acoustics Consultants	20 August 2015
SOEE	Reggies Residential Design + Drafting	May 2015
Waste Management Plan	Reggies Residential Design + Drafting	May 2015

(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 24 November 2015).

- ~~(2) **Duration of Consent** – This consent will become invalid if at any time, Camden High School elects not to renew the agreement for use of their car park for functions. The applicant is advised that a fresh development application is required to continue to use beyond that time, which nominates an alternative carpark.~~

~~(This condition is proposed to be deleted by Section 96 Modification 357(4)/2004 on 24 November 2015, subject to approval of DA 419/2015)~~

- (3) **Timber Framing** – The timber frame must be constructed in accordance with the requirements of the most edition of AS1684 – 'Residential Timber-frame Construction'. The applicant is advised that the wall and roof framework including bracing must be designed and anchored to withstand a wind velocity for the particular area.
- (4) **Wet Area Water Proofing** – The application of waterproof membranes in wet areas must comply with the requirements of PART 3.8.1 of the Building Code of Australia and the current edition of AS3740.
- (5) **Building Code of Australia** – All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Protect Existing Landscape** – All existing trees/shrubs grasses and natural landscape features other than those trees and vegetation authorised for removal by consent must be retained and protected during all construction works. Approval must be granted by Council prior to the removal or any disturbance of the development site's existing/adjoining or surrounding landscape and vegetation.



- (7) **Advertising Signs Application** – Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (i.e. Camden Council) prior to the erection of any advertising signs.
- (8) **Noise Management**  
Deleted via Modification (3) dated 15 March 2010.
- (9) **Additional Noise Criteria**  
Deleted via Modification (3) dated 15 March 2010.
- (10) **Stable Building Conservation** - within 2 years from the commencement of the approved use of the land, the applicant is to submit to Council a Conservation plan for the intended preservation of the stable building that specifies a commencement date for works to be undertaken within 12 months from the conservation Plan being submitted to Council.
- (11) **Waste Water** -The owner shall engage the services of a suitably qualified wastewater consultant to undertake a review of the existing onsite sewage management system. The consultant shall provide a wastewater report detailing recommendations for any upgrade or replacement works to the system. The consultant engaged shall be an independent 3<sup>rd</sup> party who has not been previously involved with the supply, construction, or installation of the existing system. Consideration shall be given to the feasibility of connection of the site to the private sewer main servicing the neighbouring premises.
- (12) **Section 68 Approval** - The Owner shall submit to Council an Application to "Install, Construct, Alter a Commercial On-site Sewage Management System" under section 68 of The Local Government Act 1993. Such application shall be supported by all relevant documentation as per Camden Councils On-site Sewage Management Strategy and fees and charges in accordance with Council's Fees and Charges schedule.
- (13) **Section 68 Approval** - A Section 68 Approval shall be obtained from Council and works shall be completed on the on-site sewage management system as per the approval issued.

## 2.0 – Construction Certificate Requirements

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

- (1) **Obscure Glazing** – All windows from bathrooms including any ensuite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.
- (2) **Parking Spaces** – The developer must provide parking for cars in the manner indicated on the approved plans. Of that number, parking spaces must be available at all times for the parking of residents/visitors. Customers/employees/service vehicles. Those parking spaces must be clearly marked and an adequate sign indicating that parking is available on-site must be erected in a position where it is legible to drivers of vehicles entering the land.



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

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

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

- (a) Existing and final contours
  - (b) The location of all earthworks including roads, areas of cut and fill and re-grading
  - (c) Location of impervious areas other than roads
  - (d) Location of design criteria of erosion and sediment control structures
  - (e) Location and description of existing vegetation
  - (f) Site access (to be minimised)
  - (g) Proposed vegetated buffer strips
  - (h) Catchment area boundaries
  - (i) Location of critical areas, (vegetation buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
  - (j) Location of topsoil or other stockpile's
  - (k) Signposting
  - (l) Diversion of uncontaminated upper catchment around areas to be disturbed
  - (m) Proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
  - (n) Procedures for maintenance of erosion and sediment control
  - (o) Details of staging of works
  - (p) Details and procedures for dust control.
- (4) Prior to the Construction Certificate being issued with applicant is required to submit to Camden Council an application to install a "Commercial System of Sewerage Management". Such application is to be approved by Camden Council prior to the issue of the Construction Certificate.

The application is to be accompanied by a report from a suitably qualified hydraulic consultant addressing on-site sewage management. The report shall address disposal of effluent, details specifications of the proposed system, operation requirements and wet weather disposal. In accordance with Council's Draft Policy "Sewage Management Strategy", the Environment and Protection Guidelines "Onsite Sewage Management for Single Households" and relevant Australian Standards. The required capacity of the system is greater than of a domestic system and as such a commercial wastewater treatment system will be required.

The items in Council's **attached** table must be addressed in the application.

- (5) **Colour Schedule** – A detailed colour schedule must be submitted to the Consent Authority for approval to the issue of the **Construction Certificate**.

### 3.0 - Prior To Works Commencing

This is the report submitted to the Ordinary Council held on 24 November 2015 - Page 13



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

- (1) **Notice of Commencement of Work** – Notice in the form prescribed by the Environmental Planning and Assessment Regulation 2000 shall be lodged with the Consent Authority (Camden Council) at least 2 days prior to commencing building works. The notice shall provide details relating to any Construction Certificate issued by a certifying authority and the appointed Principal Certifying Authority.
- (2) **Construction Certificate Before Work Commences** – This consent does not allow site works, building or demolition works to commence, nor does it imply that the plans attached to this consent comply with the specific requirements of the Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

#### 4.0 – During Construction

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

- (1) **Hours of Operation** – All construction and demolition work must be restricted to between:
  - (a) 7am and 6pm Mondays to Fridays (inclusive);
  - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
  - (c) Work on Sundays and Public Holidays is prohibited.
- (2) **Roofwater Destination** – The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:
  - (a) An approved water storage tank;
  - (b) The existing dam and/or natural water course on the subject allotment.
- (3) **Building Inspections** – The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA, for following stages must be inspected and passed prior to the proceeding to the subsequent stage of construction.

**Note:** If Council is appointed as the PCA, Council agrees to the commandment inspection to be combined with the first required inspection.

- (a) Slab on Ground – When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.
- (b) Pool Fencing – The swimming pool safety fence prior to filling the pool with water.



- (c) Wall and Roof Framing – When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to the internal lining.
- (d) Wet Area Flashing – When wall and floor junctions have been flashed with an approved product prior to the installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, ensuite and the like.
- (e) Sewer Line-work – When external line-work has been laid and connected to the approved waste-water treatment system.

**Note:** Septic tank(s) excavation must be inspected prior to backfilling.

- (f) Occupation Certificate (final inspection) – Upon completion of the development and before occupation or commencement of use.

**Note:** That the Environmental Planning and Assessment Act 1979 and Regulation may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

- (4) **Subterranean Termite Protection** – Treatment for the protection of the building from subterranean termites must be carried out in accordance with AS3660.1 "Termite Management – New Building Work".

A durable notice must be permanently fixed to the inside of the meter box indicating:

- (a) The method of protection;
- (b) The date of installation of the system;
- (c) The life expectancy of the chemical used;
- (d) The need to maintain and inspection the system.

- (5) **Site Management (No Nuisance Creation)** – The developer must carry out work at all times in a manner which will not cause a nuisance by the generation of unreasonable noise, dust, or other activity, to owners and occupiers of adjacent properties.

#### 5.0 Prior to the Issue of Occupation Certificate

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

- (1) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority **prior to the occupation or use of the development**. The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (i.e. Camden Council) within seven (7) days from the date of determination, together with all relevant documentation including the Fire Safety Certificate.

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



The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (2) 3750 square metres of land is to be made available for the disposal of effluent from the existing dwelling and proposed wedding facility.
- (3) No more than 125 people are to attend the wedding reception facility on any day.

#### 6.0 Operational Conditions

- (1) **Hours of Operation** – The hours of operation for the approved land use are:

Monday to Thursday inclusive	9.00am to 5.00pm
Friday to Sunday inclusive	1:30pm – 10:30pm
Public Holidays	1:30pm – 10:30pm

In addition to the above:

- Music to cease by 10.00pm;
- Patrons to be off-site by 11.00pm;
- Staff and caterers to be off-site by 11.30pm.

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

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 24 November 2015).**

- (2) **Vehicle Movements and Deliveries** – are only permitted between the hours of 9am and 5pm Monday to Thursday and 1.30pm and 11.30pm on Friday to Sunday.

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 24 November 2015).**

- (3) **Installations and Operation of Sound System** – In accordance with the recommendations of the "Noise Survey: Burnham Grove Function Centre 332 Cawdor Road Camden NSW 2570, Prepared by RSA Acoustics, Ref No 4339, Dated 2/11/09 Amended 15/1/10," an in-house sound system using directional speakers must be installed within the marquee with the speakers set to a maximum sound level to achieve external noise criteria. The speakers must face North West and the speaker system must be fitted with a suppression limiter and be calibrated and set by a qualified acoustical consultant. A letter from the consultant must be provided to the Consent Authority (Camden Council) prior to the issue of an occupation certificate confirming that the sound system is installed and meets the relevant noise criteria when in operation.
- (4) **Noise Management Plan** – the operation and function centre must be undertaken in compliance with the "Noise Management Plan, For Burnham Grove Function Centre: Lot 100 DP814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No332, dated 19 February 2010, DA357/2004, and Acoustic report prepared by Rodney Stevens Acoustics report numbered 150301R0 revision 0 dated 20 August 2015.



**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 24 November 2015).**

- (5) **Additional Noise Criteria** – All noise emissions from the operation of the function Centre must fully comply at all times with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) and Council's Environmental Noise Policy.
- (6) **Offensive Noise** – The use and occupation of the premises, including all plans and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (7) **Amplified Music, Public Address System, Live Entertainment** – is permitted subject to compliance with the conditions of this consent and requirements of the "Noise Management Plan, For the Burnham Grove Function Centre: Lot 100 DP814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No332, dated 19 February 2010, DA357/2004."
- (8) **Location of Live Entertainment** – The performance of live entertainment that includes the playing of music must be located within the marquee only.
- (9) **Operation of Live Music** – Live music shall be prohibited beyond 10.00pm on any Friday to Sunday evening operation. No live music is permitted beyond 5pm on Monday to Thursday.

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 24 November 2015).**

- (10) **Light Spill** – The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (11) **Amenity** – The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupants, and residential premises.
- (12) **Closing and Vacating of Function Centre** – Patrons must leave the premises no later than 5pm on Monday to Thursday and 11.00pm on Friday to Sunday. All staff and caterers are to vacate the premises by 6pm on Monday to Thursday and 11.30pm on Friday to Sunday.

**(This condition is proposed to be modified by Section 96 Modification 357(4)/2004 on 24 November 2015).**

### **RECOMMENDED**

That Council approve Section 96(2) Modification Application 357(4)/2004 for the modification to previously approved operating hours at 332 Cawdor Road, Cawdor, subject to the modified conditions listed above and subject to the approval of DA 419/2015 for the construction of a new car park.

### **ATTACHMENTS**

1. Historic DA Consents

ORD02

Attachment 1



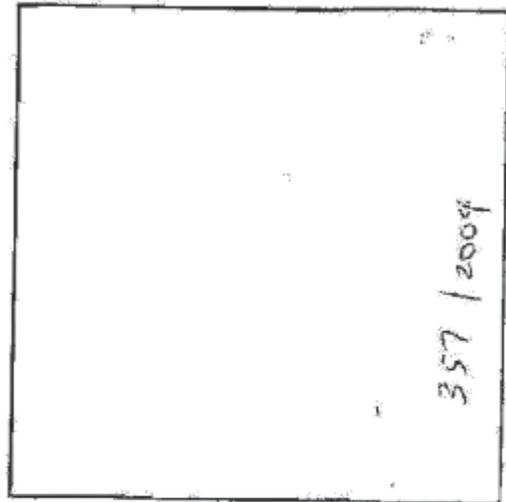
- 
2. Public Exhibition and Submissions Map - *Supporting Document*
  3. DA/2015/419/1 - Submissions - *Supporting Document*



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RDOW

Mr LA Whitton  
 332 Cawdor Road  
 CAWDOR NSW 2570



**NOTICE OF DETERMINATION FOR MODIFICATIONS TO  
 DEVELOPMENT CONSENT No. 357/2004**

Granted under Section 96 of the Environmental Planning and Assessment Act 1979

<b>LAND TO BE DEVELOPED:</b>	<b>332 Cawdor Road CAWDOR DP 814326 Lot 100</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>Weddings, Functions, Amenities Building and Marquee</b>

<b>MODIFIED CONSENT No.:</b>	<b>357(3)/2004</b>
<b>MADE ON:</b>	<b>15 March 2010</b>
<b>DETERMINATION:</b>	<b>Pursuant to Section 96(1A) of the <i>Environmental Planning &amp; Assessment Act 1979</i>, the development consent is modified in the manner set out in the attached schedule of modified conditions</b>
<b>CONSENT TO LAPSE ON:</b>	<b>3 April 2008 (unless substantially commenced)</b>

ORD02



DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: Weddings, Functions, Amenities Building  
 and Marquee

### Schedule of modified conditions:

The following conditions of the development consent are modified:

- A. **Deletion of Conditions (8) and (9) under the heading "1.0 General Requirements":**
- B. **Deletion of Conditions (1) to (12) (inclusive) under the heading "6.0 Operations Conditions" and replace with the following:**

#### 6.0 Operational Conditions

- (1) **Hours of Operation** – The hours of operation for the approved land use are:

1.30pm to 10.30pm Friday to Sunday (inclusive) and on Public Holidays;

In addition to the above:

Music to cease by 10.00 pm;  
 Patrons to be off-site by 11.00pm;  
 Staff and caterers to be off-site by 11.30pm.

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

- (2) **Vehicle Movements and Deliveries** – are only permitted between the hours of 1.30pm and 11.30pm on any approved day of operation.
- (3) **Installation and Operation of Sound System** – In accordance with the recommendations of the "Noise Survey: Burnham Grove Function Centre 332 Cawdor Road Camden NSW 2570, Prepared by RSA Acoustics, Ref No 4339, Dated 2/11/09 Amended 15/01/10," an in-house sound system using directional speakers must be installed within the marquee with the speakers set to a maximum sound level to achieve external noise criteria. The speakers must face North West and the speaker system must be fitted with a suppression limiter and be calibrated and set by a qualified acoustical consultant. A letter from the consultant must be provided to the Consent Authority (Camden Council) prior to the issue of an occupation certificate confirming that the sound system is installed and meets the relevant noise criteria when in operation.

Attachment 3



DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: Weddings, Functions, Amenities Building  
 and Marquee

ORD02

- (4) **Noise Management Plan** – the operation of the function centre must be undertaken in compliance with the *"Noise Management Plan, For Burnham Grove Function Centre: Lot 100 DP 814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No 332, dated 19 February 2010, DA 357/2004."*
- (5) **Additional Noise Criteria** – All noise emissions from the operation of the function Centre must fully comply at all times with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) and Council's Environmental Noise Policy.
- (6) **Offensive Noise** - The use and occupation of the premises, including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (7) **Amplified Music, Public Address System, Live Entertainment** – is permitted subject to compliance with the conditions of this consent and requirements of the *"Noise Management Plan, For Burnham Grove Function Centre: Lot 100 DP 814326, Prepared for Burnham Grove Function Centre, Prepared by RSA Acoustics, No 332, dated 19 February 2010, DA 357/2004."*
- (8) **Location of Live Entertainment** – The performance of live entertainment that includes the playing of music must be located within the marquee only.
- (9) **Operation of Live Music** – shall be prohibited beyond 10.00pm on any evening of operation.
- (10) **Light Spill** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (11) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (12) **Closing and Vacating of Function Centre** – Patrons must leave the premises no later than 11.00pm on any evening of operation. All staff and caterers are to vacate the premises by 11.30pm.

**All other conditions of development consent 357/2004 issued on 7 October 2004 are to remain valid and applicable.**

Attachment 3

ORD02



DA No: 357/2004  
Property: 332 Cawdor Road CAWDOR  
Proposal Description: Weddings, Functions, Amenities Building  
and Marquee

**Appeals:**

The applicant has the right to appeal this decision to the Land and Environment Court. The right to appeal is only valid for a period of 60 days from the date of this notice (Clause 7.1 of the *Land and Environment Court Rules 2007*).

SIGNED on behalf of  
Camden Council

**Mr R P Dowd**  
**DEVELOPMENT OFFICER**  
**(Development Branch)**

Attachment 3



DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: Weddings, Functions, Amenities Building  
 and Marquee

ORD02

### Advice:

The following matters are included as advice as relevant to this determination.

1. **Offences** - Section 125 of the *Environmental Planning and Assessment Act, 1979* provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.
2. **Penalties** - Section 126 of the *Environmental Planning and Assessment Act, 1979* provides that any person guilty of an offence against this Act shall, for every such offence, be liable to penalties as stated in this section.
3. **Contributions** - The contributions (if required) under Section 94 of the *Environmental Planning and Assessment Act, 1979* are set out in the stated Contribution Plans which can be viewed at Camden Council's Customer Service counter during normal business hours.
4. **Construction Certificate Required** - Where building or subdivision works are proposed, this consent does not allow site, building or demolition works to commence. Such works shall only take place after a Construction Certificate has been issued.
5. **Tree Preservation** - This consent does not authorise any tree removal unless specifically shown on approved plans and referred to in this development consent. All trees are protected in all areas of Camden. Separate consent is required for any proposal affecting existing trees and native vegetation. Any person who contravenes or causes or permits the removal of a tree/s without consent shall be guilty of an offence and liable to penalty as stated in this advice.

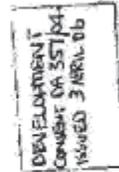
Attachment 3

**ORD02**

**Attachment 3**

CMAC

Mr LA Whitton  
332 Cawdor Road  
CAWDOR NSW 2570



**NOTICE OF DETERMINATION OF DEVELOPMENT  
APPLICATION No. 357/2004**

Issued under Section 81 (1) (a) of the  
Environmental Planning and Assessment Act 1979  
*(For privacy reasons, the applicant's details only appear in the notice to the applicant)*

<b>LAND TO BE DEVELOPED:</b>	332 Cawdor Road CAWDOR DP 814326 Lot 100
<b>PROPOSED DEVELOPMENT:</b>	Weddings, Functions, Amenities Building and Marquee
<b>BUILDING CODE OF AUSTRALIA:</b> (If the development involves a building)	Building Classification 9(b) & 10(a)

**DETERMINATION:** Consent granted subject to conditions described below.

**DATE FROM WHICH THE CONSENT OPERATES:** 3 April 2006

**DATE THE CONSENT EXPIRES:** 3 April 2008  
(unless works commenced)

**DATE OF THIS DECISION:** 7 October 2004

**INFORMATION ATTACHED TO THIS DECISION:**

➤ Advice listed in Attachment A.

ORD02

DA No.: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

---

## Details of Conditions:

### 1.0 - General Requirements

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by J-Designs Architectural Drafting Services, dated 21 November 2003 and numbered 1/2; 2/2.

The development must also comply with the conditions of approval imposed by Council hereunder.

**Amendments** – Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (Camden Council). The procedure for applying to amend the approved plans is to submit an "Amended Development Application" form pursuant to section 96 of the *Environmental Planning & Assessment Act 1979*.

- (2) **Duration Of Consent** – This consent will become invalid if at any time, Camden High School elects not to renew the agreement for use of their car park for functions. The applicant is advised that a fresh development application is required to continue to use beyond that time, which nominates an alternative car park.
- (3) **Timber Framing** – The timber frame must be constructed in accordance with the requirements of the most current edition of AS1684 - 'Residential Timber-frame Construction'. The applicant is advised that the wall and roof framework including bracing must be designed and anchored to withstand a wind velocity for the particular area.
- (4) **Wet Area Water Proofing** - The application of waterproof membranes in wet areas must comply with the requirements of PART 3.8.1 of the Building Code of Australia and the current edition of AS 3740.
- (5) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Protect Existing Landscape** – All existing trees/shrubs grasses and natural landscape features other than those trees and vegetation authorised for removal by consent must be retained and protected during all construction works. Approval must be granted by Council prior to the removal or any disturbance of the development site's existing /adjoining or surrounding landscape and vegetation.
- (7) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be

Attachment 3

DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

ORD02

submitted and approval granted by the Consent Authority (ie Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and DCP 96 "Outdoor Advertising Code".

- (8) **Noise Management Plan** – a site specific noise management plan shall be devised and submitted to the Consent Authority (Camden Council) within 2 months from the commencement of operation that addresses the following issues in relation to noise generated from live music and patrons exiting the function centre and car park.
- (a) The appointment of a responsible person to undertake regular noise monitoring and supervision of patrons with a view to identify all areas on non-compliance and take appropriate corrective action.
  - (b) A set of procedures that will demonstrate how noise complaints will be addressed and reported to complainants.
  - (c) Information that includes a noise complaint telephone contact person and phone number and the provision of a site register to record all noise complaints and action taken.
- (9) **Additional Noise Criteria** – All noise emissions from the operation of the wedding functions must fully comply with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) at all times.
- (10) **Stable Building Conservation** – within 2 years from the commencement of the approved use of the land, the applicant is to submit to Council a Conservation plan for the intended preservation of the stable building that specifies a commencement date for works to be undertaken within 12 months from the conservation Plan being submitted to Council.

## 2.0 – Construction Certificate Requirements

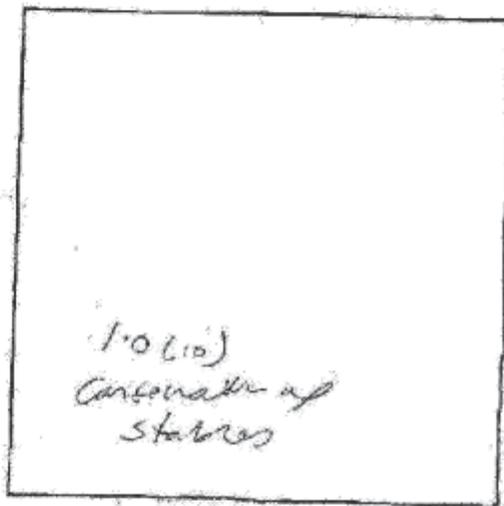
The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (1) **Obscured Glazing** - All windows from bathrooms including any ensuite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.
- (2) **Parking Spaces** - The developer must provide parking for cars in the manner indicated on the approved plans. Of that number, parking spaces must be available at all times for the parking of *residents/ visitors/ customers/ employees/ services* vehicles. Those parking spaces must be clearly marked and an adequate sign indicating that parking is available on-

Attachment 3

ORD02

Attachment 3



DA No.: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

ORD02

site must be erected in a position where it is legible to drivers of vehicles entering the land.

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

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

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

- (a) existing and final contours
  - (b) the location of all earthworks including roads, areas of cut and fill and re-grading
  - (c) location of impervious areas other than roads
  - (d) location and design criteria of erosion and sediment control structures
  - (e) location and description of existing vegetation
  - (f) site access (to be minimised)
  - (g) proposed vegetated buffer strips
  - (h) catchment area boundaries
  - (i) location of critical areas (vegetated buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
  - (j) location of topsoil or other stockpiles
  - (k) signposting
  - (l) diversion of uncontaminated upper catchment around areas to be disturbed
  - (m) proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
  - (n) procedures for maintenance of erosion and sediment controls
  - (o) details for staging of works
  - (p) details and procedures for dust control.
- (4) Prior to the Construction Certificate being issued the applicant is required to submit to Camden Council an application to install a "Commercial System of Sewerage Management". Such application is to be approved by Camden Council prior to the issue of the Construction Certificate.

The application is to be accompanied by a report from a suitably qualified hydraulic consultant addressing on site sewage management. The report shall address disposal of effluent, details specifications of the proposed system, operation requirements and wet weather disposal. In accordance

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DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

with Councils Draft Policy "Sewage Management Strategy", the Environment & Protection Guidelines "Onsite Sewage Management for Single Households" and relevant Australian Standards. The required capacity of the system is greater than that of a domestic system and as such a commercial wastewater treatment system will be required.

The items in Councils **attached** table must be addressed in the application.

- (5) **Colour Schedule** – A detailed colour schedule must be submitted to the Consent Authority for approval prior to the issue of the **Construction Certificate**.

### 3.0 - Prior To Works Commencing

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

- (1) **Notice of Commencement of Work** – Notice in the form prescribed by the *Environmental Planning and Assessment Regulation 2000* shall be lodged with the Consent Authority (Camden Council) **at least 2 days prior to commencing building works**. The notice shall provide details relating to any Construction Certificate Issued by a certifying authority and the appointed Principal Certifying Authority.
- (2) **Construction Certificate Before Work Commences** - This consent does not allow site works, building or demolition works to commence, nor does it imply that the plans attached to this consent comply with the specific requirements of the Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

### 4.0 - During Construction

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

- (1) **Hours Of Operation** - All construction and demolition work must be restricted to between:
- (a) 7am and 6pm Mondays to Fridays (inclusive);
  - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
  - (c) work on Sundays and Public Holidays is prohibited.

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DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
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(2) **Roofwater Destination** - The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:

- (a) an approved water storage tank;
- (b) the existing dam and/or natural water course on the subject allotment;

(3) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA, the following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

**Note:** If Council is appointed as the PCA, Council agrees to the commencement inspection to be combined with the first required inspection.

(a) **Slab On Ground** - When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.

(b) **Pool Fencing** - The swimming pool safety fence prior to filling the pool with water.

(c) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to internal lining.

(d) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.

(e) **Sewer Line-work** - When external line-work has been laid and connected to the approved waste-water treatment system.

**Note:** Septic tank(s) excavation must be inspected prior to backfilling.

(f) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

**Note:** That the *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

Attachment 3

ORD02

DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

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Attachment 3

- (4) **Subterranean Termite Protection** - Treatment for the protection of the building from subterranean termites must be carried out in accordance with AS3660.1 "Termite Management – New Building Work".

A durable notice must be permanently fixed to the inside of the meter box indicating:

- (a) the method of protection;
  - (b) the date of installation of the system;
  - (c) the life expectancy of any chemical used;
  - (d) the need to maintain and inspect the system.
- (5) **Site Management (No Nuisance Creation)** - The developer must carry out work at all times in a manner which will not cause a nuisance by the generation of unreasonable noise dust or other activity, to owners and occupiers of adjacent properties.

#### 5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority **prior to occupation or use of the development**. The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination, together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (2) 3750 square metres of land is to be made available for the disposal of effluent from the existing dwelling and the proposed wedding facility.
- (3) No more than 125 people are to attend the wedding reception facility on any day.

DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

ORD02

## 6.0 - Operational Conditions

- (1) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises (AS ).
- (2) **Offensive Noise** - The use and occupation of the premises, including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (3) **Hours of Operation** - The hours of operation for the approved land-use are:  

Friday & Saturday: 1.30pm to 9.30pm  
 Sunday & Public Holidays: 1.30pm to 9.30pm

All vehicle movements, deliveries and any other operations associated with the use of the premises must be restricted to approved hours of operation. Any alteration to these hours will require the prior approval of the Consent Authority.
- (4) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (4) **Marquee Openings** - All marquee openings that allow access and egress for patron usage are to face a westerly direction in-order to reduce potential noise impacts on neighbouring residential dwellings.
- (5) **Amplified Music** - No amplified music is allowed to be played on the property or within the marquee at any time.
- (6) **Public Address Systems** - Public Address systems are prohibited from use on the property or within the marquee.
- (7) **Rock Bands and Disco Music** - Music from rock bands and discos is prohibited from being played on the property or within the marquee.
- (8) **Location and Type of Live Entertainment** - The performance of live entertainment that includes the playing of music must be located within the marquee only. The playing of live music that forms this entertainment must be limited to the form of either a string quartet or a piano /guitar duo. Drums of any kind are prohibited.

Attachment 3

ORD02

DA No.: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

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- (9) **Operation of Live Music** – The playing of live music shall be prohibited beyond 9.30pm on any evening of operation.
- (10) **Off Street Parking** – All vehicles participating in the use of the site must utilise off street parking at all times.
- (11) **Off Street Parking Signage** – Suitable signage is to be provided in the off street car park that advises patrons to not congregate and to exit the car park in a quite manner.
- (12) **Closing of the Wedding Function Facility** – Patrons are required to leave the no later than 10.00pm on the evening of operation and should be encouraged to leave the car park in a timely and quite manner. Caterer and staff are to vacate the site by 11.00pm.

#### **Reasons for Conditions:**

- (1) To ensure that the proposed development complies with the requirements of *Environmental Planning and Assessment Act 1979 and Regulations* made thereto.
- (2) To ensure that the building complies with the *Local Government Act 1993 and Regulations*.
- (3) To ensure that the building complies with the requirements of the Building Code of Australia (BCA) and applicable Australian Standards.
- (4) To ensure that the development meets the aims, objectives and requirements of Council's Local Environmental Plan, Development Control Plans and Policies which relate to the subject land.
- (5) To ensure that the development does not adversely impact on the heritage significance of a building or place and that it complies with the objectives of Council's Heritage Controls.
- (6) To ensure that the development complies with the submitted plans and supporting documentation.
- (7) To ensure that the land and/or building will be developed so as to minimise the impact on the existing and likely future amenity of the neighbourhood and environment.
- (8) To ensure that the proposed site works/associated activities development does not create a noise nuisance to other tenants within the subject building or those on adjoining properties.

Attachment 3

DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description:

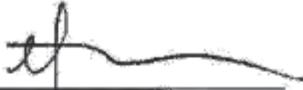
- (9) To ensure that the building and/or works do not affect public safety and amenity.
- (10) To ensure that outdoor advertising and advertising structures comply with DCP 96 "Guidelines for Outdoor Advertising".
- (11) To ensure that an adequate and a safe public access has been provided to the site for both pedestrian and vehicular traffic and that the development complies with Council's "Car Parking Code", ie. DCP 97.

**RIGHTS OF APPEAL      If you are the applicant:**

You can appeal against this decision in the Land and Environment Court within 12 months of the date of this notice. You cannot appeal, however, if a Commission of Inquiry is or is to be held and the development is designated development or state significant development.

**DETERMINATION REVIEW**

If you are an applicant and you are dissatisfied with the determination, you may within 12 months from the date of determination, request Council, in writing, to review the determination.

<p><b>SIGNED</b> on behalf of Camden Council</p>	 <hr style="width: 100%;"/> <p><b>Mr C J Mackey</b>  <b>DEVELOPMENT OFFICER</b>          (Development Branch)</p>
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**ATTACHMENT A**

The following matters are included as advice as relative to this application.

1. Section 82A of the EP&A Act 1979 provides that the applicant may request a review of this determination within twelve months of the date of the determination, following the payment of the prescribed fee.
2. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.

ORD02

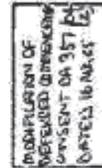
DA No: 357/2004  
Property: 332 Cawdor Road CAWDOR  
Proposal Description:

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Attachment 3

3. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the requirements of Council's Tree Preservation Policy shall be guilty of an offence.
4. Section 126 of the EP&A Act, 1979 provides that a person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed to a penalty not exceeding 1000 penalty units and to a further daily penalty not exceeding 100 penalty units.
5. The contributions required under Section 94 of the EP & A Act, 1979 are set out in the stated Contribution Plans which can be viewed at Council's Customer Service during normal business hours.
6. This consent does not allow site, building or demolition works to commence. Such works shall only take place after a Construction Certificate has been applied for and been issued.
7. **SYDNEY WATER** requires the submission of stamped approved plans to their office prior to commencement of work.
8. **INTEGRAL ENERGY** requires electrical installations to be in accordance with their standards. All enquiries relating to electrical installations should be directed to that Authority.
9. **TELSTRA** requests that prior to any excavation commencing in connection with the approved work, contact should be made with Telstra "Cable Locations", Telephone 1100. Calls to this number are free.
10. A home warranty certificate must have been issued for the project **Prior To Issue of the Construction Certificate.**

CMAC: 1500.3320



Mr LA Whitton  
332 Cawdor Road  
CAWDOR NSW 2570

**NOTICE OF DETERMINATION FOR MODIFICATIONS TO  
DEFERRED COMMENCEMENT CONSENT No. 357/2004**

Granted under Section 96 of the Environmental Planning and Assessment Act 1979

<b>LAND TO BE DEVELOPED:</b>	<b>332 Cawdor Road CAWDOR DP 814328 Lot 100</b>
<b>PROPOSED DEVELOPMENT:</b>	<b>Function Centre, Construction of Marquee and Amenities Building</b>
<b>BUILDING CODE OF AUSTRALIA:</b>	<b>Building Classification 9(b) and 10(a)</b>

**DETERMINATION**

**MODIFIED CONSENT No.:** 357(2)/2004

**MADE ON:** 16 August 2005

**DETERMINATION:** Consent granted subject to conditions described below.

**CONSENT TO OPERATE FROM:** To be Advised

**CONSENT TO LAPSE ON:** To be Advised

ORD02

Attachment 3

Marquee and Amenities Building

Property: 332 Cawdor Road CAWDOR  
 Proposal Description: DA Modification - Function Centre

DA No: 357/2004

### Details of Modified Conditions:

The consent is modified by deleting Condition 1.0 (2) and replacing it with the following condition.

- (1) **Duration Of Consent** – This consent will become invalid if at any time, Camden High School elects not to renew the agreement for use of their carpark for the functions. The applicant is advised that a fresh development application will be required to continue the use beyond that time, which nominates an alternative car park location.

All other conditions of Deferred Commencement Consent No. 357/2004 issued 7 October 2005 are to remain valid and applicable.

**RIGHT OF APPEAL** If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

*\*section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.*

<p>SIGNED on behalf of Camden Council</p>	 <hr/> <p><b>Mr C J Mackey</b>  <b>DEVELOPMENT OFFICER</b>          (Development Branch)</p>
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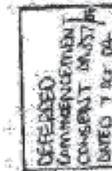
### ADVICE

The following matters are included as advice as relative to this application.

- Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.

CMAC: 1500.3320

Dr LA Whitton  
332 Cawdor Road  
CAWDOR NSW 2570



**NOTICE OF DETERMINATION OF DEVELOPMENT  
APPLICATION No. 357/2004**

**Deferred Commencement Consent**

Issued under Section 80 (3) and 81 (1)(a) of the  
Environmental Planning and Assessment Act 1979

*(For privacy reasons, the applicant's details only appear in the notice to the applicant)*

<b>LAND TO BE DEVELOPED:</b>	332 Cawdor Road CAWDOR DP 814326 Lot 100
<b>PROPOSED DEVELOPMENT:</b>	Two Year Trial Approval for Function Centre, Construction of Marquee & Amenities Building
<b>BUILDING CODE OF AUSTRALIA:</b> (If the development involves a building)	Building Classification 9(b) and 10(a)

**DETERMINATION:** Deferred Commencement Consent granted subject to conditions described below.

**DETERMINATION MADE ON:** 7 October 2004

**DATE FROM WHICH THE CONSENT OPERATES:** To be Advised

**DATE THE CONSENT EXPIRES:** To be Advised  
(unless works commenced)

**INFORMATION ATTACHED TO THIS DECISION:**

ORD02

Attachment 3

Property: 332 Cawdor Road CAWDOR  
 DA No: 357/2004  
 Proposal Description: WEDDING FUNCTION CENTRE

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> **Advice listed in Attachment A.**

This development consent shall not operate until the application satisfies the Council in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000, in relation to the matters listed in Schedule A hereto. The applicant has been given a period of 12 months in which to provide evidence sufficient enough to enable it to be satisfied as to those matters. Upon submission of evidence to the Council and the applicant receiving written notification that Council is satisfied as to the relevant matters, then the consent shall become operative, subject to compliance with the conditions specified in Schedule B hereto.

If the matters listed in Schedule A are not addressed within the specified time period, this Deferred Commencement consent will become permanently inoperative.

The conditions of Schedule A are as follows:

1. The written agreement for use of the Camden High School car park shall be signed by both parties and submitted to Camden Council.
2. Detailed Kitchen Plans – the applicant shall prepare detailed kitchen fitout plans to the satisfaction of Camden Council. Such plans must comply with Camden Councils Food Premises Code, The Food Act 2003 and the Food Regulations 2004 (incorporating the Food Standards Code).
3. Disabled Toilet – A detailed plan of the proposed disabled toilet shall be submitted to Council for approval. Such plan shall be to a scale of 1:20 and shall demonstrate compliance with AS1428, Parts 1 & 4.

The conditions specified in Schedule B are as follows:

### **Details of Conditions:**

#### **1.0 - General Requirements**

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by J-Designs Architectural Drafting Services, dated 21 November 2003, and numbered 1/2; 2/2.

The development must also comply with the conditions of approval imposed by Council hereunder.

**Amendments** – Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (Camden Council).

DA No: 357/2004  
 Property: 332 Cawdor Road CAWDOR  
 Proposal Description: WEDDING FUNCTION CENTRE

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ORD02

The procedure for applying to amend the approved plans is to submit an "Amended Development Application" form pursuant to section 96 of the *Environmental Planning & Assessment Act 1979*.

- (2) **Duration Of Consent** – This consent will lapse two (2) years from the date that the operational consent is issued by Camden Council. The applicant is advised that a further development application is required to continue to use beyond the prescribed date. Council, in determining any further application, will have regard to the operation of the use within the initial approval period. The applicant is advised to lodge such application at least one (1) month prior to the expiration of this consent.
- (3) **Timber Framing** – The timber frame must be constructed in accordance with the requirements of Australian Standard 1684 - 1992 'National Timber Framing Code'. The applicant is advised that the wall and roof framework including bracing must be designed and anchored to withstand a wind velocity for the particular area.
- (4) **Wet Area Water Proofing** - The application of waterproof membranes in wet areas must comply with the requirements of PART 3.8.1 of the Building Code of Australia and AS 3740 - 1994.
- (5) **Building Code Of Australia** - All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (6) **Protect Existing Landscape** - All existing trees/shrubs/grasses and natural landscape features other than those trees and vegetation authorised for removal by this consent, must be retained and protected during all construction works. Approval must be granted by Council prior to the removal or any disturbance of the development site's existing/adjoining or surrounding landscape and vegetation.
- (7) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (ie Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and DCP 96 "Outdoor Advertising Code".

- (8) **Noise Management Plan** – A site specific noise management plan shall be devised and submitted to the Consent Authority (Camden Council) within 2 months from the commencement of operation that addresses the following issues in relation to noise generated from live music and patrons exiting the function centre and car park:

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- a) The appointment of a responsible person to undertake regular noise monitoring and supervision of patrons with a view to identify all areas of non-compliance and take appropriate corrective action.
- b) A set of procedures that will demonstrate how noise complaints will be addressed and reported to complainants.
- c) Information that includes a noise complaint telephone contact person and phone number and the provision of a site register to record all noise complaints and action taken.

(9) **Additional Noise Criteria** – All noise emissions from the operation of the wedding functions must fully comply with noise limiting criteria set by the New South Wales Liquor Administration Board (LAB) at all times.

(10) **Stable Building Conservation** – within two years from the commencement of the approved use of the land, the applicant is to submit to Council a Conservation Plan for the intended preservation of the stable building that specifies a commencement date for works to be undertaken within 12 months from the Conservation Plan being submitted to Council.

GR100

## 2.0 - Construction Certificate Requirements

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

(1) **Obscured Glazing** - All windows from bathrooms including any en-suite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.

(2) **Parking Spaces** - The applicant must provide parking for 50 cars on the adjacent high school site in the manner indicated in the agreement with Camden High School.

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

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

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

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- (a) existing and final contours
  - (b) the location of all earthworks including roads, areas of cut and fill and re-grading
  - (c) location of impervious areas other than roads
  - (d) location and design criteria of erosion and sediment control structures
  - (e) location and description of existing vegetation
  - (f) site access (to be minimised)
  - (g) proposed vegetated buffer strips
  - (h) catchment area boundaries
  - (i) location of critical areas (vegetated buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
  - (j) location of topsoil or other stockpiles
  - (k) signposting
  - (l) diversion of uncontaminated upper catchment around areas to be disturbed
  - (m) proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
  - (n) procedures for maintenance of erosion and sediment controls
  - (o) details for staging of works
  - (p) details and procedures for dust control.
- (4) Prior to the **Construction Certificate** being issued the applicant is required to submit to Camden Council an application to install a "Commercial System of Sewerage Management". Such application is to be approved by Camden Council prior to the issue of the Construction Certificate.

The application is to be accompanied by a report from a suitably qualified hydraulic consultant addressing on site sewage management. The report shall address disposal of effluent, details specifications of the proposed system, operation requirements and wet weather disposal. In accordance with Councils Draft Policy 'Sewage Management Strategy', the Environment & Protection Guidelines 'On Site Sewerage Management for Single Households' and relevant Australian Standards. The required capacity of the system is greater than that of a domestic system and as such a commercial wastewater treatment system will be required.

The items in Councils **attached** table must be addressed in the application.

- (5) **Colour Schedule** – A detailed colour schedule must be submitted to the Consent Authority for approval prior to the issue of the **Construction Certificate**.

### 3.0 - Prior To Works Commencing

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

- (1) **Notice Of Commencement Of Work** – Notice in the form prescribed by the *Environmental Planning and Assessment Regulation 2000* shall be lodged with the Consent Authority (Camden Council) **at least 2 days prior** to commencing building works. The notice shall provide details relating to any Construction Certificate issued by a certifying authority and the appointed Principal Certifying Authority.
- (2) **Construction Certificate Before Work Commences** - This consent does not allow site works, building or demolition works to commence nor does it imply that the plans attached to this consent comply with the specific requirements of Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

#### 4.0 - During Construction

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

- (1) **Hours Of Operation** - All construction and demolition work must be restricted to between:
  - (a) 7am and 6pm Mondays to Fridays (inclusive);
  - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
  - (c) work on Sundays and Public Holidays is prohibited.
- (2) **Roof-Water Destination** - The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:
  - (a) an approved water storage tank; or
  - (b) the existing dam and/or natural water course on the subject allotment;
- (3) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA,

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the following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

**Note:** If Council is appointed as the PCA, the council agrees to the commencement inspection to be combined with the first required inspection.

- (a) **Slab On Ground** – When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.
- (b) **Pool Fencing** - The swimming pool safety fence prior to filling the pool with water.
- (c) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to internal lining.
- (d) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.
- (e) **Sewer Line-work** - When external line-work has been laid and connected to the approved waste-water treatment system.

**Note:** Septic tank(s) excavation must be inspected prior to backfilling.

- (f) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

**Note:** That the *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

- (4) **Subterranean Termite Protection** - Treatment for the protection of the building from subterranean termites must be carried out in accordance with AS 3660.1. "Termite Management – New Building Work".

A durable notice must be permanently fixed to the inside of the meter box indicating:

- (a) the method of protection;
- (b) the date of installation of the system;

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- (c) the life expectancy of any chemical used;
  - (d) the need to maintain and inspect the system.
- (5) **Site Management - No Nuisance Creation** - The developer must carry out work at all times in a manner which will not cause a nuisance by the generation of unreasonable noise dust or other activity, to owners and occupiers of adjacent properties.

### 5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (2) 3750 square metres of land is to be made available for the disposal of effluent from the existing dwelling and the proposed wedding facility.
- (3) No more than 125 people are to attend the wedding reception facility on any day.

### 6.0 - Operational Conditions

- (1) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises. AS.
- (2) **Offensive Noise** - The use and occupation of the premises including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.

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- (3) **Hours of Operation** - The hours of operation for the approved land-use are:

Friday and Saturday: 1.30pm to 9.30pm  
 Sunday & Public Holidays: 1.30pm to 9.30pm

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

- (4) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (5) **Marquee Openings** - All marquee openings that allow access and egress for patron usage are to face a westerly direction in-order to reduce potential noise impacts on neighbouring residential dwellings.
- (6) **Amplified Music** - No amplified music is allowed to be played on the property or within the marquee at any time.
- (7) **Public Address Systems** - Public Address systems are prohibited from use on the property or within the marquee.
- (8) **Rock Bands and Disco Music** - Music from rock bands and discos is prohibited from being played on the property or within the marquee.
- (9) **Location and Type of Live Entertainment** - The performance of live entertainment that includes the playing of music must be located within the marquee only. The playing of live music that forms this entertainment must be limited to the form of either a string quartet or a piano /guitar duo. Drums of any kind are prohibited.
- (10) **Operation of Live Music** - The playing of live music shall be prohibited beyond 9.30pm on any evening of operation.
- (11) **Off Street Parking** - All vehicles participating in the use of the site must utilise off street parking at all times.
- (12) **Off Street Parking Signage** - Suitable signage is to be provided in the off street car park that advises patrons to not congregate and to exit the car park in a quite manner.
- (13) **Closing of the Wedding Function Facility** - Patrons are required to leave the no later than 10.00pm on the evening of operation and should

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be encouraged to leave the car park in a timely and quite manner. Caterers and staff are to vacate the site by 11.00pm.

### Reasons for Conditions:

- (1) To ensure that the proposed development complies with the requirements of *Environmental Planning and Assessment Act 1979 and Regulations* made thereto.
- (2) To ensure that the building complies with the *Local Government Act 1993 and Regulations*.
- (3) To ensure that the building complies with the requirements of the Building Code of Australia (BCA) and applicable Australian Standards.
- (4) To ensure that the development meets the aims, objectives and requirements of Council's Local Environmental Plan, Development Control Plans and Policies which relate to the subject land.
- (5) To ensure that the development does not adversely impact on the heritage significance of a building or place and that it complies with the objectives of Council's Heritage Controls.
- (6) To ensure that the development complies with the submitted plans and supporting documentation.
- (7) To ensure that the land and/or building will be developed so as to minimise the impact on the existing and likely future amenity of the neighbourhood and environment.
- (8) To ensure that the proposed site works/associated activities development does not create a noise nuisance to other tenants within the subject building or those on adjoining properties.
- (9) To ensure that the building and/or works do not affect public safety and amenity.
- (10) To ensure that outdoor advertising and advertising structures comply with DCP 96 "Guidelines for Outdoor Advertising".
- (11) To ensure that an adequate and a safe public access has been provided to the site for both pedestrian and vehicular traffic and that the development complies with Council's "Car Parking Code", ie. DCP 97.

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### RIGHTS OF APPEAL If you are the applicant:

You can appeal against this decision in the Land and Environment Court within 12 months of the date of this notice. You cannot appeal, however, if a Commission of Inquiry is or is to be held and the development is designated development or state significant development.

### DETERMINATION REVIEW

If you are an applicant and you are dissatisfied with the determination, you may within 12 months from the date of determination, request Council, in writing, to review the determination.

<p>SIGNED on behalf of Camden Council</p>	
	<p>Mr C J Stewart DEVELOPMENT OFFICER (Development Branch)</p>

### ATTACHMENT A

The following matters are included as advice as relative to this application.

1. Section 82A of the EP&A Act 1979 provides that the applicant may request a review of this determination within twelve months of the date of the determination, following the payment of the prescribed fee.
2. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the conditions of this consent shall be guilty of an offence.
3. Section 125 of the EP&A Act, 1979 provides that any person who contravenes or causes or permits to be contravened the requirements of Council's Tree Preservation Policy shall be guilty of an offence.
4. Section 126 of the EP&A Act, 1979 provides that a person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed to a penalty not exceeding 1000 penalty units and to a further daily penalty not exceeding 100 penalty units.

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5. The contributions required under Section 94 of the EP & A Act, 1979 are set out in the stated Contribution Plans which can be viewed at Council's Customer Service during normal business hours.
6. This consent does not allow site, building or demolition works to commence. Such works shall only take place after a Construction Certificate has been applied for and been issued.
7. **SYDNEY WATER** requires the submission of stamped approved plans to their office prior to commencement of work.
8. **INTEGRAL ENERGY** requires electrical installations to be in accordance with their standards. All enquiries relating to electrical installations should be directed to that Authority.
9. **TELSTRA** requests that prior to any excavation commencing in connection with the approved work, contact should be made with Telstra "Cable Locations", Telephone 1100. Calls to this number are free.

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## ORDINARY COUNCIL

ORD03

ORD03

**SUBJECT:** MOUNT ANNAN OUTDOOR CINEMA, 141A MOUNT ANNAN DRIVE,  
MOUNT ANNAN

**FROM:** Director Planning & Environmental Services

**TRIM #:** 15/310276

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**APPLICATION NO:** 1169/2015  
**PROPOSAL:** Temporary use of land for the purpose of an outdoor cinema  
**PROPERTY ADDRESS:** 141A Mount Annan Drive, Mount Annan  
**PROPERTY DESCRIPTION:** Lot 2601 DP 882676, Lot 132 DP 825469 & Lot 1001 DP 734436  
**ZONING:** SP1 Special Activities  
**OWNER:** Royal Botanic Gardens & Domain Trust  
**APPLICANT:** The Greater Union Organisation Pty Ltd

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for the temporary use of land for the purpose of an outdoor cinema at 141A Mount Annan Drive, Mount Annan.

The DA is referred to Council for determination as there remain unresolved issues received in 6 submissions.

### SUMMARY OF RECOMMENDATION

That Council determine DA 1169/2015 for the temporary use of land for the purpose of an outdoor cinema pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by approval subject to the conditions contained in this report.

### EXECUTIVE SUMMARY

Council is in receipt of a DA 1169/2015 for the temporary use of land for the purpose of an outdoor cinema at 141A Mount Annan Drive, Mount Annan.

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 is Crown development as the owner of the land is a statutory body. A copy of the recommended conditions was provided to the applicant for review.

As the DA is a Crown development, in accordance with clause 89 of the *Environmental Planning and Assessment Act 1979*, a consent authority (other than the Minister) must not refuse its consent to a Crown development application, except with the approval of the Minister. Further, a Crown development application for which the consent authority is a council must not be referred to the Minister unless it is first referred to the applicable regional panel.

The DA was publicly exhibited twice for 14 days in accordance with the DCP. The first exhibition period was from 14 October to 27 October 2015. The second exhibition period was from 13 November to 26 November 2015. Six submissions were received (all objecting to the proposed development). **A copy of the submissions is provided with the Business Paper supporting documents.**

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

The issues raised in the submissions are as follows:

- concerns with the capacity of 2000 patrons per night, carparking and traffic flows;
- noise impacts;
- impact from lighting;
- negative impacts of alcohol consumption;
- ecological considerations;
- excessive litter;
- permissibility of the use;
- public liability insurance and vandalism of local residents property;
- provision of adequate sanitary facilities;
- provision of an adequate number of security personnel;
- the type and rating of movies to be played;
- the number of residents notified is unsatisfactory;
- market competition;
- quality of application material;
- bushfire affectation;
- heritage impacts; and,
- waterfront development.

A discussion which addresses the issues and concerns raised in the submissions is provided in this report.

The site is zoned SP1 Special Activities pursuant to the Camden Local Environmental Plan 2010 (LEP). The proposed outdoor cinema is identified as a “temporary use”. Under Clause 2.8 of the LEP, temporary uses are permitted in all zones provided they operate for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months. The proposed use is therefore permissible in the zone.

The DA was referred to Roads and Maritime Services who raised no objection to the proposal.

Competition between individual businesses is not a matter for consideration under the *Environmental Planning and Assessment Act 1979*. Notwithstanding this, an outdoor cinema offers a different social experience to other cinemas in the area. Further, the outdoor cinema only offers one movie screening a night.

The application was referred to Council’s Tourism Officer who advised that the addition of the moonlight cinemas at the Botanic Garden would contribute to Camden providing a variety of events for locals and visitors alike. The event will be a community activity and potentially increase visitation to Camden.

The proposed development complies with all applicable planning controls.

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

**AERIAL PHOTO**



**THE SITE**

The site is commonly known as 141A Mount Annan Drive, Mount Annan and is legally described as Lot 2601 DP 882676, Lot 132 DP 825469 and Lot 1001 DP 734436.

The site has a frontage of approximately 530m to Narellan Road, a frontage of approximately 1.55km to Mount Annan Drive and an overall area of 111.8ha.

The site currently accommodates the Royal Botanic Gardens & Domain Trust.

The wider area is characterised by Mount Annan to the north, Currans Hills to the north-east, the Campbelltown local government area to the east and south and Spring Farm to the west.

**HISTORY**

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

Date	Development
31 March 2015	Aroma Food and Wine Festival approved under DA 205/2015
8 April 2013	Aroma Food and Wine Festival approved under DA 101/2013
16 November 2012	Temporary use of the Lakeside Precinct for a Christmas carols event approved under DA 918/2012
11 April 2012	Aroma Food and Wine Festival approved under DA 220/2012

9 December 2010	Use of Lakeside Precinct for Christmas carols for a period of 5 years approved under DA 1239/2010
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**THE PROPOSAL**

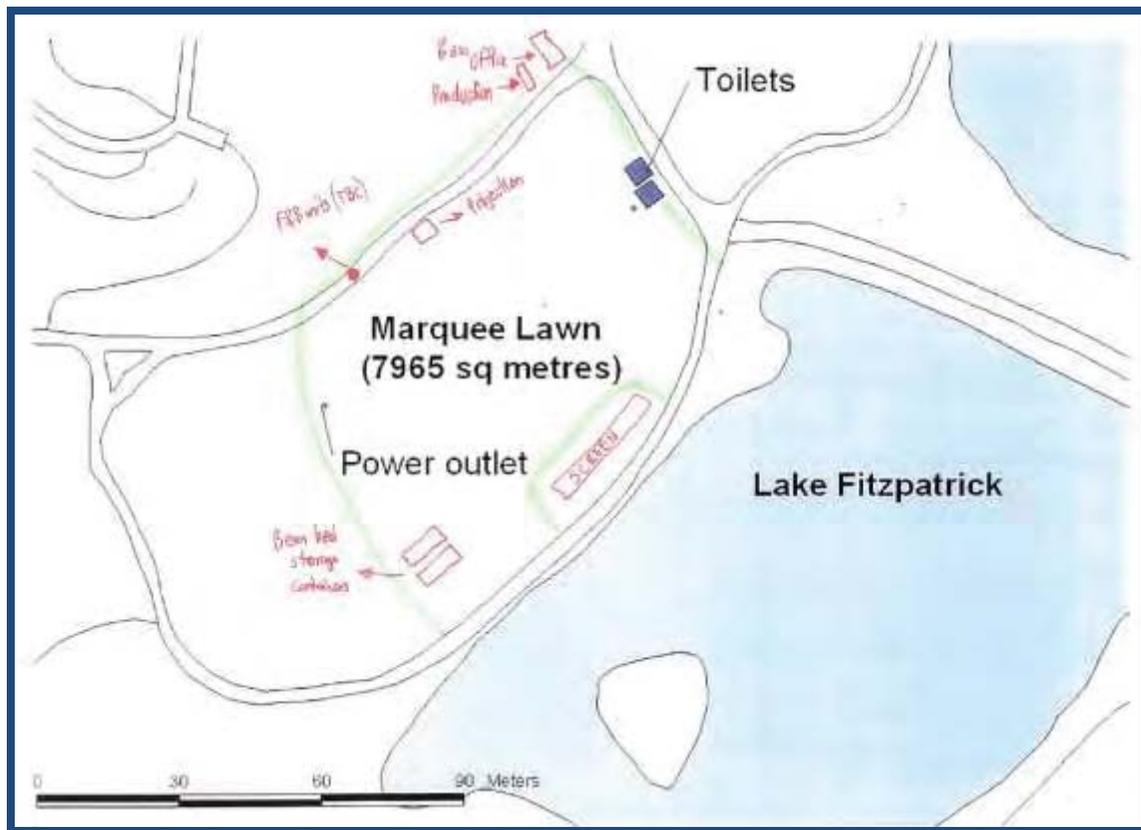
DA 1169/2015 seeks approval for the temporary use of land for the purpose of an outdoor cinema.

Specifically the proposed development involves:

- temporary use of the land for an outdoor cinema to operate from 2 January 2016 to 13 March 2016;
- provision of an inflatable screen, audio speakers, food stalls, storage containers for bean beds, box office, projection units and fencing;
- proposed site capacity limited to 2,000 patrons per night;
- proposed operation time of the event to be from 7:00pm to 11:00pm with patrons leaving the site until 12:00am; and
- proposed days of operation to be Wednesday to Sunday.

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

**PROPOSED PLANS**



**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:

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

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

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

The proposed development is consistent with the aims 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 to the Hawkesbury-Nepean River system as a result of the proposed development.

Camden Local Environmental Plan 2010 (LEP)

*Permissibility*

The site is zoned SP1 Special Activities under the provisions of the LEP. The proposed development is defined as a "temporary use of land" by the LEP which is a permissible land uses in this zone.

*Objectives*

The objectives of the SP1 Special Activities zone are as follows:

- To provide for special land uses that are not provided for in other zones.

Officer comment:

The proposed development provides for a temporary outdoor cinema which is consistent with the context of a recreation area and is suitable in the zone.

- To provide for sites with special natural characteristics that are not provided for in other zones.

Officer comment:

This objective is not relevant to the proposed development as the proposal is for an outdoor cinema, which is a temporary ancillary use of the land.

- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

Officer comment:

The proposed development is considered to be in keeping with the special characteristics of the Royal Botanic Gardens. The outdoor cinema engages the community and facilitates interest and visitation to the site. The proposed use is not considered to have any unacceptable impacts on the surrounding area.

*Relevant Clauses*

The DA was assessed against the following relevant clauses of the LEP. Discussion of any variations of the controls is provided after the compliance table.

Clause	Requirement	Provided	Compliance
<p>2.8 Temporary use of Land</p>	<p>Development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.</p> <p>The use must not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.</p> <p>Development consent must not be granted unless the consent authority is satisfied that:</p>	<p>The proposal seeks approval for a temporary outdoor cinema to operate from 2 January to 13 March 2016 on Wednesday through to Sunday.</p> <p>A condition has been included in the consent to ensure that the use does not operate for more than 52 days during the proposed operating period to ensure compliance with the LEP. A condition is also recommended limiting the temporary use to 2 January to 13 March 2016 only.</p> <p>The proposed structures are temporary and the land can be returned to its original condition following the end of the use. 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 as discussed throughout the report.</p>	<p>Yes</p>

Clause	Requirement	Provided	Compliance
	<p>(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument,</p> <p>(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood,</p> <p>(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and</p> <p>(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of</p>	<p>The proposed structures are temporary and the land can be returned to its original condition following the end of the use. The use will be conducted outside of daylight hours. The botanic garden is open to the public in daylight hours. As such there is no likely conflict with the existing use of the site.</p> <p>The proposed use will not adversely impact on adjoining land and the neighbourhood. The cinema is located a minimum of 580m downslope of surrounding residents, which is considered sufficient distance to avoid conflict with neighbours. Sufficient parking is proposed and access to the site will be via Narellan Rd.</p> <p>The proposed structures are temporary and will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards as discussed throughout the report.</p> <p>The proposed structures are temporary and the land can be returned to its original condition following the end of the use.</p>	

Clause	Requirement	Provided	Compliance
	the use.		

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

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

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

Camden Development Control Plan 2011 (DCP)

The following is an assessment of the proposed development's compliance with the controls in the DCP. Discussion of any variations of the controls is provided after the compliance table.

Control	Requirement	Provided	Compliance
Part B 1.6 Acoustic Amenity	Ensure the amenity of nearby residential uses is not unreasonably decreased by noise intrusion	The subject site is not located within the immediate vicinity of the residential zone (580m approximately from nearest neighbour). The proposed location of the audio equipment is situated within the lakeside precinct within a natural valley area.  It is considered that the proposed use will not have an unacceptable acoustic impact on nearby residents. Conditions of consent have been recommended to address acoustic impacts.	Yes
Part B 1.9 Waste Minimisation and Management	Minimise waste generation Ensure effective waste management services are provided  Ensure provision of adequate storage areas within each development for waste and recyclables	It is proposed that staff will undertake regular litter collections.  General waste and recycling bins are to be provided. General waste as well as recycling bins will be placed in marked areas.	Yes

Control	Requirement	Provided	Compliance
	<p>Ensure waste is disposed of in a lawful manner.</p>	<p>A skip bin is proposed to be placed in the back of house and managed through the Royal Botanic Garden's regular waste management system.</p>	
<p>Part B5 Parking and Access</p>	<p>Ensure pedestrian safety</p> <p>Ensure adequate provision, quality and safe parking is provided</p> <p>Ensure suitably located parking for persons with a disability is provided.</p>	<p>A Traffic Management Plan has been provided. Qualified traffic controllers are proposed to direct traffic on the road and within the designated carparking areas.</p> <p>Parking is located on site in the form of the main existing carpark and 2 overflow parking areas. There is also additional parking on the road loop on Yandelora Circuit on the central precinct (road verge parking).</p> <p>No public road closures are proposed. Access to the site is proposed to be available from Narellan Road from 7:00pm and remain open until 12:00am until all patrons have vacated the premises. A condition will be included in the consent to ensure that ingress and egress to the site is via Narellan Road only (aside from emergency vehicles).</p> <p>The proposal was referred to Council's Traffic Engineer for assessment. It was considered that the traffic generated by the proposal will not have an unacceptable impact on the locality.</p>	<p>Yes</p>



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

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

**(a)(iv) The Regulations**

There are no matters prescribed by the Regulations that apply to the proposed development.

**(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.

The application was referred to Council's Tourism Officer who advised that the addition of the moonlight cinemas at the Botanic Garden would contribute to Camden providing a variety of events for locals and visitors alike. The event will be a community activity and potentially increase visitation to Camden throughout the year.

**(c) The suitability of the site**

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development. The outdoor cinema will contribute to increased community interest in the Royal Botanic Garden and provides a positive temporary entertainment facility to the community.

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

The DA was publicly exhibited twice for 14 days in accordance with the DCP. The first exhibition period was from 14 October to 27 October 2015. The second exhibition period was from 13 November to 26 November 2015. Six submissions were received (both objecting to the proposed development). **A copy of a Public Exhibition and Submissions Map is provided with the Business paper supporting documents.**

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

1. *Concerns with the capacity of 2000 patrons per night, carparking and the generation of traffic flows during ingress and egress, particularly at the Mount Annan Drive entrance.*

Officer comment

A Traffic Management Plan was submitted with the DA. The proposed access points to the site for the outdoor cinema are Narellan Road and Mount Annan Drive (Emergency Vehicles only). Traffic is proposed to be controlled by qualified traffic controllers to ensure effective ingress and egress into the site.

Satisfactory parking arrangements within the property boundaries are proposed in the form of the main existing carpark with 130 car spaces and 2 designated overflow

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carparks with a combined total of 800 car spaces. There is also additional parking available on the road loop on Yandelora Circuit in the central precinct.

The operating hours of the use in the evening does not coincide with the operating hours of the Royal Botanic Gardens to the public. Therefore, the carparking on the subject site is entirely available to the patrons of the outdoor cinema in the evening.

It is considered that sufficient carparking is provided within the property boundaries and patrons are not expected to overflow onto the local roads for parking.

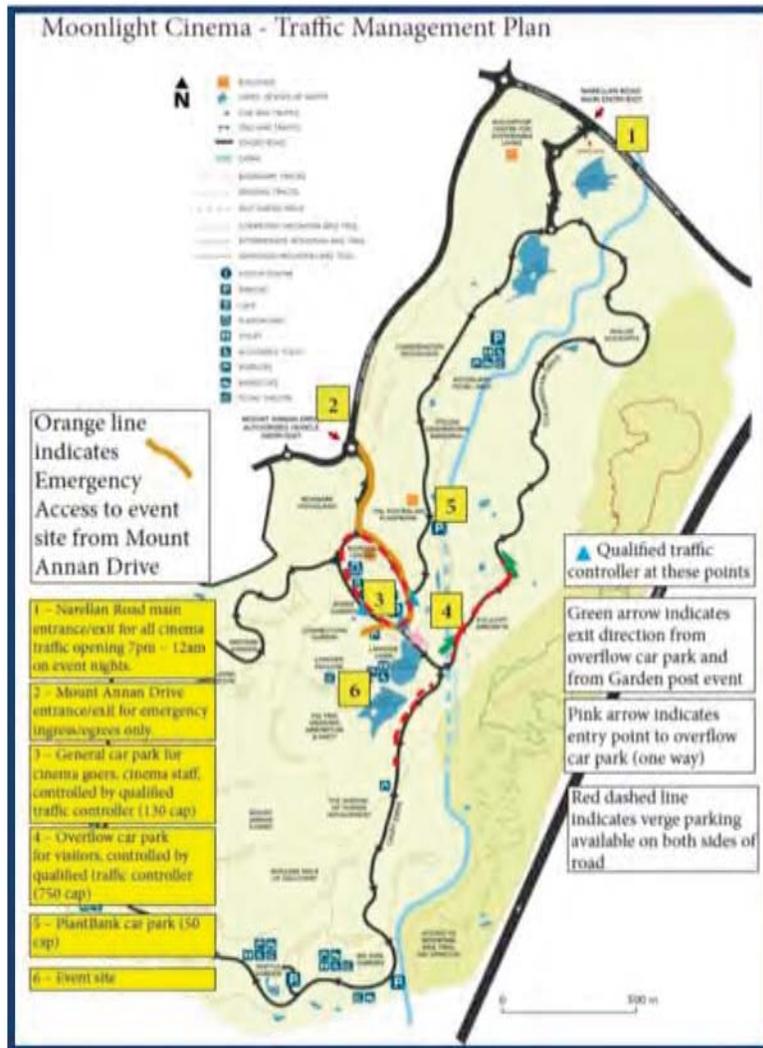
Lighting towers are proposed to be hired for the event to provide safe access to carparking area.

A revised Traffic Management Plan was submitted (shown below) which amended the location of the second overflow carpark (identified as number 5 on the Traffic Management Plan) away from Mount Annan Drive. This amendment reduces the impact on vegetation and ensures the lighting towers do not impact on adjoining residents.

A referral was sent to Roads and Maritime Authority (RMS) for consideration of the proposal. RMS raised no objections to the proposal.

A condition is recommended to require access to the site via Narellan Road (aside from emergency vehicles) to alleviate the impact of nearby residents of Mount Annan Drive. A condition is recommended that the applicant is required to contact the Roads and Maritime Transport Management Centre to adjust the phasing of the traffic signals on Narellan Road to prepare for patrons exiting the site at the conclusion of each event.

**REVISED TRAFFIC MANAGEMENT PLAN**



2. Concerns that the operation of the outdoor cinema and large number of patrons leaving the cinema late at night will project excessive noise.

Officer comment

The location of the outdoor cinema and audio equipment on the subject site is approximately 580m to the nearest residents. The DA was referred to Council’s Environmental Health Officer to identify potential acoustic impacts on the nearby locality. Council staff have assessed the potential noise impacts and are satisfied that the proposal will not have an unacceptable impact on the nearby residents.

Clarification was sought from the applicant to identify if fireworks will be displayed at the event. It was confirmed that fireworks will not be displayed and a condition is recommended to ensure that fireworks are not displayed at any event.

Conditions have been recommended to ensure that the use and occupation of the premises, including equipment installed, must not give rise to any offensive noise within the meaning of the *Protection of the Environment Operations Act 1997*.

3. The lights projections by the cinema and carparking area will cause a negative impact to the nearby residents.

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Officer comment

The outdoor cinema is located a substantial distance away from nearby residents. Council staff are satisfied that the lighting projected by the use will not impact on nearby residents or traffic.

As discussed above, a revised Traffic Management Plan was submitted which amended the location of the second overflow carpark (identified as number 5 on the Traffic Management Plan) away from Mount Annan Drive. This reduces the impact on vegetation and ensures that the lighting towers do not impact on adjoining residents.

4. *Concerns with alcohol consumption and the loitering of people who are under the influence of alcohol will vandalise property, make noise and litter.*

Officer comment

The proposal entails the sale of alcohol and permits patrons to bring their own alcohol. The sale of alcohol on the premises will be monitored through the requirement of employees selling alcohol to have a valid liquor licence.

The DA was referred to Camden Local Area Command to undertake a Crime Prevention Through Environmental Design assessment. No objection was raised to the proposal subject to recommended conditions of consent.

Council staff are satisfied that subject to compliance with the recommended conditions of consent regarding controlled alcohol consumption, there will be no unacceptable impacts on nearby residents.

5. *The outdoor movies is not permissible in the SP1 Special Activities zone.*

Officer comment

The outdoor cinema is identified as a "temporary use". Under Clause 2.8 of the LEP, temporary uses are permitted in all zones provided they operate for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months. It is considered that the Royal Botanic Gardens is a suitable location for the proposed use and provides entertainment to the local community. A condition of consent will limit the use from 2 January to 13 March 2016 only.

6. *Public liability insurance provided to the event will not cover potential damage caused to local vehicles and properties.*

Officer comment

It is a requirement that the operator of the outdoor cinema provide public liability insurance. As discussed above, the controlled sale of alcohol and provision of ample car parking will ensure that there is no overflow of patrons onto the local roads.

7. *The sanitary facilities on site are not adequate to service the number of patrons proposed.*

Officer comment

The existing toilet block adjacent to the Lakeside Precinct will be available for patrons. Council's Environmental Health Officer has assessed the provision of sanitary facilities



on site. A condition is recommended to ensure that portable toilets are provided in addition to the existing facilities on site. Therefore, satisfactory sanitary facilities will be available.

8. *Concerns that food stalls will produce more people and litter.*

Officer comment

Catering services are proposed to be provided to the patrons of the outdoor cinema. A range of food and beverages will be served to patrons. General waste and recycling bins are proposed to be placed in conveniently located areas. General waste will be managed through the Royal Botanic Garden's regular waste management system. General waste will then be emptied into a skip bin which will be located in the back of house area.

Council's Environmental Health Officer has recommended conditions of consent to ensure that temporary food stalls comply with the relevant requirements of the *Food Act 2003*, the *Food Regulations 2004* and Council policies. Details of all temporary food stalls are to be provided to Council by the event organiser no less than 14 days prior to commencement of the event.

A condition is recommended that upon completion of the each movie screening, the site must be left in a clean and tidy state, including the removal of all waste materials generated by the proposal.

Council staff are satisfied that the proposal will not contribute to excessive litter as appropriate waste management measures have been identified.

9. *Impact on significant ecological communities and negative effects of litter, broken glass, and cars parked on grass.*

Officer comment

Concerns were raised that the site contains significant remnant vegetation some of which may be representative of endangered ecological communities. The site contains Shale Hills Woodlands. The overflow carparking number 5 on the Traffic Management Plan was relocated away from Mount Annan Drive to ensure that vegetation is not impacted.

No tree removal is proposed and the location of the proposal will not impact on significant vegetation. A condition will be included to ensure that no trees are removed or disturbed as a result of the proposal.

Appropriate waste management procedures have been identified and conditions are recommended to ensure that the litter is disposed of and collected efficiently.

10. *The Royal Botanic Gardens are short staffed and the proposed security personnel numbers proposed may not be sufficient.*

Officer comment

Royal Botanic Gardens rangers and security personal are proposed to patrol the area. It is a recommended condition of consent that security be present on the site throughout the entire duration of the outdoor cinema being open to patrons.

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11. *What ratings will the movies be and how is age monitored.*

Officer comment

The rating and selection of movies is not a matter for consideration under the *Environmental Planning and Assessment Act 1979*.

12. *The number of residents notified is unsatisfactory.*

Officer comment

The DA was publicly exhibited twice for 14 days in accordance with the DCP. The first exhibition period was from 14 October to 27 October 2015. The second exhibition period was from 13 November to 26 November 2015. The area of residents publicly notified was expanded for the second exhibition period. Council provided 125 adjoining residential households the opportunity to submit their concerns to Council.

13. *The proposal will have an financial impact on similar businesses in the area*

Officer comment

Competition between individual businesses is not a matter for consideration under the *Environmental Planning and Assessment Act 1979*. Notwithstanding this, an outdoor cinema offers a different social experience from the experience of other cinemas in the area. Further, the cinema only offers one movie screening a night.

14. *Bushfire affectation has not been addressed*

Officer comment

The site is identified to be bushfire affected. A critical incident plan which is a current plan used by the Royal Botanic Gardens was submitted. The plan identifies prevention, preparedness, response, and recovery of emergency situations including bushfires. The plan includes details of the main and alternative emergency assembly points as well as fire hydrant locations. The critical incident plan is considered to be satisfactory.

15. *Heritage impacts have not been taken into consideration*

Officer comment

The proposal is located in the vicinity of the Upper Canal which is a State heritage item. The DA was referred to Council's heritage officer who advised that the proposal will have no impact on the Upper Canal as it is fenced off to protect its water quality. As such, patrons who attend the cinema will not have access to the Canal. It was also clarified that the NSW Office of Environment and Heritage does not require a referral.

16. *The proposed use is waterfront development and requires a Controlled Water Activity from the Department of Primary Industries Water*

Officer comment

The proposed use is located within 40m of a watercourse. A Controlled Water Activity under Clause 91 of the *Water Management Act 2000* is not required as the use and proposed structures are temporary. Council contacted the Department of Primary Industries water to clarify if a referral was required. It was clarified in writing that the DA

is not Nominated Integrated Development. **A copy of the response from the DPI is provided as a Business Paper supporting document.**

17. *Quality of application material is insufficient to make an informed assessment of the proposed development*

Officer comment

The information submitted is considered sufficient to undertake a detailed assessment of the proposal. An outdoor cinema and other large scale events such as the Aroma Food and Wine Festival have been previously held on the subject site.

**(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**

*Road and Maritime Services*

The DA was referred to Roads and Maritime Services under Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007* as the proposed use is identified as traffic generating development.

RMS raised no objection to the proposal subject to approval by Council's Local Traffic Committee. This has been discussed with Council's Traffic Engineer (a representative of the Local Traffic Committee) who advised that approval is not required to be sought from the Local Traffic Committee as there are no road closures, line marking or temporary traffic signage devices required or proposed.

Council's Traffic Engineer raised no objection to the proposal subject to recommended conditions of consent.

*Camden Local Area Command*

The DA was referred to Camden Local Area Command to undertake a Crime Prevention Through Environmental Design assessment to identify potential impacts on the nearby locality due to the nature of the development.

Camden Local Area Command raised no objection to the proposed development subject to recommended conditions of consent. The conditions have been included accordingly.

**FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

**CONCLUSION**

The DA has been assessed in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans

and policies. Accordingly, DA 1169/2015 is recommended for approval subject to the conditions contained in this report.

Notwithstanding the above, as the DA is a Crown development, in accordance with clause 89 of the *Environmental Planning and Assessment Act 1979*, Council must not refuse its consent to a Crown development application, except with the approval of the Minister. Further, a Crown development application for which the consent authority is a council must not be referred to the Minister unless it is first referred to the applicable regional panel.

**CONDITIONS**

**Details of Conditions:**

**1.0 - General Conditions of Consent**

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

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
	Site Map	Submitted with DA Documentation	Submitted with DA Documentation
	Traffic Management Plan	Submitted with DA Documentation	Submitted with DA Documentation

Document Title	Prepared by	Date
Risk Management Plan	Submitted with DA Documentation	Submitted with DA Documentation

- (2) **Duration of Development Consent** – The outdoor cinema is consented for a maximum period of 52 days (whether or not consecutive) to begin operating 2 January 2016 with the final operation date being 13 March 2016.

The applicant is advised that a further development application is required to be submitted for any future events. In determining any further application, Council will have regard to the operation of the use within the initial approval period. It is recommended that the applicant lodge any additional applications at least three (3) months prior to the proposed commencement date.

- (3) **Hours of Operation** - The property is only to be open for business and used for the purpose approved within the following hours:

7:00pm to 11:00pm with patrons exiting from the premises until 12:00am

- (4) **No Signs on Public Land** - No signs including A Frames, Digital Variable Message Boards, posters, banners and the like are to be displayed in a public place without prior written consent from Council such as an additional Development Application and/or Traffic management Plan.

Please note that no signage shall be nailed, stuck or adhered to any pole, post, tree or inanimate fixtures located on public or private land.

- (5) **Signage** – Banner signs advertising the event must be in accordance with Council’s Banners and Signs on Road Reserves Policy dated 27 August 2001. Applications for the erection of signs or banners must be submitted at least ten (10) working days prior to the intended date of display. Articles may be erected for a maximum of fourteen (14) days prior to the advertised event.
- (6) **Public Liability** - The owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc) for the full duration of the proposed works. Evidence of this Policy shall be provided to Council and the Certifying Authority.
- (7) **Temporary Structures** – Temporary structures including stages, tents, marquees or booths must be erected in accordance with the general requirements and development standards identified under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* – Part 2, Division 3 Temporary Uses and Structures Exempt Development Code
- (8) **Food and Beverage Service** – Staff responsible of the sale of alcohol must have a valid Liquor License.
- (9) **Sanitary Facilities** - Portable toilets and hand basins are required to be provided for the event and be located on the premises to where the event is held, in accordance with the *Planning Manual “Safe and Healthy Mass Gatherings” prepared by Emergency Management Australia (EMA) 1999*.

	Males			Females	
Patrons	WC	Urinals (or additional WC)	Hand Basins	WC	Hand Basins
<2000	5	11	5	12	5

(Note. The above is calculated at 75% rate based on 4 hour event and portable toilet numbers are in addition to the fixed toilets located at the premises which consist of 2 unisex toilets at Marquee lawn & two unisex toilets at the lake side Pavilion.

- (10) **Waste Management** - All waste produced by the event must be collected and managed during the event separately from public place bins already in the park or area. All recycling waste should be separated where possible and disposed of at a licenced facility.

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- (11) **Security and Safety:**
- i. Security shall be present on site during the nominated hours of operation;
  - ii. Outdoor lighting shall be installed around car parks, and exit and entry points;
  - iii. Lighting shall be designed to the Australian and New Zealand Standard 1158 – Lighting for roads and public spaces;
  - iv. All lighting shall be vandal proof throughout the complex; and,
  - v. Areas where alcohol is to be served shall have signage displayed outlining the NSW Liquor Act requirements.
- (12) **Vegetation Protection** – This consent does not permit the removal of trees or vegetation. The vegetation on the subject land shall be protected from damage throughout the duration of the temporary event.
- (13) **Fireworks** – This consent does not permit the use of fireworks.

## 2.0 - Prior to Commencement of Works

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

- (1) **Food and Beverage Service Areas** – The construction and operation of the temporary food stalls must comply with relevant requirements of the Food Act 2003, the Food Regulations 2004 incorporating the Food Standards Code and Camden Councils Mobile Food Vending Vehicles and Temporary Food Stalls in a Public Place Local Approvals Policy.
- (2) **Temporary Food Stalls** - Details of all temporary food stalls are to be provided to Council by the event organiser no less than 14 days prior to commencement of the event. Stallholders are to provide a completed Application for Approval to Conduct Temporary Food Stall in a Public Place (available on Council's website), together with appropriate application and inspection fee and a current copy of the stallholders Certificate of Currency prior to the event.
- (3) **Traffic Management Conditions:**
  - i. Ingress and egress to the site shall only be via Narellan Road. No access is permitted via Mount Annan Drive (aside from emergency vehicles).
  - ii. The Road and Maritime Services Transport Management Centre is required to be contacted prior to the event to adjust the phasing of the signals as patrons are exiting the site on conclusion of the event;
  - iii. Traffic controllers shall be accredited by the RMS and be in position at all times as indicated in the Traffic Control Plans;
  - iv. The organisers shall obtain NSW Police concurrence to the Special Event Approval; and



- v. The organisers shall maintain access for emergency vehicles along the closed road sections.

### 3.0 – Ongoing Use

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

- (1) **Discharge into Waterways** - No wastewater, chemicals or other substances shall be permitted to discharge to the waterway that runs through the site or Council's stormwater system. Only clean, unpolluted water is permitted to discharge. All liquids (such as oils lubricants, hydraulic fluids, fuel, paints, detergents and any other chemicals) shall be stored in a covered and suitably bunded area.
- (2) **Music and/or Amplifiers** - Music and other amplified sound, including recorded or broadcast programmes or the like, played on the premises, shall be controlled so as not to cause any distraction or disturbance to nearby or adjacent residents, pedestrians or motorists, and shall only be audible within the property boundaries.
- (3) **Offensive Noise** - The use and occupation of the premises including all plant and equipment shall not give rise to any offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* and shall comply with the *NSW Industrial Noise Policy 2000* (as amended).
- (4) **Amenity** - The event shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations and residential or business premises.
- (5) **Waste Removal** – Upon completion of the event, the site must be left in a clean and tidy state, including the removal of all waste materials generated by the proposal.

### RECOMMENDED

**That Council approve DA 1169/2015 for the temporary use of an outdoor cinema at 141A Mount Annan Road, Mount Annan, subject to the conditions listed above.**

### ATTACHMENTS

1. Proposed Plans
2. Response from DPI - *Supporting Document*
3. Submissions - *Supporting Document*
4. Public Exhibition and Submissions Map - *Supporting Document*



ORD03

Attachment 1

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## ORDINARY COUNCIL

**ORD04**

**SUBJECT: CONSTRUCTION OF A SINGLE STOREY DWELLING, SWIMMING POOL AND ASSOCIATED SITE WORKS, 60 THE OLD OAKS ROAD, GRASMERE**

**FROM:** Director Planning & Environmental Services

**TRIM #:** 15/340170

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**APPLICATION NO:** 778/2015  
**PROPOSAL:** Construction of a single storey dwelling, swimming pool and associated site works  
**PROPERTY ADDRESS:** 60 The Old Oaks Road, Grasmere  
**PROPERTY DESCRIPTION:** LOT: 21 DP: 1075219  
**ZONING:** R5 Large Lot Residential  
**OWNER:** Mr B A & Mrs M J Faddy  
**APPLICANT:** Mr Brett Faddy

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for the construction of a single storey dwelling, swimming pool, and associated site works at 60 The Old Oaks Road, Grasmere.

The DA is referred to Council for determination as there remain unresolved issues received in one submission from an adjoining property.

### SUMMARY OF RECOMMENDATION

That Council determine DA778/2015 for the construction of a single storey dwelling, swimming pool, 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 single storey dwelling, swimming pool, and associated site works at 60 The Old Oaks Road, Grasmere.

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

The DA was publicly exhibited in accordance with Camden Development Control Plan 2011. One (1) submission was received (objecting to the proposed development). **A copy of the submission is provided with the Business Paper supporting documents.**

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

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The concerns raised in the submission relate to the dwelling being outside of the nominated building envelope (side and rear) as referenced as a restriction within the 88B Instrument. There is a side and rear breach proposed, however, the development form is not inconsistent with the minimum setback referenced in the Camden DCP. The development is compliant with the site coverage requirement, landscaped area control and is sympathetic to the streetscape character of the locality.

The subject lot is not affected by the view corridors established as part of the original subdivision which created the lot. As a result, the proposed dwelling envelope will not be at odds with the intent of the building envelope controls.

The proposed dwelling is consistent with the existing residential character, as there have been other dwellings in the immediate locality which have been approved outside of the registered building envelopes applying to the individual lots. The dwelling will not adversely impact upon the privacy or solar access of adjacent lots.

The proposed development is in accordance with the established residential character of the area, and a variation to the building envelope restriction is not considered to have a negative impact on the locality.

In order to facilitate a development form that is more consistent with the building envelope restriction, a condition is recommended to delete the outbuilding located toward the rear of the lot. This will result in the proposal complying with the rear building envelope control, with the variation to the building envelope relating to the sides of the dwelling only.

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

**AERIAL PHOTO**



**THE SITE**

The site is commonly known as 60 The Old Oaks Road, Grasmere and is legally described as LOT: 21 DP: 1075219.

The site has a frontage of 52m to The Old Oaks Road, a depth of 69m and an overall area of 3,049m<sup>2</sup>.

The site is currently vacant. An existing tree is located on the site that is proposed to be removed as part of this DA. The tree will be required to be replaced as a condition of consent.

The surrounding properties are characterised by detached residential dwellings on large residential lots with generous landscaping that are characteristic of the R5 Large Lot Residential zone.

**HISTORY**

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

Date	Development
8 September 2006	Creation of LOT: 21 by Development Application Subdivision (DAS) 15/2002

**THE PROPOSAL**

DA 778/2015 seeks approval for the construction of a single storey dwelling, swimming pool, and associated site works.

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Specifically the proposed development involves:

- construction of a single storey dwelling comprising 5 bedrooms and a triple car garage;
- construction of an in-ground swimming pool; and
- Removal of 1 tree
- landscaping works

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

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

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

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

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

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

##### **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 on the Hawkesbury-Nepean River system as a result of the proposed development. A condition is recommended to provide sediment and erosion controls as part of the development.

#### Camden Local Environmental Plan 2010 (LEP)

##### *Permissibility*

The site is zoned R5 Large Lot Residential under the provisions of the LEP. The proposed development is defined as a "dwelling house" by the LEP which is a permissible land use in this zone.

##### *Objectives*

The objectives of the R5 Large Lot Residential zone are as follows:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.

##### Officer comment:

The proposed development will provide housing in a rural setting. The development is not inconsistent with the established residential character of the area and will not adversely impact upon the scenic qualities of the rural landscape.

- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.

##### Officer comment:

The subject site is situated in Grasmere, which is not identified as a future urban release area. The proposed development is in accordance with the desired character of the area and fulfils the intent of the R5 zone.

- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.

##### Officer comment:

The proposed development is on a lot that was subdivided with the intention for it to be developed for residential purposes. The demand for public services and facilities was taken into account at the subdivision stage.

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

##### Officer comment:

The subject site is located on the fringe of the R5 Large Lot Residential zone. The frontage of the lot is the boundary of the 2 zones, with the adjacent zone being RU1 Primary Production pursuant to the Camden LEP. Potential conflict between the zones was assessed at subdivision stage. The R5 zone is characterised by lower density residential development that is characteristic of a rural setting and will therefore provide an appropriate "transition" between residential and rural zoned land. The proposed

development is in accordance with the desired character of the R5 zone and therefore conflict between the R5 and the RU1 zones will be minimised.

*Relevant Clauses*

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

Clause	Requirement	Provided	Compliance
4.3 Height of Buildings	The maximum permitted building height is 8.5m	6.9m building height proposed.	Yes
5.9 & 5.9AA Trees or Vegetation	Preserve the biodiversity values of the area. Consent must be granted for the removal of a tree relevant to this clause	A Eucalyptus tree is proposed to be removed as part of the DA. Council's Landscape Officer supports the removal of the tree subject to a replacement tree being provided. Conditions have been included.	Yes
7.2 Airspace Operations	Buildings located within the area affected by the Camden Airport Obstacle Limitations Surface (OLS) must not exceed the obstacle height limit shown on the OLS map (115 AHD)	The ridge height of the proposed development is 107 AHD, which is 8m below the maximum permitted height specified by the OLS.	Yes

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

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

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

Camden Development Control Plan 2011 (DCP)

The following is an assessment of the proposed development's compliance with the controls in the DCP. Discussion of any variations of the controls is provided after the compliance table.

Control	Requirement	Provided	Compliance
B1.15 Development Near Camden Airport	Buildings located within the area affected by the Camden Airport Obstacle Limitations Surface (OLS) must not exceed the	The ridge height of the proposed development is 107 AHD, which is 8m below the maximum	Yes

**ORD04**

Control	Requirement	Provided	Compliance
	obstacle height limit shown on the OLS map (115 AHD)	permitted height pursuant to the OLS.	
B1.2 Cut and Fill	The maximum amount of cut and fill must not exceed 1m.	The maximum amount of cut for the proposed dwelling is 0.6m and the maximum amount of fill is 0.6m. It is noted that this clause excludes swimming pools.	Yes
Fill distance from boundary	No fill within 2m of boundary (unless drop edge beam)	No fill is proposed within 2m of any boundary. However, a standard condition ensuring use of a drop edge beam if required has been provided.	Yes
B5.1 Car Parking Requirements	For 2 or more bedrooms 2 parking spaces are required	5 bedrooms are proposed and 3 parking spaces are provided in the triple garage.	Yes
D2.1.1 Setbacks	Garages are to be setback 5.5m and 1m behind the building façade line.	The garage is setback 24m from the street frontage and is 6.3m behind the building façade.	Yes
Wall Articulation	Walls alongside boundaries are to be articulated by a window, wall return or architectural feature.	The walls along the side boundaries are provided with windows and wall returns.	Yes
Architectural Elements	Architectural elements may encroach 1.5m into the front setback area	Pursuant to D2.1.1 (1), where there is a registered building envelope the DCP setback controls do not apply. A registered building envelope exists for this site. The proposed front porch (architectural element) is located within the prescribed building envelope and therefore	Yes

Control	Requirement	Provided	Compliance
		complies.	
D2.1.3 Height, Massing and Siting	≤ 8.5m max building height.	6.9m building height.	Yes
Ground Levels	Max 1m above natural ground level. Ground floor levels greater than 1m may be considered where there is no adverse impact on adjacent properties or the streetscape character	The dwelling has a finished floor level less than 1m above natural ground level and therefore complies.  The outbuilding has a finished floor level greater than 1m above natural ground level. However, a condition is recommended to delete the outbuilding due to non-compliance with the prescribed building envelope.	Yes
D2.1.4 Visual and Acoustic Privacy	Direct overlooking from habitable rooms (not bedrooms) of main living areas and private open spaces of adjacent dwellings should be minimized.	The proposed dwelling is single storey and has a maximum height of 6.9m. There will be no direct overlooking to or from habitable rooms.	Yes
	Balconies and decks not permitted on top floor unless no adverse impacts	The proposed dwelling is single storey. Due to the site characteristics, the proposed deck associated with the pool area is approximately 1.9m above natural ground level at its highest point.  The deck is screened by proposed landscaping, and is setback 5m to the side boundaries of the lot and in excess	Yes

**ORD04**

Control	Requirement	Provided	Compliance
		of 9m to the rear boundary. Given the proposed screening and setbacks, there will be no unacceptable adverse impact on the adjacent lots with respect to privacy.	
D2.1.5 Private Open Space	≥ 20% POS with a min dimension of 2.5m located behind the building line. At least 65% of the POS must be soft landscaping.	Approximately 1079m <sup>2</sup> of POS with a minimum dimension of 2.5m located behind the building line is provided, which equates to 35% of the site area.	Yes
Principal Private Open Space	≥ 24m <sup>2</sup> PPOS directly connected to a living area with min length of 4m and not steeper than 1:10 gradient.	Approximately 785m <sup>2</sup> of the POS is capable of soft landscaping, which equates to 72%. 45m <sup>2</sup> PPOS is available directly from the main living area, having a minimum dimension of 9m comprising a flat surface.	Yes
Site Cover	For lots >450m <sup>2</sup> , the max site coverage is 50% for the ground floor and 30% for the upper floor.	The proposed dwelling is single storey therefore a maximum of 50% site coverage is permitted. Excluding unenclosed decks, 538m <sup>2</sup> of site coverage is proposed, which equates to 17%.	Yes
Landscaped Area	30% min landscaped area	Excluding hard surface areas, approximately 1937m <sup>2</sup> is available for landscaping, which equate to 63%.	Yes

Control	Requirement	Provided	Compliance
Solar Access	Sunlight must reach at least 50% of the PPOS of both the subject dwelling and of any adjoining dwelling.	The proposed dwelling is single storey. >50% of PPOS will receive solar access in accordance with this clause, with no adverse impact on adjoining lots.	Yes
	North facing windows of living areas shall receive at least 3 hours solar access.	The main living areas face directly north and are provided with large windows. Therefore, ≥ 3 hours solar access will be achieved.	Yes
	At least one principal living area of a dwelling must face predominantly north	The main living areas face directly north.	Yes
D2.1.6 Garage Location	For lots with a frontage >20m, front loaded triple garages are permitted.	The lot has a frontage of 52m and a front loaded triple garage is proposed.	Yes
Garage Door Width	≤ 50% of front façade.	The triple car garage has a total width of 7m, which equates to 20% of the overall front façade width.	Yes
Garage design	Garages are to be designed as integral and complementary with the dwelling.	The triple car garage does not dominate the façade. It is located to the side of the dwelling and occupies the lowest roof profile. The garage doors are designed to complement the front facade.	Yes
Driveway width	The max width of a driveway at the property boundary is to be 5.5m in accordance with Australian Standards	The driveway width is not specified on the plans. A condition is recommended to	Yes

Control	Requirement	Provided	Compliance
		ensure compliance with this part.	
D2.1.7 Streetscape and Architectural Design	Buildings are to be appropriately designed and sited so as to appropriate to the character of the area.	The proposed dwelling is single storey and incorporates a hipped roof containing architectural features that are compatible with the style of adjacent dwellings.	Yes
	The street façade must incorporate two design features.	The street façade incorporates an entry feature with pronounced entry columns that break up the front façade while reducing the horizontal emphasis of the building. Two feature walls are also proposed as part of the stepped and articulated façade.	Yes
	450mm eaves are required to 70% of the dwelling.	450mm eaves are proposed around the entire dwelling.	Yes
	Neutral colours and finishes are required	The dwelling will be finished in neutral, earthy tones, in accordance with the submitted drawings.	Yes
D2.1.9 Fencing in R5 Zones	Front fences max 1.5m in height and to be of traditional picket, open post and wire, post and rail, or masonry.	No front fence is proposed. To be addressed as a condition of consent.	Yes
	Dividing fences and returns to dividing fences shall be a maximum of 1.5m in height and be open post and wire or post and rail in construction	No dividing fence is proposed. To be addressed as a condition of consent.	Yes
D2.1.10 Setbacks in the	Where a registered building envelope is	A registered building envelope exists for	<b>No - DCP variation 1</b>

Control	Requirement	Provided	Compliance
R5 Zone	provided, the development is to be contained within that building envelope	the site. The dwelling is located outside of the building envelope (side and rear setbacks) and does not comply	<b>discussed at the end of this table</b>
D2.1.11 Outbuildings	Outbuildings should be sited to retain existing vegetation on site.	<p>A condition is provided to delete the outbuilding due to non compliance with the prescribed building envelope.</p> <p>A further condition is provided so that the mechanical equipment associated with the pool is stored within an acoustically rated enclosure under the proposed pool area.</p>	Yes

DCP Variation 1 – Building Setbacks

*DCP Control*

The DCP requires that the building footprint be contained within any registered building envelope that applies to the lot. The proposed development breaches the building envelope at the rear by 7.3m (17m required and 9.7m proposed), on the eastern side boundary by 10.1m (17m required and 6.9m proposed) and the western side boundary by 4.9m (9.9m required and 5m proposed).

*Variation Request*

The applicant has requested that Council support a variation to this DCP control on the basis that:

- The proposal complies with all other relevant planning controls with the exception of the encroachment into the rear and side building envelope;
- Compliance with the control is unreasonable as the non-compliance is consistent with other development in the surrounding area;
- The proposal is more modest than other dwellings in the area;
- The dwelling is proposed to minimise sound transmission to adjacent properties by limiting the openings on the side eastern and western elevation;
- The proposal does not directly overlook the main living areas or private open space of adjacent dwelling;



- Consideration would be given to relocating the outbuilding to be compliant with the rear setback controls; and
- The proposal will not have any detrimental environmental, visual or amenity impacts on immediate neighbours or surrounding locality.

#### *Council Staff Assessment*

Council staff have reviewed this variation and recommend that the variation to the side setback be supported and the development be amended via condition to delete the outbuilding which will result in compliance with the rear setback. The side setback variation is supported for the following reasons:

- The development meets the objectives of the building envelope controls, given this application is not inconsistent with development in the immediate and surrounding locality. There are numerous examples of development within this subdivision, where the resultant built form is outside of the registered building envelope.

Lot 31 shares a common lot boundary with the subject site to the rear (north) and contains an approved dwelling which breaches the prescribed building envelope. The eastern side boundary setback was approved at 6.2m (11.05m required), representing a variation of 4.8m. A western side boundary setback of 6.2m exists (10.1m required), representing a variation of 3.9m. The approved dwelling complies with the referenced front and rear building envelope criterion.

Lot 32 shares a common lot boundary with the subject site to the rear (north). The development contains an approved dwelling having an eastern side boundary setback of 5m (13.1m required), representing a variation of 8.1m. The remaining boundary setbacks are in accordance with the prescribed building envelope.

Lot 22 shares a common lot boundary with the subject site to the side (east) and contains an approved dwelling that breaches the prescribed building envelope. An eastern side boundary setback of 10.7m exists (17.6m required), representing a variation of 6.9m. The remaining boundary setbacks are in accordance with the prescribed building envelope.

Lot 20 shares the remaining common lot boundary to the west; the development fully complies with the prescribed building envelope.

Based on the above, the proposed side boundary setbacks are similar to the side boundary setback of immediately adjacent lots.

The proposed outbuilding results in a breach of the rear boundary setback as referenced in the building envelope restriction. A condition is recommended to delete the outbuilding so that the development will comply with the rear and front setbacks of the prescribed building envelope.

A condition is recommended requiring the 88B Instrument to be updated to reflect the approved works (breach of the side boundary setbacks), so that the development envelope is consistent with that referenced in the 88B Instrument associated with Deposit Plan 1075219.

- The proposed development meets the objectives of the building envelope control (approved via DA 15/2002). The building envelopes were required by the Grasmere Master Plan (LEP no. 118).

According to the Grasmere Master Plan, the “building envelopes are to maximise the privacy, outlooks, view lines and generous landscaped spaces around buildings, which will enhance the general appearance of the estate. The envelopes will also enable owners to site their house to minimise overlooking by neighbouring buildings.” The proposed development will not impact upon the privacy or outlooks of surrounding properties. View lines will not be affected and there are generous areas available for landscaping.

Two of the key objectives of the Grasmere Master Plan were to protect predominant view lines to the east, and to minimise the impact of new development on views from Werombi Road. Refer to **Figure 1** below illustrating the view corridors.

The approved plans for the subdivision are consistent with the view corridors contained in the Grasmere Master Plan. The subject lot (lot 21) is not affected by a view corridor, therefore not impacting upon the intent of the building envelopes referenced. Refer to **Figure 2** below illustrating the approved subdivision plan and overlaid view corridors.



**Figure 1** - Insert from the Grasmere Master Plan showing view corridors



**Figure 2 - Approved subdivision plan illustrating overlaid view corridors**

- The proposed development is consistent in form and character to the surrounding locality.
- The development satisfies the setback controls of the Camden DCP 2011, which are 5.0m for both the side and rear. The proposal has been sited so the dwelling does not result in a detrimental impact on the streetscape and will not undermine the character of the locality. Openings and deck areas have been minimized and designed to reduce overlooking and privacy impacts.
- For the purpose of enabling development on land, Clause 1.9A of the Camden Local Environmental Plan 2010 (LEP) permits particular restrictions to be varied. Given the proposed development complies with the setback controls pursuant to the Camden DCP, and is in accordance with the established character of the area, the building envelope restriction should not restrict the proposed development, as the development has demonstrated compliance with the above criterion.

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

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

**(a)(iv) The Regulations**

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

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

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

**(c) The suitability of the site**

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

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

The DA was publicly exhibited for 14 days in accordance with the DCP. The exhibition period was from 31 August 2015 to 14 September 2015. One submission was received (objecting to the proposed development).

**A copy of a Public Exhibition and Submissions Map is provided with the Business Paper supporting documents.**

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

*1. The proposed development is located outside of the prescribed building envelope.*

Officer comment:

The proposed variation to the building envelope relates to the side of the dwelling, which is outside the prescribed building envelope. The front and rear of the dwelling is within the building envelope (subject to a recommended condition to delete the outbuilding).

For the western side boundary a setback of 5m is proposed (9.9m required), representing a variation of 4.9m. For the eastern side boundary a setback of 6.9m is proposed (17m required), representing a variation of 10.1m. The proposed rear boundary setback is 27m 17m (required).

The approved dwellings on surrounding lots 22, 32 and 31, which share a common boundary with the subject site, include variations to their respective prescribed building envelopes. The proposed site setbacks are similar to what is proposed as part of this DA. The proposal is therefore consistent with the established residential character of the area.

The approved plans for the original subdivision illustrate the view corridors contained in the Grasmere Master Plan. The subject lot is not affected by the view corridors; the proposed dwelling footprint therefore does not impact upon the intent of the referenced building envelope.

As was provided on the other development consents relating to lots 22, 32 and 31, a condition is recommended that prior to the issue of an Occupation Certificate, the building envelope (B.E.) as noted on the subject lot under Deposit Plan 1075219 shall be amended.

Considering the reasons above, the variation to the building envelope restriction is considered to be appropriate and is supported.

*2. The proposed development is within close proximity to existing dwellings.*



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Officer comment:

The proposed dwelling will be setback approximately 17m from the existing dwelling on lot 22 (east) and 13m from the existing dwelling on lot 20 (west). The design of the development has minimised the openings within the side elevation, keeping these to bedrooms and the garage, with the deck located to the rear reducing the potential for adverse impacts onto the allotments adjoining. The dwelling is setback in excess of 45m to existing dwellings at the rear. The proposed dwelling will not impact upon the privacy or solar access of adjacent lots.

The proposed setbacks are considered to be sufficient to achieve the desired visual separation that is a characteristic of the R5 zone.

Considering the reasons above, the separation of the proposed dwelling to adjacent dwellings is considered to be appropriate and is supported.

**(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 778/2015 is recommended for approval subject to the conditions contained in this report / for refusal for the reasons contained in this report:

**CONDITIONS**

**1.0 - General Conditions of Consent**

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

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
Job No.: 73a_2015 Dwg No.: 1/7 Issue: B	Site Plan	Architrave Design Studio	28 September 2015
Job No.: 73a_2015 Dwg No.: 2/7 Issue: B	Ground Floor and Deck Plan	Architrave Design Studio	28 September 2015
Job No.: 73a_2015 Dwg No.: 3/7 Issue: B	Pool Decking Plan, Outbuilding Floor Plan, Section & Elevations	Architrave Design Studio	28 September 2015
Job No.: 73a_2015 Dwg No.: 4/7 Issue: B	Elevations & Roof Plan	Architrave Design Studio	28 September 2015
Job No.: 73a_2015 Dwg No.: 5/7 Issue: B	Elevations	Architrave Design Studio	28 September 2015
Job No.: 73a_2015 Dwg No.: 6/7 Issue: B	Section	Architrave Design Studio	28 September 2015
Job No.: 73a_2015 Dwg No.: 7/7 Issue: B	Unspecified	Architrave Design Studio	28 September 2015
Job No.: 15087 Plan No.: 15087_A Sheet 1 of 1	Survey Plan	Total Surveying Solutions	5 February 2015

Document Title	Prepared by	Date
Statement of Environmental Effects	Architrave Design Studio	Unspecified
Waste Management Plan	Architrave Design Studio	Unspecified
BASIX Certificate Certificate No.: 648376S	Architrave Design Studio	16 July 2015

- (2) **BASIX Certificate** - The applicant shall undertake the development strictly in accordance with the commitments listed in the approved BASIX certificate(s) for the development to which this consent applies.
- (3) **Building Code of Australia** - All building work shall be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
- (4) **Home Building Act** - Pursuant to Section 80A(11) of the *EP&A Act 1979*, residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the PCA for the development to which the work relates:
- a) in the case of work for which a principal contractor has been appointed:
    - i. has been informed in writing of the name and licence number of the principal contractor; and

- ii. where required has provided an insurance certificate with the name of the insurer by which the work is insured under Part 6 of that Act.
- b) in the case of work to be carried out by an owner-builder;
  - i. has been informed in writing of the name of the owner-builder; and
  - ii. if the owner-builder is required to hold an owner-builder permit under that Act; has provided a copy of the owner builder permit.

(5) **Excavation for Residential Building Works** - If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent shall, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation; and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.

(6) **Tree Removal** - Consent is granted for the removal of one (1) tree located within the building envelope as shown on plan prepared by Architrave Design Studio drawing 73a\_2015 1/7 dated 28 September 2015.

The following conditions apply:

- a) Green waste and or timber generated from the approved tree work is to be recycled into mulch and reused on site or transferred to a designated facility for composting. Stock piles of green waste or processed timber for reuse including firewood must be stored behind the building line or place out view from the street within 28 days of the tree works authorised by this consent.
- b) The issuing of this Consent is conditioned upon the planting and maintenance of two (2) local native replacement trees as a means to achieve a "No Nett Loss" approach to vegetation management. The plantings shall consist of minimum 25 litre container stock and must consist of one or more of the following species; Eucalyptus tereticornis (Forest Red Gum), Eucalyptus moluccana (Grey Box), Corymbia maculate (Spotted Gum) or Eucalyptus crebra (Narrow Leaved Ironbark).
- c) The planting/s shall be installed on the subject property prior to the issue of Occupation Certificate.
- d) Replacement trees must be cared for and maintained until they reach a height of three (3) metres, the point at which the trees are protected by Council's tree preservation provisions. Should any of the tree/s die before they reach the required height of three (3) metres then they shall be replaced with another tree/s.

- e) At the appropriate time the applicant shall make arrangements for a Council officer to inspect the planting/s (referred to in the clause above) to ensure that Council's objectives for vegetation management are being achieved.
- (7) **Driveway Construction** – The design of the driveway must comply with the requirements of Part D2.1.6 of the Camden Development Control Plan 2011.
- (8) **Fencing** – Any proposed fencing must comply with the requirements of Part D2.1.9 of the Camden Development Control Plan 2011.
- (9) **Swimming Pools and Spas** - The swimming pool/spa shall comply with:
- a) the *Swimming Pools Act 1992*;
  - b) the *Swimming Pools Regulation 2008*;
  - c) AS 1926.1-2012 'Swimming Pool Safety' Part 1: Safety barriers for swimming pools;
  - d) AS 3500.2-2003 „Plumbing and drainage – Sanitary plumbing and drainage“;
  - e) AS1926.3 „Water recirculation systems“; and
  - f) the *BCA 2014*.
- (10) **Delete Outbuilding** – The outbuilding as shown on the approved plans is not permitted as part of this development consent 778/2015.
- (11) **Mechanical Plant Equipment Storage** – The mechanical plant equipment associated with the swimming pool is to be contained within an acoustically rated enclosure to be located underneath the swimming pool.

## 2.0 – Prior to Issue of a Construction Certificate

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

- (1) **Structural Engineer's Details** - The piers/slabs/footings/structural elements shall be designed and certified by a suitably qualified structural engineer and shall take into consideration the recommendations of any Geotechnical Report applicable to the site. A statement to that effect shall be provided to the Certifying Authority.
- (2) **Building Platform** - This consent restricts excavation or fill for the purposes of creating a building platform. The building platform shall not exceed 2.0m from the external walls of the building. Where the external walls are within 2.0m of any property boundary, no parallel fill is permitted and a deepened edge beam to natural ground level shall be used. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (3) **Driveway Gradients and Design** - For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design shall comply with AS 2890.1-2004 'Off street car parking' and:

- a) the driveway shall comply with Council's Engineering Specifications;
- b) the driveway shall be at least 1m from any street tree, stormwater pit or service infrastructure;
- c) the level for the driveway across the footpath area shall achieve a gradient of 4%; and
- d) a Public Road Activity approval must be obtained prior to the commencement of any works.

Details demonstrating compliance shall be provided to the Certifying Authority prior to issue of a Construction Certificate.

- (4) **Salinity (Dwellings & Outbuildings)** - Due to the inherent characteristics of the Camden Local Government Area, buildings erected in the area may be susceptible to soil salinity levels that may have a cumulative damaging effect over time.

Camden Council therefore requires:

- a) A salinity investigation assessment report be undertaken; OR
- b) Compliance with the „minimum requirements“ specified in this condition.

#### Salinity Investigation Report

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

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

#### Minimum Salinity Requirements for Camden LGA

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

- a) **Concrete Strength:** The minimum concrete strength to bored piers, piles, strip footings and concrete floor slabs in contact with the ground shall be 32MPa.
- b) **Damp-Proofing Membrane:** Concrete floor slabs in contact with the ground shall be provided with a damp-proofing membrane that is a 0.2mm thickness polyethylene film and of “high impact resistance” (as determined in accordance with AS2870).

The above minimum requirements shall be incorporated in the structural design and construction of the development. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.

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

- a) The provision of drainage to the building perimeter (including subsoil drainage), to prevent water ponding or soil waterlogging in the building vicinity;
  - b) External finished ground levels, including pavements, should not be higher than the base of the first course of brickwork, or the brickwork and mortar below a damp proof course (DPC) should be exposure rated;
  - c) DPC material must be carried through to the face of any applied finishes;
  - d) Retaining walls should be built of salinity resistant materials;
  - e) Porous pavement products such as cement and clay pavers may show permanent efflorescence and salt corrosion. The use of these products should be confirmed with the manufacturer as being suitable for use in a saline environment, prior to installation.
- (5) **Long Service Levy** - In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant shall pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work that cost \$25,000 or more.

### 3.0 - Prior to Commencement of Works

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

- (1) **Notice of PCA Appointment** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 103 of the EP&A Regulation 2000. The notice shall include:
  - a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the registered number and date of issue of the relevant development consent;
  - d) the name and address of the PCA, and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, his, her or its accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes
- (2) **Notice Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 104 of the EP&A Regulation 2000. The notice shall include:

- a) the name and address of the person by whom the notice is being given;
  - b) a description of the work to be carried out;
  - c) the address of the land on which the work is to be carried out;
  - d) the registered number and date of issue of the relevant development consent and construction certificate;
  - e) a statement signed by or on behalf of the PCA to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
  - f) the date on which the work is intended to commence.
- (3) **Construction Certificate Required** - In accordance with the provisions of Section 81A of the *EP&A Act 1979*, construction or subdivision works approved by this consent shall not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
  - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*;
  - c) if Council is not the PCA, Council is notified of the appointed PCA at least two (2) days before building work commences;
  - d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and
  - e) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (4) **Sign of PCA and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:
- a) that unauthorised entry to the work site is prohibited;
  - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
  - c) the name, address and telephone number of the PCA.
- The sign shall be maintained while the work is being carried out, and shall be removed upon the completion of works.
- (5) **Sydney Water Approval** - The approved development plans shall be approved by Sydney Water.
- (6) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with

„Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures shall be maintained during construction works and shall 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).

#### 4.0 - During Works

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

- (1) **Construction Hours** - All work (including delivery of materials) shall be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
- (2) **Compliance with BCA** - All building work shall be carried out in accordance with the requirements of the BCA.
- (3) **Retaining Walls** - The following restrictions apply to any retaining wall erected within the allotment boundaries:
  - a) retaining walls shall be constructed a minimum of 300mm from any property boundary to ensure all associated drainage and backfill remain wholly within the subject property;
  - b) adequate provisions shall be made for surface and subsurface drainage of retaining walls and all water collected shall be diverted to, and connected to, a stormwater disposal system within the property boundaries;
  - c) retaining walls shall not be erected within drainage easements;
  - d) retaining walls shall not be erected in any other easement present on the land without the approval of the relevant authority benefited.
- (4) **Stormwater – Collection and Discharge Requirements** - 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 (select option a, b or c):
  - a) street gutter;
  - b) drainage easement;
  - c) existing drainage system.

Connection to the drainage easement or kerb shall only occur at the designated connection point for the allotment. New connections that require the rectification of an easement pipe or kerb shall only occur with the prior approval of Camden Council.

All roofwater shall be connected to the approved roofwater disposal system immediately after the roofing material has been fixed to the framing members.

The PCA shall not permit construction works beyond the frame inspection stage until this work has been carried out.

- (5) **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 shall be scheduled by the owner so that all works coincide with the completion of the main building being erected by the principal contractor.
- (6) **Survey Report** - The building shall be set out by a registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans shall be provided to the PCA prior to the pouring of concrete.
- (7) **Easements** - No changes to site levels, or any form of construction shall occur within any easements that may be located on the allotment.
- (8) **Swimming Pool Fence Design** - The swimming pool or spa must be fenced so that the pool is effectively isolated from the dwelling and adjoining lands. The swimming pool fence must comply with the following requirements:
  - (a) The swimming pool safety fencing must strictly adhere to the design and location approved with the development consent, and any conditions of the development consent.
  - (b) Fences and gates must strictly comply with AS1926-2012 – Swimming pool safety – Part 1: Safety barriers for swimming pools.
  - (c) Fencing shall have a minimum effective height of 1.2m.
  - (d) All swimming pool gates shall be self-closing and self-latching. All gates must open outwards from the swimming pool enclosure.
  - (e) The filtration equipment including any cover, housing or pipe work, must not be located within a distance of 900mm from the outside face of the swimming pool safety fencing enclosure, nor within 300mm from the inside of the swimming pool safety fencing enclosure (where footholds are possible).
  - (f) Boundary fencing forming part of the swimming pool safety fencing shall maintain a minimum effective height of 1.8m and a 0.9m non climbable zone (measured from the top of the inside of the barrier).

The swimming pool safety fencing must be installed prior to the swimming pool being filled with water. The Principal Certifying Authority (PCA), or an accredited certifier must inspect the swimming pool safety fencing.

- (9) **Waste Water from Swimming Pools and Spas** - All swimming pool waste water shall be disposed of as follows:
  - (a) Where a Sydney Water sewer is available – waste water shall be drained or pumped to the sewer;
  - (b) Where a Sydney Water sewer is not available (such as rural areas) – waste water shall be disposed of as follows:

Chlorinated pool waste water:

- i. Discharging to a rubble pit measured 600mm wide x 600mm deep x 3m long, located not less than 3m from any structure or property boundary; or
- ii. Discharging to a tail out drain to disperse the water over a large grassed area or paddock, provided that the land fall does not direct water to buildings on the subject or adjoining properties, or create a nuisance to an adjoining property owner.

Saltwater pool waste water:

- iii. Discharging as per point (ii) above.

All pool types:

- iv. Shall not be discharged to a septic tank or an on-site sewage management installation or disposal area;
- v. Shall not be discharged into a reserve, watercourse, easement or storm water drainage system.

## 5.0 - Prior to Issue of an Occupation Certificate

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

- (1) **Occupation Certificate Required**- An Occupation Certificate shall be obtained prior to any use or occupation of the development.
- (2) **Survey Certificate** - A registered surveyor shall prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate shall be provided to the satisfaction of the PCA.
- (3) **Footpath Crossing Construction** - A footpath crossing and driveway shall be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.
- (4) **Waste Management Plan** - The PCA shall ensure that all works have been completed in accordance with the approved waste management plan referred to in this development consent.
- (5) **Filter & Recirculation Systems** - Prior to issue of an Occupation Certificate, a certificate of compliance, or other documentary evidence confirming that the proposed recirculation system and filtration system complies with AS1926.3, must be provided to the PCA.
- (6) **Warning Notice** - A warning notice complying with the provisions of Clause 10 of the Swimming Pools Regulation 2008, must be displayed and maintained in a prominent position in the immediate vicinity of the swimming pool, in accordance with Section 17 of the *Swimming Pools Act, 1992*.

The PCA shall ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate.

Council also recommends that all owners and/or users of swimming pools obtain a copy of the „Cardiopulmonary Resuscitation Guideline” known as “Guideline 7: Cardiopulmonary Resuscitation” published in February 2010 by the Australian Resuscitation Council (available through [www.resus.org.au](http://www.resus.org.au)).

- (7) **Swimming Pool Landscaping** - Landscaping of the swimming pool enclosure and surrounds including the provision of outdoor furniture, construction of barbecues and pergolas must not reduce the effectiveness of the swimming pool safety fencing. All landscaping, furniture, and other similar structures shall be located at least 900mm from the outside of the pool safety fencing.
- (8) **Swimming Pool Register** - In accordance with Part 3A of the *Swimming Pools Act 1992* all swimming pools (including spas) are required to be registered on the NSW Swimming Pools Register. You can register your Swimming Pool online at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au)

Prior to the issue of any occupation certificate you are required to provide evidence in the form of the Certificate of Registration to the PCA.

- (9) **88B Instrument** – Prior to the issue of an Occupation Certificate, the building envelope (B.E.) as noted on the subject lot under Deposit Plan 1075219 shall be amended.

The amending building envelope easement plan shall be prepared by a registered surveyor and shall detail the relocation of the building envelope to an area covering the approved dwelling house development as approved by development consent 778/2015. The location and size of the easement plan must be as approved by Council and be in accordance with the dwelling footprint shown on the approved architectural plans.

The amending building envelope easement plan shall be submitted to Council with a request and agreement to vary the 88B instrument for endorsement prior to lodgement with Land and Property Management Authority (LPMA). Evidence of registration with the LPMA shall be submitted to Council.

## 6.0 – Ongoing Use

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

- (1) **Residential Air Conditioning Units** - The operation of air conditioning units shall operate as follows:
  - a) be inaudible in a habitable room during the hours of 10pm – 7am on weekdays and 10pm to 8am on weekends and public holidays; and
  - b) emit a sound pressure level when measured at the boundary of any neighbouring 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 shall be measured as a LAeq 15 minute.

- (2) **Noise Nuisance Prevention** - The motor, filter, pump, and all sound producing equipment associated with or forming part of the swimming pool filtration system must be located so as not to cause a nuisance to adjoining property owners.

Should a noise nuisance arise, Council may serve Orders issued pursuant to the *Environmental Planning and Assessment Act, 1979* requiring remedial works to be carried out. Action may also be initiated by the PCA where the PCA is not Council.

The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.

- (3) **Prohibitions Within Swimming Pool Enclosure** - The area contained within the swimming pool safety fencing enclosure must not be used for other non related activities or equipment, such as the installation of children's play equipment or clothes drying lines.

- (4) **Swimming Pool Water Health Standards** - To maintain hygienic conditions, the swimming pool must be maintained in a clean and healthy condition at all times. For this purpose the following health standards must be maintained:

- (a) Chlorination without Cyanurate Sun Stabiliser Free chlorine concentration must be maintained within the following range:

Outdoor swimming pools - not less than 1mg per litre;

Indoor swimming pools - water temperature 26 degrees C or below, not less than 1.5mg per litre;

Water temperature above 26 degrees C not less than 2mg per litre.

**Note:** Cyanurate compounds must not be used in the disinfecting of indoor swimming pools and spa water.

- (b) Chlorination with Cyanurate (Sun Stabiliser Added) Free residual chlorine concentration must be not less than 3mg per litre.

The Cyanurate concentration must be maintained within the range 25 to 50mg per litre.

- (c) pH must be maintained within the range of 7.5 and 8.1.

- (d) Reserve Alkalinity

Where sodium or calcium hypochloride is used, must be not less than 60mg per litre.

- (e) Sodium hypochloride – liquid chlorine  
Calcium hypochloride - granulated chlorine

**Note:** The above information is supplied by the NSW Department of Health.

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**RECOMMENDED**

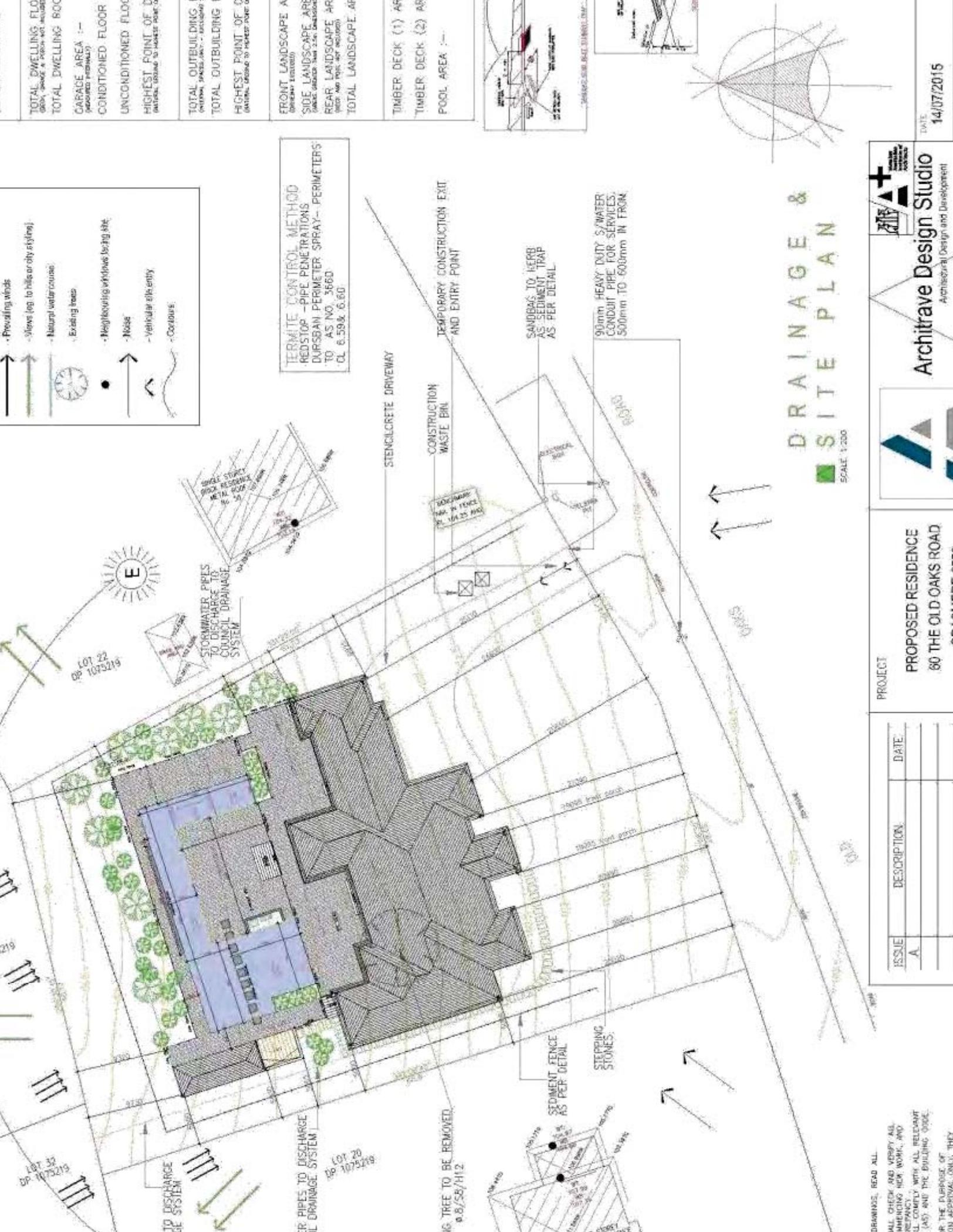
That Council approve DA 778/2015 for the construction of a single storey dwelling, swimming pool, and associated site works at 60 The Old Oaks Road, Grasmere, subject to the conditions listed above.

**ATTACHMENTS**

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







- Prevailing winds
- Slopes (eg. to hills or city streets)
- Natural water course
- Existing trees
- Neighbouring windows facing site
- Noise
- Vehicular site entry
- Contours

TERMITE CONTROL METHOD  
 REDSTOP - PIPE PENETRATIONS  
 DURSBAN PERIMETER SPRAY - PERIMETERS  
 TO AS NO. 3660  
 DL 6.59M & 6.60

# DRAINAGE & SITE PLAN

SCALE 1:200

**Architrave Design Studio**  
 Architectural Design and Development

PROJECT  
**PROPOSED RESIDENCE**  
 80 THE OLD OAKS ROAD

ISSUE	DESCRIPTION	DATE
A		

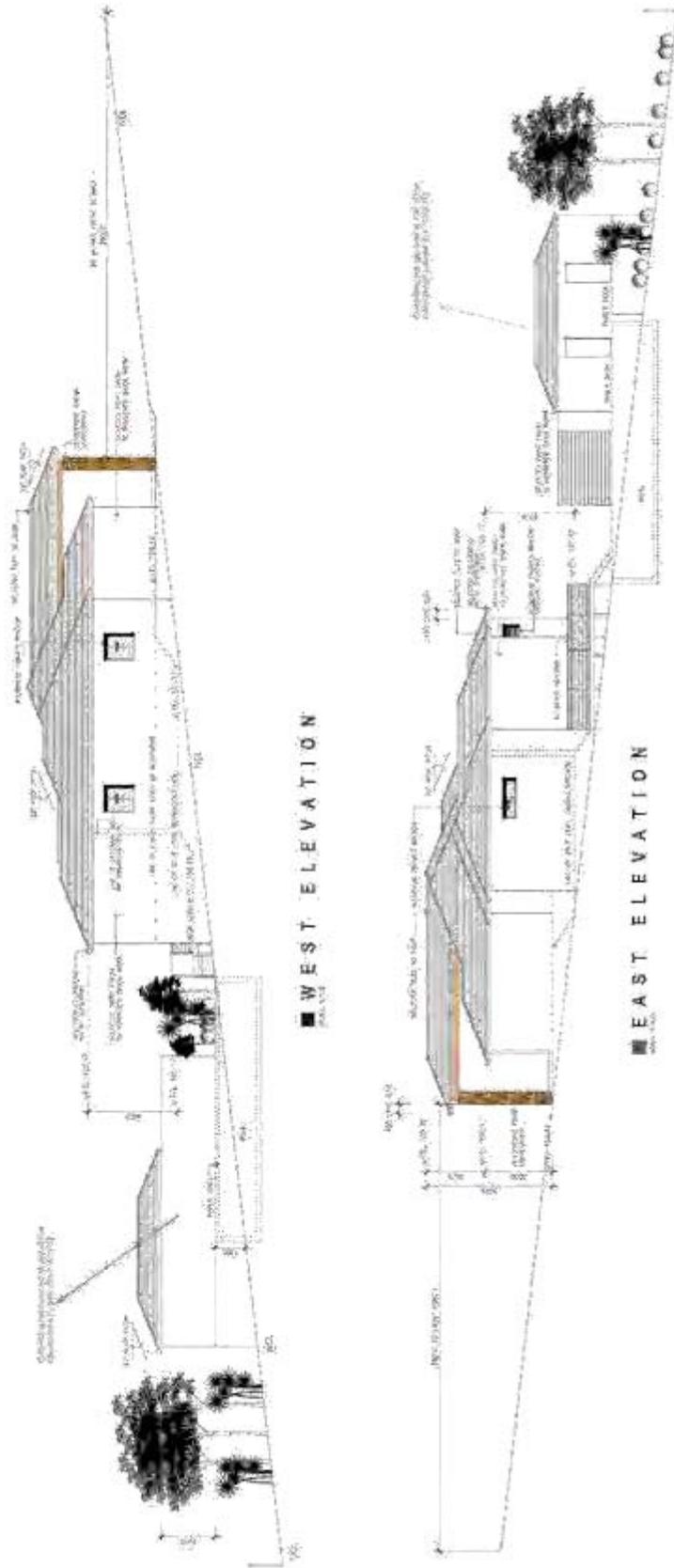
DRAWINGS, READ ALL  
 ALL CHECK AND VERIFY ALL  
 DIMENSIONS, WORK, AND  
 REVISIONS WITH ALL RELEVANT  
 AUTHORITIES AND THE BUILDING CODE.  
 FOR THE PURPOSE OF  
 APPROVAL ONLY. THEY

DATE  
 14/07/2015









WEST ELEVATION

EAST ELEVATION

NOTES:  
 1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE SPECIFIED.  
 2. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE SPECIFIED.  
 3. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE SPECIFIED.  
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 10. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE SPECIFIED.

DATE	12/08/15
BY	MELISSA EAGLE
CHECKED BY	MELISSA EAGLE
PROJECT	PROPOSED RESIDENCE 60 THE OLD OAKS ROAD GRASMERE 2570

PROPOSED RESIDENCE  
 60 THE OLD OAKS ROAD  
 GRASMERE 2570  
 MELISSA EAGLE



**Architrave Design Studio**  
 Architectural Design and Development  
 12/15 2771 Newcastle Street Liverpool  
 P.O. BOX 1571 Liverpool NSW 1571  
 02 9558 2550 - 0411 108 808  
 www.architravedesign.com.au

DATE	14/07/2015
BY	G.S.
CHECKED BY	J.N.

5/17

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## ORDINARY COUNCIL

### ORD05

**SUBJECT:** SUBDIVISION TO CREATE 1 PUBLIC RESERVE, CONSTRUCTION OF AN ACCESS ROAD, CAR PARK AND ASSOCIATED SITE WORKS, 2A DAN CLEARY DRIVE, HARRINGTON PARK

**FROM:** Director Planning & Environmental Services

**TRIM #:** 15/313624

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**APPLICATION NO:** 686/2015  
**PROPOSAL:** Subdivision to create 1 public reserve, construction of an access road, car park and associated works  
**PROPERTY ADDRESS:** 2A Dan Cleary Drive, Harrington Park  
**PROPERTY DESCRIPTION:** Lot 2 DP 1132348  
Part Lot 31 DP 270613  
**ZONING:** Partly E4 (Environmental Living) and E2 (Environmental Conservation)  
**OWNER:** Dandaloo Pty Ltd  
**APPLICANT:** Guy Evans from Design + Planning

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for subdivision to create 1 public reserve, construction of an access road, car park and associated works at 2A Dan Cleary Drive, Harrington Park.

The DA is referred to Council for determination as there remain unresolved issues received in three (3) submissions from the public.

### SUMMARY OF RECOMMENDATION

That Council determine DA686/2015 for subdivision to create 1 public reserve, construction of an access road, car park and associated 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 Development Application (DA) for subdivision to create 1 public reserve, construction of an access road, car park and associated works at 2A Dan Cleary Drive, Harrington Park.

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

The DA was publicly exhibited in accordance with Camden Development Control Plan 2011. Three (3) submissions were received objecting to the proposed development. **A copy of these submissions is provided with the Business Paper supporting documents.**

Council staff contacted the objectors to discuss their concerns, however were unsuccessful in resolving the issues raised within the submissions, which relate to:

- Impact on local native flora and fauna.
- Security and privacy.
- Anti-social behaviour and potential crime.
- Insufficient information regarding the Crear Hill lookout and reserve to adequately assess the development.
- Vehicle access to the lookout - consider it should be pedestrian and cycle access only.
- The future use of the space and if it is proposed to accommodate a café/restaurant.
- Adverse impact on the natural setting.
- Vehicle access will result in more use of the area and more rubbish being left behind.
- Insufficient screening and security measures, cameras should be installed.
- Insufficient public infrastructure, such as children's play equipment, benches or picnic tables.
- Loss of outlook.
- Noise after hours.
- Trespassers and people not obeying the current signage.
- Additional fencing of the space is required.
- Concerns about people falling into the quarry.

A Conservation Management Plan outlining vegetation and bushland conservation work was undertaken when the land was rezoned. Vegetation offset calculations were undertaken as part of this process. This meant that a certain amount of vegetation could not be cleared. The immediate area of the lookout around the carpark was assessed as being degraded woodland. It was anticipated from the time of rezoning that a lookout and carpark would be provided and that no offset vegetation would be removed as a result.

A detailed ecological assessment under the *Threatened Species Conservation Act 1995* has been prepared. The report addresses the potential impacts on native flora and fauna. The assessment identified one threatened flora species (*Pimelea spicata*) within the site which is being preserved within the proposed community land. Conditions are recommended to ensure the protection of this species during and after construction.

The assessment identified the Cumberland Land Snail (*Meridolum corneovirens*) and Spiked Rice-Flower (*Pimelea spicata*) at a number of locations across Harrington Grove. The assessment also identified a number of other threatened fauna species that have the potential to be found. An assessment of significance was undertaken for each of these species, which concluded that there would be no significant impact on these fauna species with the implementation of specified mitigation measures. A condition is recommended requiring compliance with the recommendations of the ecological assessment.

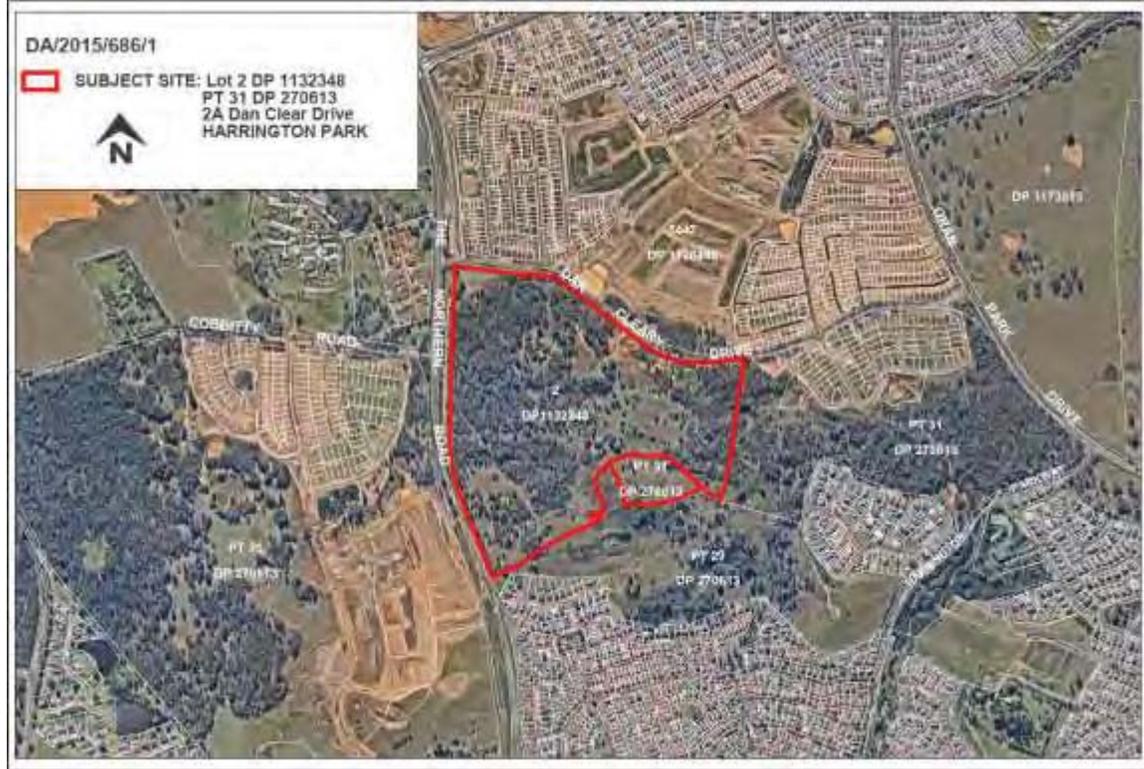
With respect to security, safety and anti-social behavior, a condition is recommended requiring compliance with the Harrington Grove Executed Voluntary Planning Agreement (VPA) that outlines security measures, extensive vegetation screening, security measures such as bollards at the top of the access road leading up to Crear Hill lookout and accessibility to the lookout.



The proposed development complies with all applicable development controls.

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

**AEIAL PHOTO**



**THE SITE**

The site is commonly known as 2A Dan Cleary Drive, Harrington Park and legally described as Lot 2 DP 1132348 (49.7ha) and Part Lot 31 DP 270613 (2.89ha).

The site is characterised by a mix of bushland vegetation and grass lands with undulating topography. An existing dwelling and associated outbuildings are located in the north-western portion of the site. The site is located with the Harrington Grove urban release area.

The adjoining site has been approved for development under DA/367/2014 for 121 community title lots, community association land and site works. The area of the site subject to the approved development is 51 ha and is predominately contained within 2A Dan Cleary Drive (the eastern lot).

The site is bound by Dan Cleary Drive to the north, The Northern Road to the west and Oran Park Drive to the east. The Oran Park precinct of the South West Growth Centre lies to the west and north and Catherine Field (part) of the growth centres lies to the west. Existing developed parts of the Harrington Grove urban release area lie to the south.

**HISTORY**

The relevant development history is summarized in the following table:

DA Number	Approved Development
DA/2014/367	Residential Subdivision – 121 community title residential lots, community association site works for Precinct J.

The Harrington Grove VPA was executed between Dandaloo and Council on the 22 August 2008. The following history and council meetings relate to the VPA:

- The VPA was amended on 31 August 2010.
- At its meeting of 9 December 2014, Council considered a report (DA 367/2014) for a subdivision to create 121 residential lots and associated site works, including a 60 space carpark. During the assessment of this DA, Council received a submission objecting to the construction of the carpark on environmental, safety and overlooking grounds. As a result of community concerns, the construction of the car park was deleted from the DA.
- A number of amendments were proposed to the VPA and were the subject of a Council briefing on 24 February 2015. An amendment to the Camden DCP Part C was required to amend three maps to reflect the proposed amendments to the cycle way and provide consistency with the amended VPA. The draft DCP amendment was also the subject of the Council briefing on the 24 February 2015.
- A report was tabled at Council's Ordinary meeting of 23 June 2015 which outlined proposed amendments to the Harrington Grove Voluntary Planning Agreement (VPA) and the Camden Development Control Plan (DCP) 2011.
- The VPA and DCP were publicly exhibited between 1 July 2015 and 20 August 2015, and no submissions were received.
- Deed of variation to the VPA was executed 27 August 2015.
- The amended DCP came into force as of 3 November 2015.

The works proposed under this DA are consistent with the executed VPA and adopted DCP amendments.

### **THE PROPOSAL**

DA 2015/686 seeks approval for subdivision to create 1 public reserve, construction of an access road, car park and associated works at 2A Dan Cleary Drive, Harrington Park. Specifically the proposed development involves:

- Ten (10) car parking spaces at the top of Crear Hill.

The proposed carpark is within Part Lot 31 DP 270613 with an area of 2.89ha to be dedicated to Council as public reserve once facilities have been constructed.

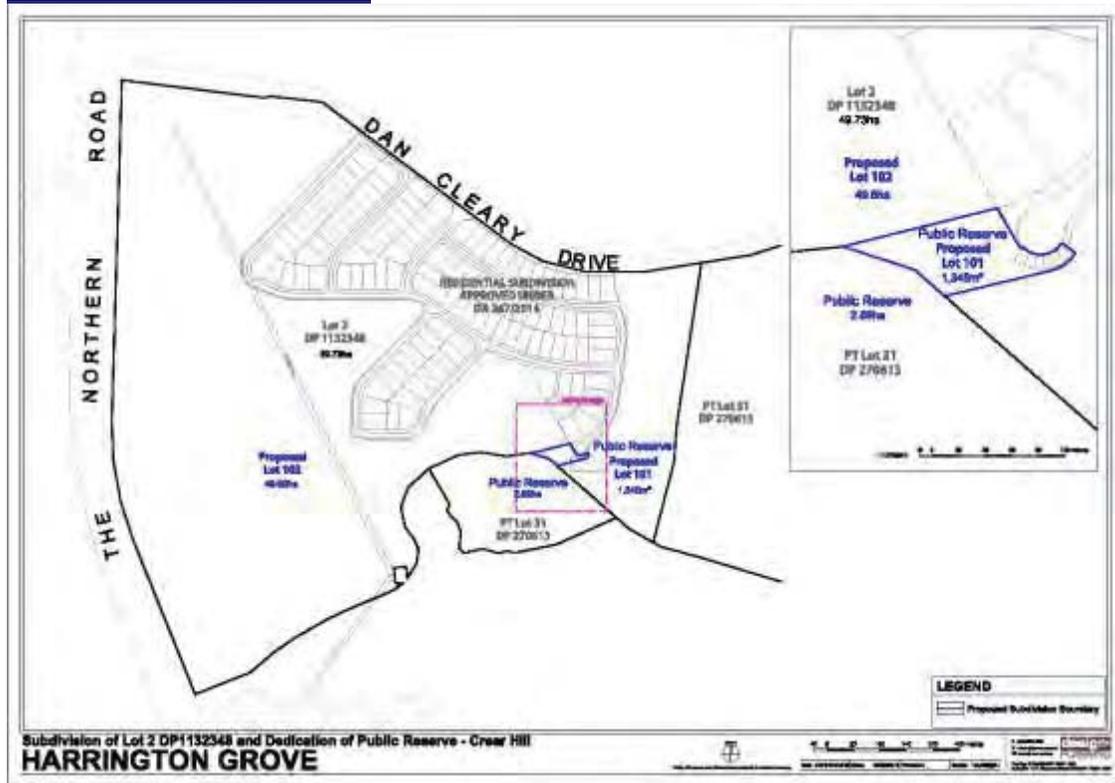
- Subdivision to realign a boundary to facilitate the dedication of this land as a public reserve (see the proposed subdivision plan below).

- A sealed access road 6m wide providing access to Crear Hill. The proposed access road is within Lot 2 DP 1132348 with an area of 49.37ha.
- A second 6 space carpark will be constructed where the access road intersects with the residential Precinct J. The proposed carpark is within Lot 2 DP 1132348.
- Security measures are to be installed at the commencement of the access road leading to Crear Hill lookout as referenced in the executed Voluntary Planning Agreement.
- Screen planting downhill of Crear Hill (south) to provide visual screening to the existing Harrington Park residents that interface with the reserve.

The value of the works is \$132,650.79

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

**PROPOSED SUBDIVISION**

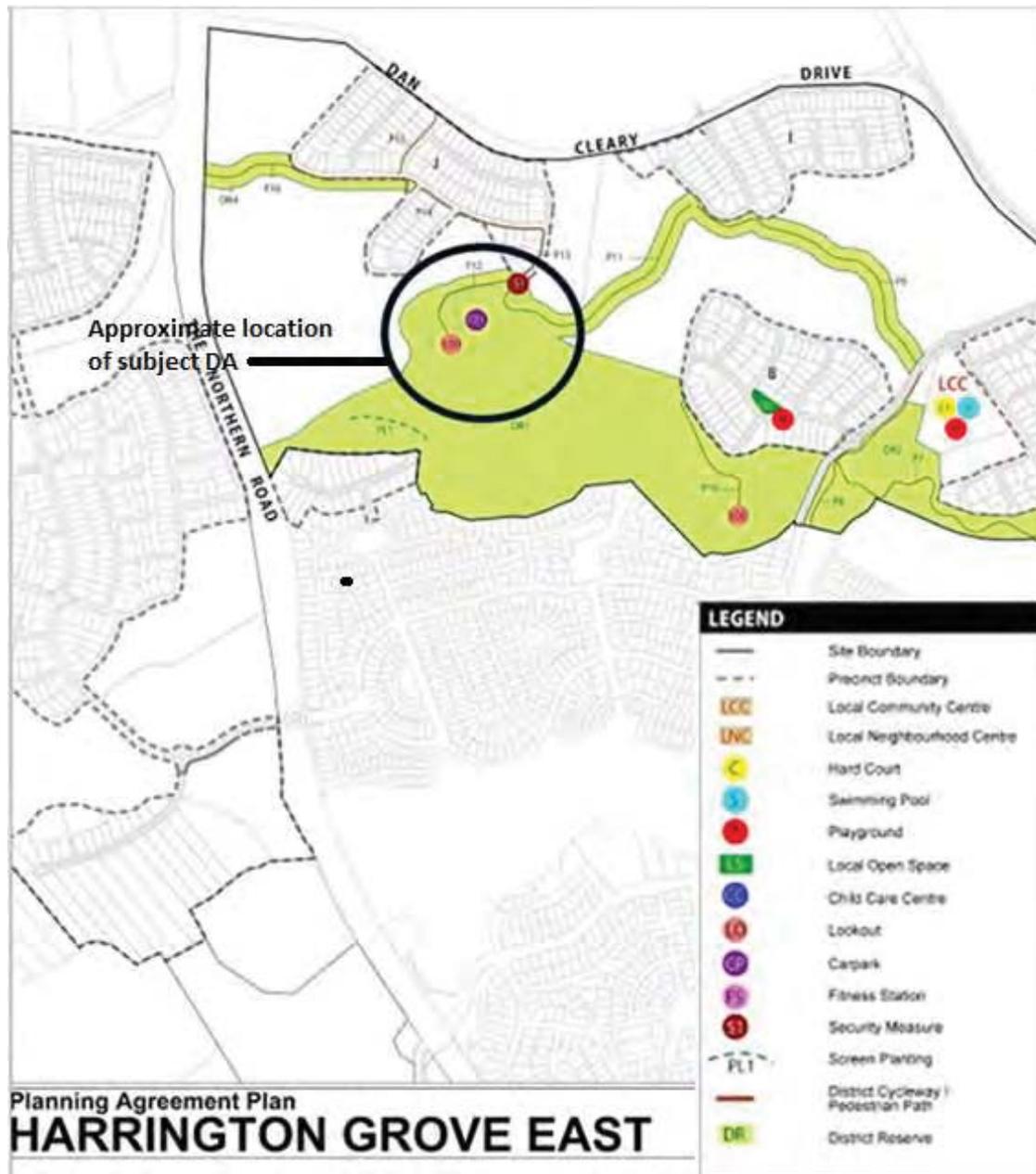


**PROPOSED LOOKOUT**



ORD05

**PROPOSED LOCATION OF THE SECURITY MEASURES & SCREEN PLANTING**



The circle within this extract details the proposed location of the works.

The VPA requires the delivery of a network of four (4) lookouts across Harrington Grove (see proposed lookout plan above). The Crear Hill lookout is one of the highest points across the LGA providing regional views.

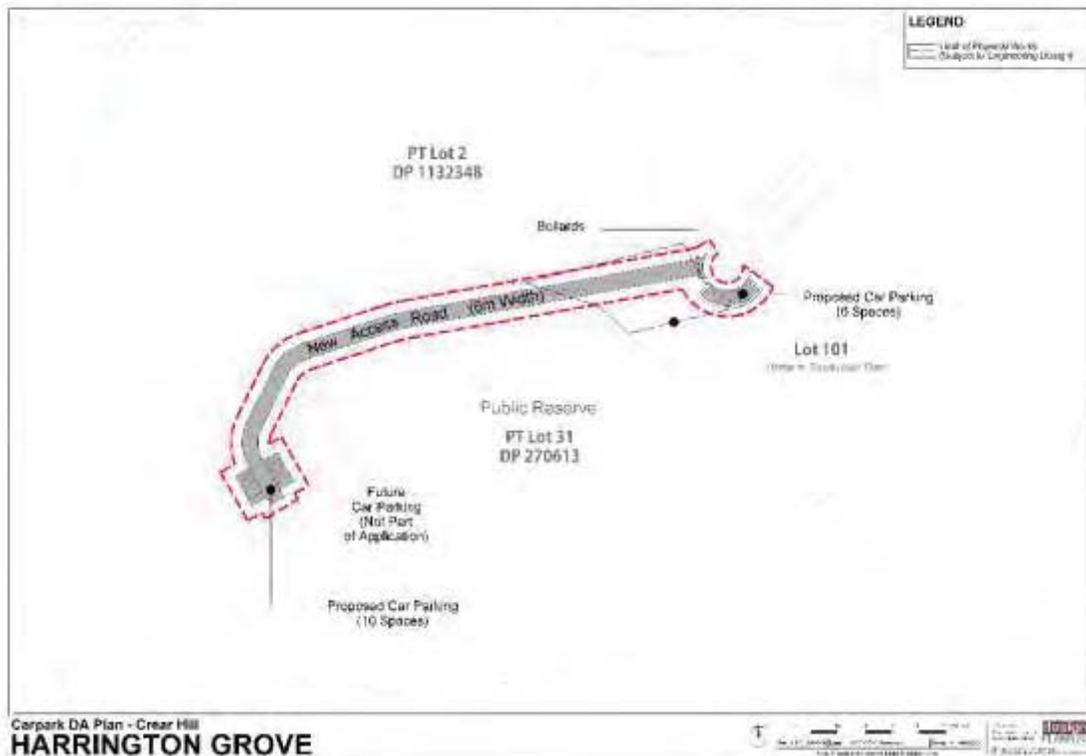
Given the significance of the Crear Hill lookout it was identified at the time of the original rezoning that there is potential to co-locate a restaurant/café with the lookout. The VPA does not require the construction of the restaurant; however it requires the provision of a carpark to service both the lookout and a potential food and drink premise.

The executed VPA requires delivery of the carpark at the same time as the Crear Hill lookout.

The executed VPA requires the following to address resident concerns regarding the lookout, particularly relating to privacy and safety:

- Security measures to be provided, such as bollards at the base of the access road leading up to Crear Hill lookout;
- Screen planting downhill of Crear Hill to the south. The vegetation will consist of an upper story of Eucalypts of around 15m and an understory of acacias of around 4 to 5m;
- Insertion of additional wording to the Crear Hill car park item that outlines the carpark may be used in conjunction with a future potential restaurant; and
- Crear Hill carpark must provide a minimum of 10 car spaces which are to be sealed with asphalt concrete. The provision of an access road with a width of 6 metres to provide access to the car park from Precinct J with sealed construction.

**PROPOSED CAR PARK**



The executed VPA requires the carpark to Crear Hill lookout to be dedicated to Council. Ten (10) sealed spaces are to be provided to service the lookout and any future food and drink premise, which would be subject to a future DA and potential lease agreement with Council.

Development for the purposes of a restaurant or café is not part of this DA, however the use is permitted on the land with development consent. The future use of Crear Hill for a restaurant/café will be a matter for Council to determine in the future.

**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
- Camden Local Environmental Plan 2010

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

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

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

A comprehensive site contamination investigation has been undertaken for the site and the broader Harrington Grove development which resulted in no areas of contamination identified in the subject development site.

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

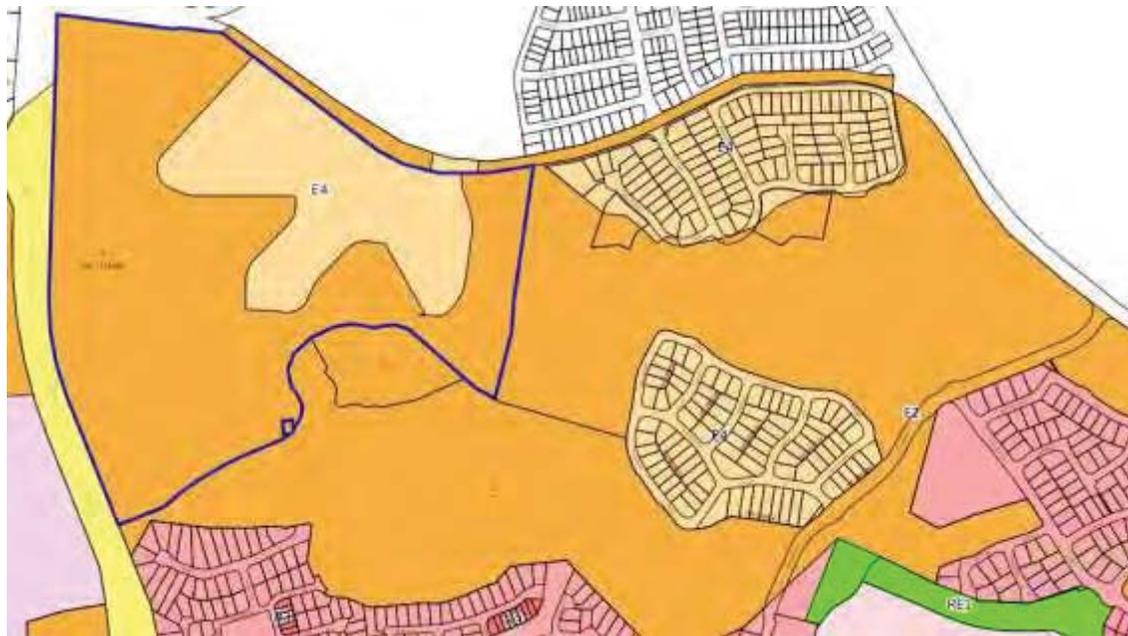
The proposed development is consistent with the aim of the SEPP (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

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 a condition is recommended to provide a water pollution control device as part of the proposed development.

Camden Local Environmental Plan 2010 (LEP)

*Permissibility*

The site is zoned E4 Environmental Living and E2 Environmental Conservation under the provisions of the LEP. The proposed development is defined as “roads” and “recreation areas” which are permitted with consent in the relevant zones. The subdivision of land is also permitted with consent in these zones. A carpark is a prohibited use within the E2 zone, however as the carpark is ancillary to the public reserve it is considered ancillary to “roads” and “recreation areas”, therefore the carpark is permissible in the E2 zone.



*Zone Objectives*

The objectives of the E4 Environmental Living zone are as follows:

- To provide for low impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

Officer comment:

The above objectives are not relevant as this DA does not involve any residential development.

The objectives of the E2 (Environmental Conservation) zone are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values

Officer comment:

The existing significant vegetation on the site will be conserved within the large community association lots proposed as part of this DA.

- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Officer comment:

Subject to the recommendations of the submitted ecological assessment, it is not considered that the proposed development will have an adverse impact upon the ecological, scientific, cultural or aesthetic values of the site.

- To protect and enhance the ecology, hydrology and scenic views of waterways, riparian land, groundwater resources and dependent ecosystems.

Officer comment:

Subject to the recommendations of the submitted ecological assessment, the above important values of the site will be protected.

*Relevant Clauses*

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

Clause	Requirement	Provided	Compliance
2.6 Subdivision - consent requirements	Subdivision requires development consent	Consent has been sought for the proposed subdivision as part of this DA	Yes
7.4 Earthworks	Consider a number of matters relating to earthworks including detrimental effects on drainage patterns, fill quality and amenity of adjoining properties	The matters listed by this clause have been considered. The proposed access road has been designed to follow a natural ridgeline. Parking has also been sited to avoid the requirements for significant cut and fill. With recommended conditions, the proposed earthworks are considered to be acceptable.	Yes

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

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

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

Camden Development Control Plan 2011 (DCP)

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

Control	Requirement	Provided	Compliance
B1.1 Erosion and Sedimentation	Erosion, sediment and dust control measures	Appropriate erosion, sediment and dust control measures have been proposed and will be required to be implemented as part of the recommended	Yes

Control	Requirement	Provided	Compliance
		conditions of approval.	
B1.2 Earthworks	Minimise cut and fill	The proposed cut and fill is appropriate for the proposed development considering the topography of the site.	Yes
	Use only clean fill	A standard condition is recommended to ensure that clean fill is used	Yes
B1.12 Contaminated and Potentially Contaminated Land Management	A contamination assessment and remediation (if required)	Previous contaminated investigations confirm adjoining development lots have RAPs for remediation. This work is a sufficient distance from this development involving Crear Hill. Consent conditions imposed.	Yes
B1.3 Salinity Management	Salinity resistant construction	A Salinity Management Plan has been prepared for the whole of Harrington Grove Estate. New car park areas and access roads will be constructed to standards that address all salinity impacts and NSW management standards will be implemented during construction.	Yes
B1.4 Water management	Compliance with Council's engineering specifications	A standard condition is recommended requiring compliance with Council's engineering specifications	Yes
B1.5 Trees and Vegetation	Preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation	The construction of the road will require the removal of vegetation along the access route within the development footprint of the carpark. To minimise vegetation loss, the access road aligns with an existing bushfire track which terminates at a plateau generally cleared of vegetation. Given that the concept for the area relies upon the natural landscape and scenic quality of the site existing vegetation will be retained where possible.	Yes
B3 Environmental Heritage	Heritage Impacts for development in the vicinity of Heritage Places.	An Aboriginal Heritage Impact (AHIP) has been issued by the Office of Environment and Heritage on the 30 April 2015 under section 90c(4) of the	Yes

Control	Requirement	Provided	Compliance
		National Parks and Wildlife Act 1974 which will be implemented as part of the recommended conditions of approval.	
D4.2.7 Stormwater	Water quality strategies	Water quality strategies have been provided which include gross pollutant traps in accordance with Council's engineering specifications	Yes
D4.2.10 Noise and Vibration	Compliance with Council's Environmental Noise Policy	The development will comply with Council's Environmental Noise Policy. „Construction Noise Levels will be implemented as part of the recommended conditions of approval.	Yes
D4.3.1 Landscaping and Public Domain	Detailed landscaping plans and street tree planting	Screen planting downhill of Crear Hill to the south with vegetation consisting of an upper story of Eucalyptus and an understory of acacias, which is within Council's public reserve.	Yes
D4.4 Parking and Access	Compliance with Camden DCP Section	The proposed carparks are requirements of the Harrington Grove VPA.	Yes

***(a)(iii) 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 Harrington Grove VPA was originally executed between Dandaloo and Council on the 22 August 2008 and was subsequently amended on 31 August 2010.

The Deed of Variation was executed on 27 August 2015 amending the VPA. The amendments to the VPA form the basis of this development proposal, where the works are outlined and mapped showing the location of the development and required screen planting. Details regarding how the works will be undertaken having regard to the Threatened and Vulnerable Species has been recommended as conditions of approval.

***(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 not considered 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 14 days in accordance with the DCP. The exhibition period was 27 July 2015 to 10 August 2015. Three (3) submissions were received (all objecting to the proposed development).

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

- *Impact on local native flora and fauna. The loss and/or displacement of flora and fauna as a result of the works is of concern as these elements are what attracted residents to the area.*

Officer Comment:

A detailed ecological assessment under the *Threatened Species Conservation Act 1995* has been prepared for the proposed development by Ecological Australia, dated May 2014. The report addresses the threatened community of Cumberland Plain Woodland and the potential impacts on native flora and fauna.

The assessment identified one threatened flora species *Pimelea spicata* (Spiked Rice Flower) which was found within the study area adjacent to the development footprint. Other examples of this species were located in an area immediately adjacent to this subdivision and are known to be found throughout the Cumberland Plain Woodland existing in Harrington Park.

The assessment identified one threatened fauna species being the Cumberland Land Snail (*Meridolum corneovirens*).

As a result, a 7 part test was undertaken of these species to identify the impact the development may have.

The assessment identified a number of other threatened fauna species that have the potential to be found within the subject site. An assessment of significance was undertaken for each of these species which concluded that there would be no significant impact on these fauna species with the implementation of specified mitigation measures. A condition is recommended requiring compliance with the recommendations of the ecological assessment.

As a result of the identification of these species an assessment of the impact on the Spiked Rice Flower and the Cumberland Land Snail was undertaken.

In order to ensure the development does not adversely impact any species, conditions relating to investigation of the vegetation to be removed is to be undertaken, and any species found will be relocated. Conditions have been recommended to ensure this is undertaken and signage and fencing is installed to prevent access to areas that are of greater sensitivity.

With respect to the impact on the Cumberland Land Snail, it is considered they are transient and therefore can be relocated within the habitat successfully. However in

relation to the impact on fauna, conditions have been imposed requiring all breeding areas, locations where species would live and their migratory locations will need to be investigated and assessed prior to works being undertaken to ensure no species are impacted by the removal of vegetation and habitat as a result of the development works.

The immediate area around the lookout was assessed as having been modified as part of its former use, the construction of vehicle access and the carparks in this area was envisaged and therefore this work does not require any further offset planting to be provided as the calculations of vegetation loss was undertaken at subdivision stage and included this area.

It is considered that providing the conditions as recommended in the Ecological Report are followed, there will be limited impact on the threatened and vulnerable species. A condition is recommended addressing this issue.

- *Security and privacy concerns from the proposed Crear Hill lookout which will overlook homes within Harrington Park.*

Officer Comment:

The Voluntary Planning Agreement (VPA) for Harrington Grove East includes details addressing the impact of the development on neighbouring residential land having regard to visual implications and security in the form of access.

The map titled "*Proposed Location of the Security Measures and Screen Planting*" approved as part of this document, has nominated the location of the proposed bollards to prevent access to the lookout by vehicles after dark. A condition is recommended requiring security measures to be provided, such as bollards, at the base of the access road leading up to Crear Hill lookout.

The plan also references screen planting south of the lookout to provide a visual buffer to the residential lots along the interfaces with the reserve. The species nominated include an upper storey of Eucalypts of around 15m and an understory of fast growing acacias of around 4 to 5m to establish early. These are considered not to obstruct the broad vistas of the Camden Valley, and are species that will form part of the Cumberland Plain Woodland species group.

- *Anti-social behaviour and potential crime at the Crear Hill lookout and reserve.*

Officer Comment:

This site was envisaged as being publically accessible at the time the subdivision was approved. This DA is seeking consent to construct the infrastructure to facilitate access to the Crear Hill Lookout as referenced in the VPA for Harrington Park East.

It is acknowledged that publicly accessible areas can be locations where anti-social behavior can occur, and which therefore require management. To provide a balance between public access and residential amenity, access is being restricted after dark. A condition is recommended requiring security measures to be provided, such as bollards, at the base of the access road leading up to Crear Hill lookout.

Anti-social behavior would be addressed via the Police. The Police were consulted as part of the VPA preparation and as part of this DA and no objections were raised to the design and outcomes resulting from this development.

It is considered the prevention of vehicle access at night will substantially reduce the number of persons in this location and therefore the propensity for undesirable activities in this location.

- *Insufficient information were provided regarding the Crear Hill lookout and the Reserve to adequately assess the development; and concerns raised about the future use of the space and if it is proposed to accommodate a café/restaurant, it is not necessary or supported.*

Officer Comment:

The submitter has raised concern there is insufficient information submitted to address the holistic approach regarding the future use of this location in relation to a restaurant/café associated with the Crear Hill lookout.

Whilst a restaurant or café is a permissible use under the LEP, it is not part of this DA. If in the future a restaurant or café is proposed a DA would be required.

Given this area is to be dedicated to Council once the infrastructure is completed, Council will in the future be the land owner.

Should a DA be lodged in the future the neighbours will be given further opportunity to comment on the proposal.

- *Vehicle access to the lookout is of concern, consider it should be pedestrian and cycle access only, as this will reduce the impact on the environment with respect to flora and fauna and also reduce anti-social behaviour within the locality.*

Officer Comment:

Access to this lookout was always envisaged to be for vehicles, rather than being a walking track. The design of the access has followed what is an existing track, to ensure there are minimal impacts on the landscape and environment.

In order to control the impacts of the lookout, access is limited to the daylight hours, as its primary function is to view the outlook and vistas for the locality.

In order to ensure there is minimal environmental impact, an ecological assessment was undertaken having regard to threatened and vulnerable species known to be within the locality. The results of this investigation revealed that there will be some loss of vegetation and therefore habits, however this was not considered to be significant given the area had been impacted by previous uses and the areas covered by the conservation area were the locations of greatest importance. Notwithstanding this, conditions have been incorporated requiring investigation of the vegetation to be removed to ensure that there are no species impacted; and if there are species found that they are relocated to reduce the impact on the environment.

- *Adverse impact on the natural setting of this locality.*

Officer Comment:

The proposed road is located in a similar location as the existing trail, to reduce its visual and environmental impact.



This proposal is for a roadway, carparks, vegetation screening and security measures; no other additional public infrastructure is proposed to be constructed. In order to reduce the visual impact on the residential lots, additional planting is proposed as referenced in the VPA. The planting is to be a combination of fast growing Acacias (4-5m) and Eucalypts (15) which are species of the Cumberland Plain Woodland species group.

- *Vehicle access will result in more use of the area and more rubbish being left behind.*

Officer Comment:

It is acknowledged greater use of an area has the potential for additional waste to be generated. This area will be public land in the future and will be maintained by Council like other public land.

- *Insufficient screening and security measures have been proposed, cameras should be installed to monitor the area.*

Officer Comment:

It is proposed that access to the lookout be restricted after dark. As a result, the installation of camera surveillance is not considered necessary at this time.

Screen planting has been proposed in the area of the interface of the recreational and residential land providing a visual buffer and is considered to be acceptable.

- *Insufficient public infrastructure provided, such as children's play equipment, benches or picnic tables.*

Officer Comment:

This facility is proposed as a publicly accessible lookout. The subdivision planned the location of public open space areas, including areas for infrastructure such as benches, seating, play equipment and public amenities.

On completion, the lookout and surrounds will be transferred to Council ownership as public land. Accordingly, Council could determine at any time in the future to install additional infrastructure if there is a demand.

- *Loss of outlook.*

Officer Comment:

The location of the lookout and its road access was planned at subdivision stage. As a result consideration has been given to the impact on the residential land on the recreational interface.

In order to soften the impact onto the residential land, planting is proposed to the south of the lookout, consisting of Eucalypts up to 15m and lower scale vegetation to a height of 5m being fast growing Acacias. This is considered an acceptable outcome.

- *What mitigation strategies are going to be put in place to control noise after hours?*

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Officer Comment:

In order to address the impact of the development, vehicle access to the lookout will be restricted to daylight hours. In addition, screen planting maintains privacy and helps to reduce noise impacts to adjoining residents.

- *Currently have issues with trespassers and people not obeying the current signage.*

Officer Comment:

Appropriate signage will be provided to advise the public of the requirements of the locality. If issues arise, these can be investigated by Council's Rangers and the Police. All attempts through this application have been made to lessen the impact on local residents, through screen planting and preventing access to the lookout after dark.

- *Additional fencing of the space is required.*

Officer Comment:

This space is a public recreation area, fencing the area completely is not the desired approach for publicly accessible land. It is however acknowledged there needs to be a balance where there is an interface of zonings being residential and recreation in this instance. It is considered the measures to be conditioned and of which were agreed as part of the VPA have addressed this balance and provide an acceptable outcome.

- *Concerns about people falling into the quarry.*

Officer Comment:

The quarry is not in the immediate vicinity of the lookout, it is located south west of the lookout which is not in the area of the access road or carpark.

**(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**

*NSW Rural Fire Service*

The DA was referred to the New South Wales Rural Fire Service seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the '*Environmental Planning and Assessment Act 1979*'.

The New South Wales Rural Fire Service raised no objection to the proposed development.

**FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

## CONCLUSION

The DA has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. Accordingly, DA2015/686 is recommended for approval subject to the conditions contained in this report:

## CONDITIONS

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

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
DP1132348P E (Surveyors Ref: 05137 EXC DP)	Plan of Subdivision	Paul Michael Daly Surveyors	Registered 16.4.2009
DP1132348P (Surveyors Ref: 05137 EXC DP)	Plan of Subdivision	Paul Michael Daly Surveyors	Registered 16.4.2009
06310(CH)DA-SP	Survey Plan Sheet 1 of 2	JMD & Associates Pty Ltd	05.06.2015
06310(CH)DA-SP	Survey Plan Sheet 2 of 2	JMD & Associates Pty Ltd	05.06.2015
HARHG-3-012	Proposed Subdivision Boundary	Design + Planning	15.05.2015
HARHG-5-033	Site Plan	Design + Planning	02.07.2015
HARHG-8-010	Carpark DA Plan	Design + Planning	15.05.2015
Drawing # 000 L05138.025-2 Stage 2	Crear Hill Road & Carpark Design – Cover Sheet	Calibre Consulting	21.05.2015
Drawing # 001 L05138.025-2	General Notes, Locality Sketch & Legend	Calibre Consulting	21.05.2015
Drawing # 101 L05138.025-2	Soil & Water Management Plan, Notes & Detail	Calibre Consulting	21.05.2015
Drawing # 301 L05138.025-2	Engineering Plan	Calibre Consulting	21.05.2015
Drawing # 302 L05138.025-2	Site Sections 1 & 2	Calibre Consulting	21.05.2015
Drawing # 303	14.5m Bus Sweep	Calibre Consulting	21.05.2015

L05138.025-2	Path		
Drawing # 401 L05138.025-2	Road No.04 Longitudinal & Typical Cross Sections	Calibre Consulting	21.05.2015

- (2) A survey be undertaken to quantify and qualify the loss of hollow bearing trees where the access road is proposed in proposed Lot 101.
- (3) A Nest Box Installation plan to compensate for the loss of any tree hollows should be prepared which provides for the installation of nest boxes in the adjacent vegetation conservation area for relevant impacted Micro-bat species (*Falsitrellus tasmaniensis* (Eastern False Pipistrelle), *Mormopterus norfolkensis* (East Coast Freetail Bat), *Myotis macropus* (Southern Myotis)) and any other potential impacted fauna.
- (4) Screen planting shall be installed downslope from Crear Hill to the south. The screen planting shall not obstruct the broad vistas of Camden Valley. The screen planting is to consist of fast growing Acacias (4-5m) to establish a screening early with added Eucalypts (15m) to consolidate the vegetated privacy. All planting will form part of the Cumberland Plain Woodland species group.
- (5) The access road is to be 6.0m wide in accordance with the executed Voluntary Planning Agreement dated 27 August 2015.
- (6) The approved Precinct J Construction Certificate plans will require amendment to provide a permanent cul-de-sac with kerb & gutter.
- (7) A turning head is required at the end of the access road to accommodate buses.
- (8) A layback & concrete vehicle crossing will be required where the access road meets the cul-de-sac head.
- (9) Wheel stops should be provided at each car parking space.
- (10) **Engineering Specifications** - The entire development shall be designed and constructed in accordance with Council's Engineering Specifications and the relevant DCP.
- (11) **Ecological Report** – Mitigation Measures and Offsets recommended in the Ecological Report shall be implemented as per:

The works shall be undertaken strictly in accordance with the recommendation of the ecological report referenced below.

- *Ecology Report prepared by Eco Logical Australia, dated May 2014, prepared for Harrington Estate, Precinct J.*

- (12) **Aboriginal Heritage Impact (AHIP)** - issued by the Office of Environment and Heritage on the 30 April 2015 under section 90c(4) of the National Parks and Wildlife Act 1974 shall be implemented as part of the recommended conditions of approval.

- (13) **VPA** - The proposed development shall be carried out so as to be consistent with the requirements of the Harrington Grove Voluntary Planning Agreement (as amended on the 27 August 2015), with specific attention given to the security measures and screen planting to be provided.
- (14) **Security measures** – Security measures are to be installed at the commencement of the access road leading to Crear Hill lookout as referenced in the executed Voluntary Planning Agreement. The security measures are to restrict vehicular access to the lookout during night time hours.

## 2.0 - Prior to Issue of Construction Certificate

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

- (1) **Construction Waste Management Plan (CWMP)** – A construction waste management Plan must be prepared for all construction work on the site. The plan must incorporate the concept of recycling and reuse where practicable and be kept on site for compliance until the completion of all construction works.
- (2) **Civil Engineering Plans** - Civil engineering plans indicating drainage, roads, accessways, earthworks, pavement design, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, shall be prepared in accordance with the approved plans and Council's Engineering Design and Construction Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.

**Note.** Under the *Roads Act 1993*, only the Council can approve commencement of works within an existing road reserve.

- (3) **Soil, Erosion, Sediment and Water Management** - An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with Council's Engineering Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (4) **Environmental Management Plan** - An Environmental Management Plan (EMP) prepared in accordance with Council's Engineering Design Specification shall be provided to the Certifying Authority.

The Environmental Management Plan shall address the manner in which site operations are to be conducted and monitored to ensure that adjoining land uses and the natural environment is not unacceptably impacted upon by the proposal. The Environment Management Plan shall include but not be necessarily limited to the following measures:

- a) Measures to control noise emissions from the site;
- b) Measures to suppress odours and dust emissions;
- c) Soil and sediment control measures;
- d) Measures to control air emissions that includes odour;
- e) Measures and procedures for the removal of hazardous materials that includes waste and their disposal;
- f) Any other recognised environmental impact; and
- g) Community Consultation.

- (5) **Retaining Walls** - All retaining walls shall be designed and certified by a suitably qualified structural engineer, in accordance with Council's Engineering Specifications.

### 3.0 - Prior to Commencement of Works

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

- (1) **Public Liability Insurance** - The owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc) for the full duration of the proposed works. Evidence of this Policy shall be provided to Council and the Certifying Authority.
- (2) **Notice of PCA Appointment** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 103 of the EP&A Regulation 2000. The notice shall include:
- a) a description of the work to be carried out;
  - b) the address of the land on which the work is to be carried out;
  - c) the registered number and date of issue of the relevant development consent;
  - d) the name and address of the PCA, and of the person by whom the PCA was appointed;
  - e) if the PCA is an accredited certifier, his, her or its accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
  - f) a telephone number on which the PCA may be contacted for business purposes
- (3) **Notice Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 104 of the EP&A Regulation 2000. The notice shall include:
- a) the name and address of the person by whom the notice is being given;
  - b) a description of the work to be carried out;
  - c) the address of the land on which the work is to be carried out;
  - d) the registered number and date of issue of the relevant development consent and construction certificate;
  - e) a statement signed by or on behalf of the PCA to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
  - f) the date on which the work is intended to commence.
- (4) **Construction Certificate Required** - In accordance with the provisions of Section 81A of the *EP&A Act 1979*, construction or subdivision works approved by this consent shall not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
  - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*;

- c) if Council is not the PCA, Council is notified of the appointed PCA at least two (2) days before building work commences;
  - d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and
  - e) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (5) **Sign of PCA and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:
- a) that unauthorised entry to the work site is prohibited;
  - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
  - c) the name, address and telephone number of the PCA.

The sign shall be maintained while the work is being carried out, and shall be removed upon the completion of works.

- (6) **Performance Bond** - Prior to commencement of works a performance bond of 10% of the value of the civil works must be lodged with Camden Council in accordance with Camden Council's Engineering Construction Specifications.
- (7) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with „Managing Urban Stormwater – Soils and Construction (‘the blue book’) and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures shall be maintained during construction works and shall 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).

- (8) **Construction Management Plan** - A Construction Management Plan that includes construction waste, dust, soil and sediment and traffic management, prepared in accordance with Council's Engineering Design Specification, shall be provided to the PCA.
- (9) **Notification of Council's Capital Works Branch** – Council's Capital Works Branch must be notified when the riparian, water quality and open space embellishment works commence on site.

#### 4.0 - During Works

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

- (1) **Salinity Management Plan** - All proposed construction works that includes earthworks, imported fill, landscaping, buildings, and associated infrastructure proposed to be constructed on the land must be carried out or constructed in accordance with the management strategies as contained within the Salinity Management Plan under “Report on Salinity Investigation and Management Plan Proposed Residential Subdivision Precinct J Harrington Grove, Prepared by Douglas Partners, Project 76627.03-02, Dated October 2014.”

- (2) **Erosion and Sedimentation Control** - Soil erosion and sedimentation controls are required to be installed and maintained for the duration of the works. The controls must be undertaken in accordance with version 4 of the Soils and Construction – Managing Urban Stormwater manual (Blue Book).
- (3) **Location of Stockpiles** - Stockpiles of soil shall not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials shall be suitably covered to prevent dust and odour nuisance.
- (4) **Disposal of Stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant EPA and ANZECC standards for water quality discharge.
- (5) **Fill Material** - Importation and/or placement of any fill material on the subject site, a validation report and sampling location plan for such material must be provided to and approved by the Principal Certifying Authority.

The validation report and associated sampling location plan must:

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

Virgin Excavated Natural Material (VENM):

- i) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
  - ii) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Second Edition) - Soil Investigation Levels for Urban Development Sites in NSW".
- d) confirm that the fill material:
- i) provides no unacceptable risk to human health and the environment;
  - ii) is free of contaminants;
  - iii) has had salinity characteristics identified in the report, specifically the aggressiveness of salts to concrete and steel (refer Department of Land and Water Conservation publication "Site investigation for Urban Salinity");
  - iv) is suitable for its intended purpose and land use; and

v) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes:

e) less than 6000m<sup>3</sup> - 3 sampling locations,

f) greater than 6000m<sup>3</sup> - 3 sampling locations with 1 extra location for each additional 2000m<sup>3</sup> or part thereof.

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

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

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

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

- (6) **Air Quality** – Vehicles and equipment used on site must be maintained in good working order and be switched off when not operating. The burning of any waste material is prohibited.
- (7) **Construction Noise Levels** – Noise levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA’s Environmental Noise Control Manual. This manual recommends;

Construction period of 4 weeks and under:

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

Construction period greater than 4 weeks:

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

- (8) **Unexpected Finds Contingency (General)** - Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc) be encountered during any stage of works (including earthworks, site preparation or construction works, etc), such works shall cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

## 5.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Requirement for a Subdivision Certificate** - The application for subdivision certificate(s) shall be made in accordance with the requirements of Clause 157 of the Environmental Planning & Assessment Regulation 2000.
- (2) **Show Easements/ Restrictions on the Plan Of Subdivision** - The developer shall acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.
- (3) **Burdened Lots to Be Identified** - Any lots subsequently identified during construction of the subdivision as requiring restrictions shall also be suitably burdened.
- (4) **Subdivision Certificate** - The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete, unless otherwise approved in writing by the PCA.
- (5) **Fill Plan** - A Fill Plan shall be provided to the PCA prior to the issue of any Subdivision certificate. The plan must:
  - a) Show lot boundaries
  - b) Show road/drainage/public reserves
  - c) Show street names
  - d) Show final fill contours and boundaries, and
  - e) Show depth in filling in maximum 0.5m Increments

It is to be provided electronically in Portable Document Format (.PDF) at 150dpi with a maximum individual file size not exceeding 2 megabytes and provide both on compact disk and an A1 paper plan.

- (6) **Incomplete Works** - Prior to the issue of the Subdivision Certificate the applicant is to lodge a bond with Camden Council for the construction of incomplete works, including concrete footpath and/or pedestrian/cycle shared way, in accordance with Camden Council's current Engineering Construction Specifications.
- (7) **Surveyor's Report** - Prior to the issue of the Subdivision Certificate a certificate from a registered surveyor must be provided to the PCA, certifying that all drainage lines have been laid within their proposed easements. Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.
- (8) **Value of Works** - Itemised data and value of civil works shall be provided to Council for inclusion in Council's Asset Management System in accordance with Council's Engineering Specifications.
- (9) **Street Lighting** - Street lighting shall be provided within the subdivision in accordance with the relevant AS and to the satisfaction of the PCA. All such work shall be complete and operative.

- (10) **Soil Classification** - A Soil Classification Report prepared by a suitable qualified person in accordance with the AS 2870 'Residential Slabs and Footings', detailing the general classification of soil type generally found within the subdivision, shall be provided to the PCA. A classification shall be provided for each lot within the subdivision. The Soil Classification Report shall also be provided to Council.
- (11) **Works As Executed Plan** - Works As Executed Plans shall be prepared and provided in accordance with Council's Engineering Specifications.
- Digital data must be in AutoCAD .dwg or .dxf format, and the data projection coordinate must be in (GDA94.MGA zone 56).
- (12) **Defects and Liability Bond** - The applicant is to lodge a defects and liability bond in the form of an unconditional bank guarantee or cash bond, being 10% of the value of civil works, with Council.
- The bond covers any defects and liabilities of the public infrastructure.
- (13) **VPA** - The proposed development shall be carried out strictly in accordance with the Voluntary Planning Agreement executed between Camden Council and Dandaloo Pty Ltd as amended and approved 27 August 2015.
- (14) **Security measures** – Security measures are to be installed at the commencement of the access road leading to Crear Hill lookout as referenced in the executed Voluntary Planning Agreement. The security measures are to restrict vehicular access to the lookout during night time hours.

### **RECOMMENDED**

**That Council approve DA 2015/686 for subdivision to create 1 public reserve, construction of an access road, car park and associated works at 2A Dan Cleary Drive, Harrington Park subject to the conditions listed above.**

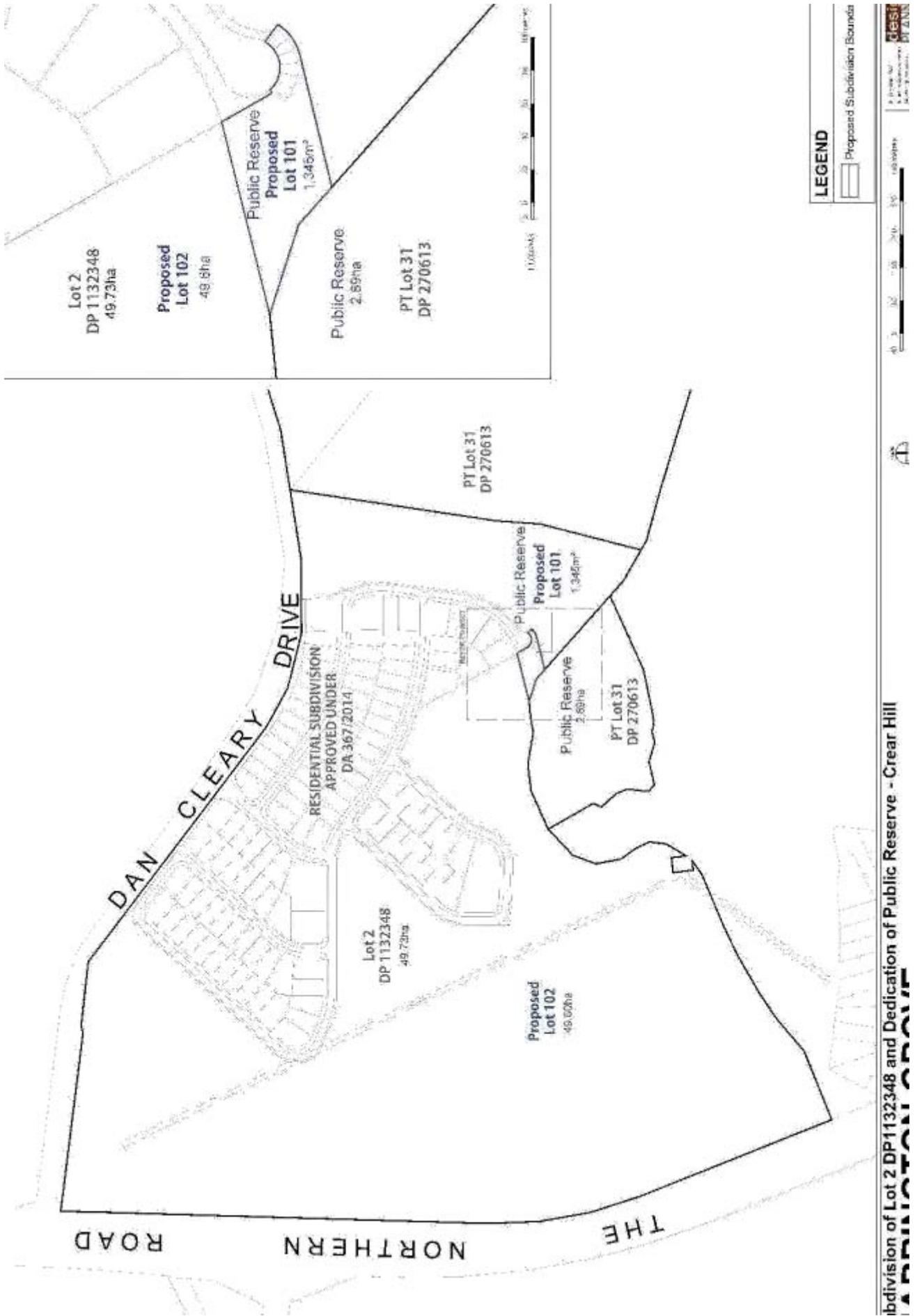
### ATTACHMENTS

1. Site Plan
2. Proposed Plans
3. VPA
4. Submissions - *Supporting Document*
5. Public Exhibition and Submissions Map - *Supporting Document*

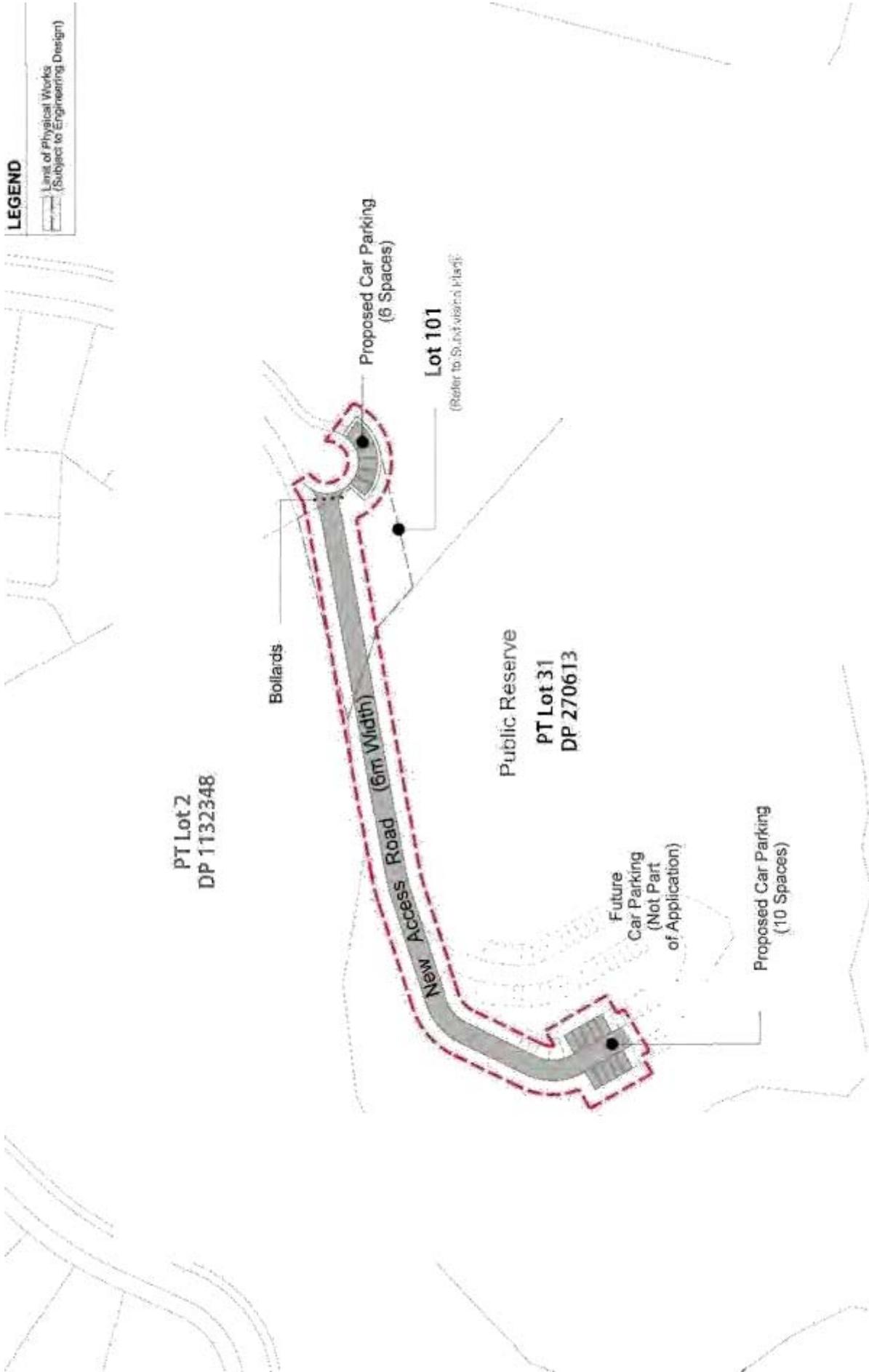


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Attachment 2



Subdivision of Lot 2 DP 1132348 and Dedication of Public Reserve - Crear Hill



**LEGEND**

Limit of Physical Works  
(Subject to Engineering Design)

PT Lot 2  
DP 1132348

Bollards

Proposed Car Parking  
(6 Spaces)

Lot 101  
(Refer to Submitted Plans)

Public Reserve  
PT Lot 31  
DP 270613

Future  
Car Parking  
(Not Part  
of Application)

Proposed Car Parking  
(10 Spaces)

Carpark DA Plan - Crear Hill

**HARRINGTON GROVE**

design  
PLANNING  
Scale: 1:1000  
0 10 20 30 40 50 metres  
Author: [Name] Date: [Date] Designer: [Name] Reviewer: [Name] Date: [Date]

ORD05

**COPY**



**lindsaytaylorlawyers**  
planning - environment - local government

Attachment 3

## **Harrington Grove Planning Agreement**

### **Deed of Variation**

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

**The Council of Camden**

**Dandaloo Pty Limited**

Date:

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Lawyers

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**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**



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## **Harrington Grove Planning Agreement Deed of Variation**

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Harrington Grove Planning Agreement – Deed of Variation  
The Council of Camden  
Dandaloo Pty Limited



**Harrington Grove Planning Agreement  
Deed of Amendment**

**Summary Sheet**

**COPY**

**Council:**

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

**Developer:**

**Name:** Dandaloo Pty Limited  
**Address:** PO Box 42, NARELLAN NSW 2587  
**Telephone:** (02) 4631 3200  
**Facsimile:** (02) 4631 3299  
**Email:** terry@harrington.com.au  
**Representative:** Terry Goldacre

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**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**



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## **Harrington Grove Planning Agreement**

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

### **Parties**

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

and

**Dandaloo Pty Limited** ABN 77 002 338 543 of PO Box 42, NARELLAN NSW 2567 (Developer)

### **Background**

- A The Parties are parties to the Planning Agreement.
- B Pursuant to clause 20.6 of the Planning Agreement the Parties agree to amend the Planning Agreement to include provisions relating to varying Contribution Works, deferral of work, access to land by Council, owners' consent to making of a development application and amending the Contribution Works and Financial Contributions to be provided under the Planning Agreement.

### **Operative provisions**

#### **Part 1 - Preliminary**

##### **1 Interpretation**

- 1.1 In this Deed the following definitions apply:

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

**Planning Agreement** means the document titled 'Voluntary Planning Agreement – Harrington Grove' pursuant to s93F of the *Environmental Planning and Assessment Act 1979* entered into between the Council of Camden and Dandaloo Pty Limited on 22 August 2008, and amended on 31 August 2010.

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**The Council of Camden**  
**Dandaloo Pty Limited**



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**Party** means a party to this Deed.

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

- 1.2 Except as provided by clause 1.1 all capitalised words used in this Deed that are defined in clause 1.1 of the Planning Agreement have the same meaning in this Deed as in the Planning Agreement.
- 1.3 Clauses 15, 20.2, 20.7, 20.8, 20.9 and Part 2 of Annexure 1 of the Planning Agreement apply as if they form part of this Deed with any necessary changes.

## **2 Status of this Deed**

- 2.1 This Deed is an amendment to the Planning Agreement within the meaning of clause 25C(3) of the Regulation.
- 2.2 This Deed is not a planning agreement within the meaning of s93F(1) of the Act

## **3 Commencement**

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

## **4 Warranties**

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

## **5 Amendment of Planning Agreement**

- 5.1 On and from the date this Deed takes effect:
- 5.1.1 the Planning Agreement is amended in accordance with the marking-up shown on the copy of the Planning Agreement contained in Appendix 1;
- 5.1.2 Schedule 1, Schedule 2 and the plans in Annexure 2 of the Planning Agreement are deleted and replaced with Schedule 1, Schedule 2 and the plans in Appendix 2 of this Deed.

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**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**

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**6 Costs**

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

**7 Explanatory Note**

- 7.1 Appendix 3 contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- 7.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

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The Council of Camden  
Dandaloo Pty Limited



Execution

**COPY**

Executed as a Deed

Dated: 27 August 2015

Executed on behalf of the Council of Camden

Paul Roff as  
General Manager - Attorney.  
Signed pursuant to a resolution  
of Council of 23 June 2015  
(ORD151/15).

Mayor

Megan Roberts  
Witness Senior Governance Officer  
Camden Council

Witness

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

  
Peter Donohue  
Director  
Lisa THOMAS

## GENERAL POWER OF ATTORNEY

### PART 1 – GENERAL

**THIS POWER OF ATTORNEY** is made on the 2<sup>nd</sup> day of September 2013 by **CAMDEN COUNCIL** (Principal) of 37 John Street, Camden, in the State of New South Wales (the "Council").

1. The Council appoints:
  - (a) **RONALD JAMES MOORE** of 37 John Street, Camden, in the State of New South Wales (General Manager); and
  - (b) **LARA JANE SYMKOWIAK** of 37 John Street, Camden, in the State of New South Wales (Mayor); and
  - (c) **STEVEN SCOTT KLUDASS** of 37 John Street, Camden, in the State of New South Wales (Director of Governance); and
  - (d) **NICOLE MAREE MAGURREN** of 37 John Street, Camden, in the State of New South Wales (Director Development and Health);
  - (e) **VINCE CAPALDI** of 37 John Street, Camden, in the State of New South Wales (Director Works and Services); and
  - (f) **PAUL ANDREW ROFE** of 37 John Street, Camden, in the State of New South Wales (Manager Corporate Services)

to be its attorneys. The Council's attorneys may exercise the authority conferred on them by Part 2 of the *Powers of Attorney Act 2003* to do on the Council's behalf anything the Council may lawfully authorise an attorney to do. The authority of the Council's attorneys is subject to any additional details specified in Part 2 of this document.

2. This power of attorney operates immediately.

### PART 2 – ADDITIONAL POWERS AND RESTRICTIONS

3. This power of attorney is subject to the following conditions and limitations:
  - (a) The attorneys are each appointed by the Council to act for the Council and in its name and as its act and deed to:
    - (i) Execute and deliver any of the following documents:
      - (1) any "conveyance" (including a lease), as defined in section 7 of the *Conveyancing Act 1919*;
      - (2) any "dealing" as defined in section 3 of the *Real Property Act 1980*;

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- (3) any instrument creating, varying, terminating, extinguishing or otherwise affecting any right, obligation or interest of the Council;
  - (4) any contracts for the performance, provision or receipt of works, services and/or goods;
  - (5) any agreement with the New South Wales Government or the Australian Government, or with any public authority or any other local government authority;
  - (6) any other documents considered by any of the attorneys to be necessary or desirable in connection with the documents referred in sub-paragraphs (1), (2), (3), (4), or (5); and
  - (7) any documents amending, varying or changing any of the documents referred to in sub-paragraphs (1), (2), (3), (4), (5) or (6) as any of the attorneys approve (that approval being evidenced by the attorney's execution of the document concerned); and
- (ii) do all such things as the attorneys consider necessary or desirable for the effectual exercise of the power granted by this power of attorney or otherwise for the purposes of any of the transactions contemplated by any of the documents referred to in paragraph 3(a)(i).
- (b) The powers set out in paragraph (3)(a) may only be exercised by the attorneys or any of them:
- (i) to give effect to a resolution of the Council; or
  - (ii) in the course of performing any function delegated by the Council in accordance with the provisions of the *Local Government Act 1993*.
4. The Council agrees to ratify and confirm any acts done by the attorneys or any of them in the exercise of the powers conferred by this power of attorney including whatever the attorneys do between the revocation of this power of attorney and the time of such revocation becoming known to the attorneys.
5. The Council indemnifies and agrees to keep indemnified the attorneys and each of them against any liability, loss or expense (of whatever nature) arising from the exercise of the powers conferred upon them by and under this power of attorney.

Whereupon the Common Seal of CAMDEN  
 COUNCIL was hereunto affixed by the authority  
 of the Council in accordance with a resolution  
 passed at the ordinary meeting of the Council  
 held on the 27<sup>th</sup> day of August 2013 (ORD215/13). )



*L. Spink*  
 Mayor

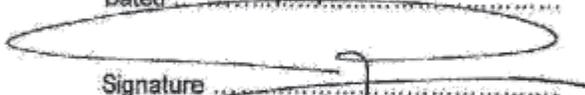


General Manager

**Acceptance by Attorney**

I accept my appointment as an attorney under this power of attorney.

Dated 2-9/5/13



Signature .....  
Ronald James Moore

**Acceptance by Attorney**

I accept my appointment as an attorney under this power of attorney.

Dated .....



Signature .....  
Lara Jane Symkowiak

**Acceptance by Attorney**

I accept my appointment as an attorney under this power of attorney.

Dated 2/9/13



Signature .....  
Steven Scott Kludass

**Acceptance by Attorney**

I accept my appointment as an attorney under this power of attorney.

Dated 2/9/13



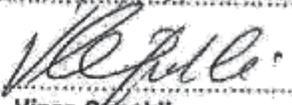
Signature .....  
Nicole Maree Magurren

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**Acceptance by Attorney**

I accept my appointment as an attorney under this power of attorney.

Dated ..... 2/19/13 .....

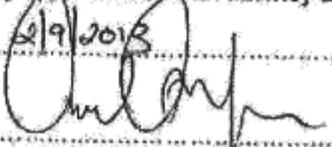
Signature .....  .....

Vince Capaldi

**Acceptance by Attorney**

I accept my appointment as an attorney under this power of attorney.

Dated ..... 2/19/2013 .....

Signature .....  .....

Paul Andrew Rofe

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**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**

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**Appendix 1**

(Clause 5)

**Amended Planning Agreement**

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

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### **WARNING TO PURCHASERS**

**Before completing the purchase of any land to which this planning agreement relates, be sure that you understand the rights and obligations of the Developer under the *Environmental Planning & Assessment Act (NSW) 1979*, including s93H(3) of that Act which provides that:**

***“A planning agreement that has been registered by the Registrar-General under section 93 is binding on, and is enforceable against, the owner of the land from time to time as if each owner for the time being had entered into the agreement”***

## **Voluntary Planning Agreement - Harrington Grove**

Dandaloo Pty Limited (ABN 77 002 338 543) (Developer)

The Council of Camden (ABN 31 117 341 764) (Council)

### **MARSDENS LAW GROUP**

Level 1  
49 Dumaresq Street  
CAMPBELLTOWN NSW 2580

Tel: 02 4626 5077

Fax: 02 4626 4826

DX: 5107 Campbelltown

Ref: 02 33 6824 JHM:JRT

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### SCHEDULE

<b>Developer</b>	<b>Name</b>	Dandaloo Pty Limited
	<b>Address</b>	P O Box 42 NARELLAN NSW 2567
	<b>ABN</b>	77 002 338 543
	<b>Telephone</b>	(02) 4631 3200 47-3200
	<b>Facsimile</b>	(02) 4631 3299 47-3036
	<b>Email</b>	terry@harrington.com.au, guldacre@harpak.com.au
	<b>Representative / Contact</b>	Terry Goldacre
<b>Council</b>	<b>Name</b>	The Council of Camden
	<b>Address</b>	37 John Street CAMDEN NSW 2570
	<b>ABN</b>	31 117 341 764
	<b>Telephone</b>	(02) 4654 7777
	<b>Facsimile</b>	(02) 4654 7829
	<b>Email</b>	mailgreg.wright@camden.nsw.gov.au
	<b>Representative / Contact</b>	Greg Wright The General Manager
<b>Land</b>	That part of Certificates of Title Folio Identifiers 3420/1105169 and 101/1107591 as shown on the plans set out at Annexures 11 & 12.	
<b>Current LEP</b>	Camden Local Environmental Plan No 138 - Harrington Grove	

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## Requirements Under Section 93f

REQUIREMENT UNDER THE ACT	THIS PLANNING AGREEMENT
<p><b>Planning instrument and/or development application – (Section 93F(1))</b></p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a Development Application.</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes</p> <p>(b) Yes</p> <p>(c) Not applicable</p>
<b>Description of land to which this deed applies – (Section 93F(3)(a))</b>	The whole of the Land.
<b>Description of change to the environmental planning instrument to which deed applies - (Section 93F(3)(b))</b>	The amendments made to the LEP by the New LEP.
<b>Application of section 94 of the Act - (Section 93F(3)(d))</b>	The application of section 94 is excluded and therefore does not apply to the Development.
<b>Applicability of section 94A of the Act - (Section 93F(3)(d))</b>	The application of section 94A is excluded and therefore does not apply to the Development.
<b>Consideration of benefits if under this deed if section 94 applies - (Section 93F(3)(e))</b>	Not applicable as s94 does not apply to this development.
<b>Mechanism for Dispute resolution - (Section 93F(3)(f))</b>	See clause 12.
<b>Enforcement of this deed (Section 93F(3)(g))</b>	See clause 10.
<b>No obligation to grant consent or exercise functions - (Section 93F(3)(g))</b>	See clause 15.

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## Voluntary Planning Agreement Harrington Grove

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### PARTIES

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- 1 The Developer.
  - 2 The Council.
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### BACKGROUND

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- A The Developer is the registered proprietor of the Land.
  - B The Developer has previously made an application to the Council to change the zoning provisions of Camden Local Environmental Plan No. 48 as they apply to the Land to those contained in the New LEP for the purpose of making an application for the Development Consents.
  - C The New LEP has been made and the Developer has applied for, or been granted, the Development Consents.
  - D The parties have reached agreement on a number of matters relating to the Developments which they wish to record in this Agreement.
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### OPERATIVE PROVISIONS

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#### 1 DEFINITIONS

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Unless the context otherwise requires the definitions and interpretational rules contained in ~~Voluntary Planning Agreement - Annexure 1~~ ~~Voluntary Planning Agreement - Annexure 1~~ ~~Voluntary Planning Agreement - Annexure 1~~ apply in the interpretation of terms used in this Agreement.

#### 2 APPLICATION AND OPERATION OF AGREEMENT

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##### 2.1 Planning Agreement

The parties agree that this Agreement is a planning agreement:

- (1) within the meaning set out in s93F of the EPAA Act; and
- (2) governed by Subdivision 2 of Division 6 of Part 4 of the EPAA Act.

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## 2.2 Application

This Agreement applies to both the Land and the Developments.

## 2.3 Operation

- (1) Unless set out in paragraph (2) this Agreement operates immediately upon being entered into, within the meaning set out by clause 25C(1) of the Regulations.
- (2) Clause 7 will only operate when, and be effective from the date on which, the Council issues either of the Development Consents to the Developer.

## 2.4 Heads of Planning Agreement

The parties agree that on the date of this Agreement the Heads of Planning Agreements will be terminated.

## 3 HERITAGE - HARRINGTON PARK

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### 3.1 Harrington Park Heritage Agreement

- (1) The Developer will use its best endeavours to enter into the Harrington Park Heritage Agreement.
- (2) The Developer will comply with the terms of the Harrington Park Heritage Agreement irrespective of whether that agreement has been entered into.

### 3.2 Maintenance Prior to Commencement of Harrington Park Heritage Works

- (1) Once the Harrington Grove East Development Consent is issued by the Council the Developer will carry out any works on Harrington Park that are necessary to ensure that it is maintained in its present condition prior to the commencement of the Harrington Park Heritage Works.
- (2) Within one (1) month of the Harrington Grove East Development Consent being issued by the Council the Developer will prepare and submit to the Council a condition report detailing the present condition of Harrington Park.

### 3.3 Timing of Harrington Park Heritage Works

The Developer warrants to the Council that it will not object to or appeal against any condition of any consent issued for the Harrington Grove East Development which stipulates that if:

- (1) the Developer is obligated under this Agreement to carry out the Harrington Park Heritage Works; and
- (2) the Developer fails to complete the Harrington Park Heritage Works in accordance with the time limitations set out in clause 6 of the Harrington Park Heritage Agreement,

the Council may refuse to issue Subdivision Certificates for any Residential Lots in that development in excess of the first three hundred (300) Residential Lots until such time as the Developer rectifies the relevant default.

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### 3.4 Certification of Completion of Harrington Park Heritage Works

- (1) If the Developer is required to complete the Harrington Park Heritage Works in accordance with the Harrington Park Heritage Agreement then the Developer will complete the Harrington Park Heritage Works in full prior to the earlier of:
  - (a) Council Issuing the final Subdivision Certificate for the last remaining stage of the Harrington Grove East Development Consent; and
  - (b) the date that is five (5) years after the date of this Agreement.
- (2) The Harrington Park Heritage Works will be deemed to be complete upon the issue of a certificate to that effect by a "qualified practising heritage consultant" appointed by the Developer and approved by Council. The costs associated with this appointment are to be met by the Developer.
- (3) The Developer may serve a notice (Completion Notice) on the Council advising that, in the opinion of the Developer, the Harrington Park Heritage Works have been completed. The qualified practising heritage consultant referred to in paragraph (2) is to assess the merits of the Completion Notice.
- (4) If the Council fails to advise the Developer within seventy (70) days of service of a Completion Notice that, in the opinion of the consultant referred to in paragraph (2), the works set out in the Completion Notice have not been completed then those works will be deemed to have been completed for the purpose of this Agreement.

## 4 HERITAGE - ORIELTON

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### 4.1 Orierton Heritage Agreement

- (1) The Developer will use its best endeavours to enter into the Orierton Heritage Agreement.
- (2) The Developer will comply with the terms of the Orierton Heritage Agreement irrespective of whether that agreement has been entered into.

### 4.2 Maintenance Prior to Commencement of Orierton Heritage Works

- (1) Once the Harrington Grove West Development Consent is issued by the Council the Developer will carry out any works on Orierton that are necessary to ensure that it is maintained in its present condition prior to the commencement of the Orierton Heritage Works.
- (2) Within one (1) month of the Harrington Grove West Development Consent being issued by the Council the Developer will prepare and submit to the Council a Condition Report detailing the present condition of Orierton.

### 4.3 Timing of Orierton Heritage Works

The Developer warrants to the Council that it will not object to or appeal against any condition of any consent issued for the Harrington Grove West Development which stipulates that if:

- 
- (1) the Developer is obligated under this Agreement to carry out the Orierton Heritage Works; and
  - (2) the Developer fails to complete the Orierton Heritage Works in accordance with the time limitations set out in clause 6 of the Orierton Heritage Agreement,

the Council may refuse to issue Subdivision Certificates for any Residential Lots in that development in excess of the first two hundred (200) Residential Lots until such time as the Developer rectifies the relevant default.

#### 4.4 Certification of Completion of Orierton Heritage Works

- (1) If the Developer is required to complete the Orierton Heritage Works in accordance with the Orierton Heritage Agreement then the Developer will complete the Orierton Heritage Works in full prior to the earlier of:
  - (a) Council issuing the final subdivision certificate for the last remaining stage of the Harrington Grove West Development Consent; and
  - (b) the date that is five (5) years after the date of this Agreement.
- (2) The Orierton Heritage Works will be deemed to be complete upon the issue of a certificate to that effect by a "qualified practising heritage consultant" appointed by the Developer and approved by Council. The costs associated with this appointment are to be met by the Developer.
- (3) The Developer may serve a notice (**Completion Notice**) on the Council advising that, in the opinion of the Developer, the Orierton Heritage Works have been completed. The qualified practising heritage consultant referred to in paragraph (1) is to assess the merits of the Completion Notice.
- (4) If the Council fails to advise the Developer within seventy (70) days of service of a Completion Notice that, in the opinion of the consultant referred to in paragraph (1), the works set out in the Completion Notice have not been completed then those works will be deemed to have been completed for the purpose of this Agreement.

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## 5 BUSHLAND CONSERVATION – HARRINGTON GROVE EAST

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### 5.1 Conservation Management Strategy (CMS) & Conservation Management Plan (CMP)

- (1) The parties acknowledge that the Developer has lodged the Harrington Grove East CMP with the Council as part of its application for the Harrington Grove East Development Consent.
- (2) Subject to paragraph (3), the Developer will:
  - (a) be bound by the terms of the Harrington Grove CMS & the Harrington Grove East CMP as approved by the Council; and
  - (b) will carry out the Harrington Grove East Bushland Conservation Works in accordance with the terms of the Harrington Grove CMS, the Harrington Grove East CMP and this Agreement.

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- (3) The Developer will not be required to carry out the Harrington Grove East Bushland Conservation Works unless and until the Council issues the Harrington Grove East Development Consent to the Developer.

#### **5.2 Maintenance Prior to Commencement of Harrington Grove East Bushland Conservation Works**

- (1) Once the Harrington Grove East Development Consent is issued by the Council the Developer will carry out any works on the Harrington Grove East Bushland Areas that are necessary to ensure that those areas are not further degraded from their condition as assessed in the study supporting the LES prior to the commencement of the Harrington Grove East Bushland Conservation Works.
- (2) The works referred to in paragraph (1) must not be inconsistent with the Harrington Grove CMS & the Harrington Grove East CMP.

#### **5.3 Timing of Works**

The Developer will adhere to the program for the completion of the Harrington Grove East Bushland Conservation Works set out in the Harrington Grove East CMP and in any event will complete those works prior to the issue of the final Subdivision Certificate for the Harrington Grove East Development.

#### **5.4 Annual Reports**

- (1) During the period set out in clause 5.3 the Developer must provide the Council with a report on each anniversary of the date on which the Harrington Grove East Development Consent is issued by the Council that sets out:
  - (a) the Harrington Grove East Bushland Conservation Works carried out in the preceding twelve (12) month period;
  - (b) any matters that may impact upon the Developer's ability to carry out further Harrington Grove East Bushland Conservation Works in accordance with the Harrington Grove CMS and the Harrington Grove East CMP; and
  - (c) the extent to which the desired outcomes set out in the Harrington Grove CMS & the Harrington Grove East CMP were achieved in the preceding twelve (12) months.
- (2) The Developer will be discharged from its obligation under paragraph (1) upon completion of the Harrington Grove East Bushland Conservation Works.

#### **5.5 Completion of the Harrington Grove East Bushland Conservation Works**

- (1) Upon completion of the Harrington Grove East Bushland Conservation Works in accordance with the Harrington Grove East CMP, the Developer and the Council will ensure that:
  - (a) any ongoing obligations with respect to the maintenance of the Harrington Grove East Bushland Areas to be owned by the Harrington Grove East Community Association become the responsibility of the Harrington Grove East Community Association; and

- 
- (b) the obligation referred to in paragraph (a) will be included in the management statement of the Harrington Grove East Community Association.

- (2) Upon satisfaction of the obligations in paragraph (1), the Developer is discharged from any future obligations under the Harrington Grove CMS & the Harrington Grove East CMP.

## **6 BUSHLAND CONSERVATION – HARRINGTON GROVE WEST**

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### **6.1 Conservation Management Strategy (CMS) & Conservation Management Plan (CMP)**

- (1) The parties acknowledge that the Developer has lodged the Harrington Grove West CMP with the Council as part of its application for the Harrington Grove West Development Consent.
- (2) Subject to paragraph (3), the Developer will:
  - (a) lodge the Harrington Grove West CMP with the Council as part of, or prior to, its application for the Harrington Grove West Development Consent;
  - (b) be bound by the terms of the Harrington Grove CMS & Harrington Grove West CMP as approved by the Council; and
  - (c) will carry out the Harrington Grove West Bushland Conservation Works in accordance with the terms of the Harrington Grove CMS, the Harrington Grove West CMP and this Agreement.
- (3) The Developer will not be required to carry out the Harrington Grove West Bushland Conservation Works unless and until the Council issues the Harrington Grove West Development Consent to the Developer.

### **6.2 Maintenance Prior to Commencement of Harrington Grove West Bushland Conservation Works**

- (1) Once the Harrington Grove West Development Consent is issued by the Council the Developer will carry out any works on the Harrington Grove West Bushland Areas that are necessary to ensure that those areas are not further degraded from their present condition prior to the commencement of the Harrington Grove West Bushland Conservation Works.
- (2) The works referred to in paragraph (1) must not be inconsistent with the Harrington Grove CMS & the Harrington Grove West CMP.

### **6.3 Timing of Works**

The Developer will adhere to the program for the completion of the Harrington Grove West Bushland Conservation Works set out in the Harrington Grove West CMP and in any event will complete those works prior to the issue of the final subdivision certificate for the Harrington Grove West Development.

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#### 6.4 Annual Reports

- (1) During the period set out in clause 6.3 the Developer must provide the Council with a report on each anniversary of the date on which the Harrington Grove West Development Consent is issued by the Council that sets out:
  - (a) the Harrington Grove West Bushland Conservation Works carried out in the preceding twelve (12) month period;
  - (b) any matters that may impact upon the Developer's ability to carry out further Harrington Grove West Bushland Conservation Works in accordance with the Harrington Grove CMS and the Harrington Grove West CMP; and
  - (c) the extent to which the desired outcomes set out in the Harrington Grove CMS & the Harrington Grove West CMP were achieved in the preceding twelve (12) months.
- (2) The Developer will be discharged from its obligation under paragraph (1) upon completion of the Harrington Grove West Bushland Conservation Works.

#### 6.5 Completion of the Harrington Grove West Bushland Conservation Works

- (1) Upon completion of the Harrington Grove West Bushland Conservation Works in accordance with the Harrington Grove West CMP, the Developer and the Council will ensure that:
  - (a) any ongoing obligations with respect to the maintenance of the Harrington Grove West Bushland Areas to be owned by the Harrington Grove West Community Association become the responsibility of the Harrington Grove West Community Association; and
  - (b) the obligation referred to in paragraph (a) will be included in the management statement of the Harrington Grove West Community Association.
- (2) Upon satisfaction of the obligations in paragraph (1), the Developer is discharged from any future obligations under the Harrington Grove CMS & the Harrington Grove West CMP.

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### 7 PROVISION OF CONTRIBUTIONS

#### 7.1 Provision

The Developer acknowledges that the carrying out of the Developments could, if this Agreement were not required to be entered into, have been subject to a requirement to make contributions under section 94 of the EPAA Act.

#### 7.2 Manner of Provision

The Developer will:

- (1) provide the Contribution Works; and
- (2) pay the Financial Contribution,

as provided and as described in Annexure 2 to the satisfaction of the Council.

### 7.3 Variation to Contribution Works

- (1) The Contribution Works may be varied without the need for variation to this agreement provided that the Council is satisfied that the variations to scope of the Contributions Works are consistent with the intent and objectives of this agreement.

### 7.4 Deferral of Contribution Work

- (1) Notwithstanding any other provision of this Agreement, if the Developer forms the view at any time that it is unable to make a Contribution Work comprising a Contribution Work by the time that Contribution Work is required to be completed under this Agreement, then:
- (a) the Developer is to provide written notice to the Council to that effect;
  - (b) the Developer is to provide the Council with a Security for 100% of the value of the uncompleted part of the Contribution Work (as determined by the Council) before the date on which the Contribution Work is required to be completed under this Agreement;
  - (c) the Developer is to provide to Council, for Council's approval, a revised completion date for the Contribution Work;
  - (d) Council can approve, or not approve a revised completion date in its discretion, and if the Council does not approve the Developer's revised completion date for the Contribution Work, the Council and Developer are to negotiate in good faith and agree upon a revised completion date for the Contribution Work; and
  - (e) the time for completion of the Contribution Work under this Agreement will be taken to be the revised completion date approved by the Council under clause 7.4(1)(d).
- (2) If the Developer complies with clause 7.4(1), then it will not be considered to be in breach of this Agreement as a result of a failure to complete a Contribution Work by the time for completion of the Contribution Work specified in Annexure 2.
- (3) If the Contribution Work is not completed by the revised date for completion of the Contribution Work agreed under clause 7.4(1)(d) then the Council may call on the Security to meet any of its costs incurred under this Agreement in respect of the failure to complete the Contribution Work by the revised date for completion.
- (4) The Developer need not provide any additional Security under this clause if at the time the Security would be payable under this clause, Council holds Security under the other provisions of this Agreement in an amount which covers the amount of Security required to be held under those other clauses, and the amount of Security required to be held under this clause.

### 7.4.7.5 Indexation of amounts payable by the parties

All amounts referred to in this Agreement are to be adjusted (with the calculation to be made as from the date any such amount is due to be paid under this Agreement) in accordance with the following formula:

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$$A = B \times C/D$$

where:

- A** = the adjusted amount;
- B** = the relevant amount as set out in this Agreement;
- C** = the CPI most recently published before the date that the relevant payment or the calculation with respect to the relevant amount is to be made; and
- D** = in relation to the Financial Contribution for the Narellan Sports Hub, the CPI for the December 2014 quarter and in relation to any other amount, the CPI most recently published before the date of this Agreement.

#### 7.6 Access to land by Council

- (1) The Developer grants to the Council a licence on the terms set out in Annexure 12 to enter the Narellan Sports Hub Land to construct the Narellan Sports Hub.

#### 7.7 Consent to making of development application

- (4) Within 7 days of a request by the Council, the Developer is to provide to the Council its consent in writing to the Council making a development application, within the meaning of the EPAA Act, for the Narellan Sports Hub.

### **B APPLICATION OF s94 & s94A**

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- (a) For the purposes of s93F(3)(d) of the EPAA, this Agreement excludes the application of sections 94 & 94A of the EPAA Act to the Developments.

### **9 COMPLETION, RECTIFICATION AND HANDOVER OF WORKS**

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#### **9.1 Application**

This clause 9 applies to any Contribution Works required to be provided by the Developer under this Agreement other than those subject to clauses 3 to 6 inclusive.

#### **9.2 Meaning of Defects Liability**

In this clause:

- (1) **Defect** means any inadequacy in a relevant item of the Contribution Works that results from that item not being carried out in accordance with the provision and description of the item as set out in **Schedule 1 of Annexure 2** to the satisfaction of the Council,
- (2) for each item of the Contribution Works, the **Defects Liability Period** means the period specified for that item in **Schedule 1 of Annexure 2**, commencing on and from the date on which the Developer gives the Council a notice under clause 9.3; and
- (3) **Rectification Notice** means a notice that sets out:
- (a) the nature and extent of the relevant Defect;

- 
- (b) the rectification work the Council considers necessary to rectify the Defect; and
  - (c) the time within which the Defect must be rectified by the Developer, which must be a reasonable time.

### 9.3 Provision of notice

When the Developer considers that:

- (1) an item of the Contribution Works is complete, or
- (2) an item of the Contribution Works has been rectified in accordance with a Rectification Notice,

the Developer will give the Council a notice in writing to that effect (**Completion Notice**).

### 9.4 Service of Rectification Notice

During the Defects Liability Period, the Council may give the Developer a Rectification Notice.

### 9.5 Developer to rectify

- (1) The Developer will comply with a Rectification Notice at its own cost according to its terms.
- (2) Council must:
  - (a) inspect the relevant rectification work within fourteen (14) days after it is given a relevant Completion Notice; and
  - (b) advise the Developer by notice in writing if that work:
    - (i) has been completed to the satisfaction of the Council; or
    - (ii) has not been completed to the satisfaction of Council, in which case the notice will be deemed to be a further Rectification Notice concerning that work,

within seven (7) days of the relevant inspection.

### 9.6 Council may carry out rectification

If the Developer breaches clause 9.5(1), the Council may have the relevant Defect rectified and may recover the reasonable costs incurred by it of so doing as a debt due in a court of competent jurisdiction.

### 9.7 Acceptance of Item of Contribution Works

- (1) The Council is taken to have accepted the condition of an item of the Contribution Works that is the subject of a Completion Notice where:
  - (a) if the Council has not given the Developer a Rectification Notice, at the expiration of the Defects Liability Period, or

- 
- (b) if the Council has given the Developer a Rectification Notice, on the date which the Council gives a notice in writing to the Developer stating that the defect the subject of the Rectification Notice has been rectified to the Council's satisfaction; or
  - (c) if, upon the expiry of the periods set out in clause 9.5(2) the Council fails to carry out the required inspection or serve the required notice, as the case may be.
- (2) For the purpose of this Agreement, the hand over of an item of the Contribution Work to the Council occurs on the earlier of:
- (a) Council providing confirmation that the relevant item of the Contribution Work has been completed to the satisfaction of the Council in accordance with clause 9.5(2)(b)(i); or
  - (b) Council being deemed to have accepted the condition of the relevant item in accordance with paragraph (1)(c).
- (3) On hand-over of any item of the Contribution Works, the Council accepts ownership, possession and control of the relevant item.
- (4) A contribution comprising an item of the Contribution Works is made by the Developer for the purposes of this Agreement when the Council accepts the hand over of that item in accordance with this clause 9.

## 10 SECURITY

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### 10.1 Prohibition

Neither party may Assign their rights under this Agreement without the prior written consent of the other party.

### 10.2 Assignment of Land

- (1) The Developer must not Assign its interest in the Land (other than the Assignment of a Residential Lot) unless:
  - (a) the Council consents to the assignment in its absolute discretion; and
  - (b) the proposed assignee enters into an agreement to the satisfaction of the Council under which the assignee agrees to be bound by the terms of this Agreement.
- (2) If the Developer breaches this clause 10.2 then the Developer is not released from, and remains liable to perform, the obligations imposed on it under this Agreement.

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### 10.3 Provision of bond

- (1) The Developer will provide to Council a bank guarantee in an amount of thirty five thousand dollars (\$35,000) to secure the obligations of the Developer under this Agreement.
- (2) The parties acknowledge that the amount of the bond referred to in paragraph (1) has been requested by the Council on the basis that it will secure the payment of any legal costs incurred by the Council in instituting legal proceedings against the Developer as a result of any breach of this Agreement by the Developer.

## 11 REVIEW & AMENDMENT

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- (1) If either party requests a review of the whole or any part of this Agreement then the parties must use their best endeavours, acting in good faith, to review the Agreement in accordance with that request.
- (2) If the parties agree to amend this Agreement as a result of a review conducted under paragraph (1) then any such amendment must be made in writing signed by both parties.

## 12 DISPUTE RESOLUTION

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### 12.1 Notice of Dispute

If a party believes that there is a Dispute then:

- (1) that party must give notice in writing to the other party stating that there is a Dispute; and
- (2) the notice referred to in paragraph 12.1(1) must outline:
  - (a) what the party believes the dispute to be; and
  - (b) what the party wants to achieve; and
  - (c) what the party believes will settle the Dispute; and
  - (d) who will be the party's Representatives to negotiate the dispute.

### 12.2 Consultation between the Representatives

Within fifteen (15) business days of a notice served in accordance with clause 12.1(1) the Representatives must meet in order to resolve the Dispute.

### 12.3 Settlement of Dispute and mediation

- (1) If the Dispute cannot be resolved by the Representatives within a further fifteen (15) business days of a meeting between the Representatives in accordance with clause 12.2 then the Dispute must be submitted to mediation by a mediator selected:
  - (a) by the parties; or

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(b) if the parties cannot agree on a mediator, by the President of the Australian Commercial Disputes Centre.

- (2) The parties are to appoint a mediator who is appropriately qualified and have practical experience in the area of the Dispute.
- (3) Any costs incurred in the mediation of the Dispute are to be borne equally by the parties.

#### **12.4 Exclusivity of dispute resolution procedure**

- (1) Both parties must adhere to the dispute resolution procedure set out in this Agreement.
- (2) The only time that either party may depart from the dispute resolution procedure set out in this clause is when urgent interlocutory relief is required to restrain a breach or threatened breach of this Agreement.

### **13 DEFAULT IN PERFORMANCE**

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#### **13.1 Events of default**

The Developer commits an "Event of Default" if:

- (1) it breaches a term of this Agreement; or
- (2) fails to comply with the terms and conditions of the Development Consents; or
- (3) fails to comply with the terms of the Heritage Agreements; or
- (4) fails to comply with the terms of the Harrington Grove East CMP and the Harrington Grove West CMP.

#### **13.2 Consequences of Events of default**

Where the Developer commits an Event of Default the Council may serve a notice on the Developer requiring the relevant breach to be rectified within seventy two (72) days of the date of the notice.

#### **13.3 No restriction on rights**

The rights vested in the Council pursuant to clause 13.2 do not prevent the Council from exercising any other rights that it may possess at law.

### **14 TERMINATION**

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#### **14.1 Termination**

This Agreement terminates in the following events:

- (1) the parties agree in writing to terminate the operation of this Agreement at any time; or
- (2) the Council serves notice on the Developer terminating this Agreement where the Developer has failed to comply with a notice issued in accordance with 13.2; or

- 
- (3) the Developer:
    - (a) discharges its obligations under this Agreement in accordance with the Development Consents; and
    - (b) discharges its obligations under any further agreement entered into between the parties in relation to Contribution Works.

#### 14.2 Consequence of termination

Upon termination of this Agreement:

- (1) all future rights and obligations of the parties are discharged;
- (2) any security held under this Agreement will be released; and
- (3) all pre-existing rights and obligations of the parties continue to subsist.

### 15 POSITION OF COUNCIL

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#### 15.1 Consent authority

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

#### 15.2 Construction of Agreement to fetter powers

No term of this Agreement is to be construed, or to operate, so as to fetter, limit, restrict or otherwise interfere with the exercise of Council's statutory powers, discretion or duty.

#### 15.3 Reading down of provisions

If any provision of this Agreement would, or could likely, operate so as to fetter, limit, restrict or otherwise interfere with the exercise of Council's statutory powers, discretion or duty then that provision is, to the extent necessary for it not to fetter, limit, restrict or otherwise interfere with the exercise of Council's statutory powers, discretion or duty:

- (1) be read down, if possible; or
- (2) severed from this Agreement.

#### 15.4 No Obligations

Nothing in this Agreement will be deemed to impose any obligation on the Council to exercise any of its functions under the Act in relation to the LEP, the Land or the Development in a certain manner.

### 16 CONFIDENTIALITY

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#### 16.1 Agreement not Confidential

The parties acknowledge that this Agreement:

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- (1) is not confidential;
  - (2) may be treated as a public document by the Council; and
  - (3) may be publicly exhibited and reported without restriction by either party.

#### 16.2 Non-disclosure

- (1) A party must not disclose Confidential Information disclosed to it by the other party except:
  - (a) with the prior written consent of the disclosing party; or
  - (b) in accordance with the terms of this Agreement.
- (2) A party may not unreasonably withhold its consent to disclosure in accordance with paragraph 16.2(1)(a) where:
  - (a) the requested disclosure is made for the purpose of facilitating the proper performance of a party's obligations under this Agreement; and
  - (b) the disclosure is to be made to persons who:
    - (i) reasonably require the disclosure of the information; and
    - (ii) are subject to a duty of confidentiality on the same or similar terms to that contained in this clause.

#### 16.3 Use of Confidential Information

A party may use, copy, reproduce or otherwise deal with the Confidential Information disclosed to it only:

- (1) during the term of this Agreement; and
- (2) in accordance with the terms of this Agreement; and
- (3) in a manner that is related to the proper and lawful conduct and performance of its obligations under this Agreement.

#### 16.4 Exceptions to non-disclosure

A party may disclose Confidential Information that has been disclosed to it:

- (1) where such disclosure is made to those of its employees, advisers, related bodies corporate and shareholders who:
  - (a) have a need to know (and only to the extent each has a need to know); and
  - (b) are aware and agree that the information that is to be disclosed must be kept confidential; or

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(2) which, at the time of disclosure, is within the public domain or after disclosure comes into the public domain other than by a breach or breaches by any party (whether the party to this Agreement or a third party) of any obligation owed to the other party; or

(3) where:

(a) required by law or any order of any court, tribunal, authority, regulatory body or the rules of any securities exchange (whether in Australia or elsewhere) to be disclosed; and

(b) the party ensures that information is disclosed only to the extent reasonably and lawfully required.

#### 16.5 Duration of confidentiality obligations

Unless otherwise agreed by the parties in writing the obligation of confidentiality set out in this Agreement operates indefinitely and does not terminate on the expiry or earlier termination of this Agreement.

#### 17 GST

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(1) The amount of any payment required to be made under this Agreement does not include GST.

(2) If the party receiving a payment under this Agreement is or will become liable to pay GST in respect of the supply then the amount payable will be increased by the amount of any GST payable.

(3) The party receiving payment of any amount referred to in the preceding paragraphs must issue a tax invoice on payment of any GST under this clause.

#### 18 CHANGE OF LAWS

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(1) If, at the time a Financial Contribution is required to be made by the Developer under this Agreement, a contributions plan (within the meaning of the EPAA Act) is in force that would, but for this Agreement, have authorised the Council to impose a condition under s94 of the Act in respect of the Developments requiring the payment of a monetary s94 contribution towards the same or a similar purpose as that for which the Financial Contribution is required to be made, then, despite any other provision of this Agreement, the amount of the Financial Contribution to which referred to in paragraph (1) is not to exceed the amount of the relevant monetary s94 contribution as provided for in the contributions plan.

(2) If, at the time a Financial Contribution is required to be made by the Developer under this Agreement, the council is not authorised by a contributions plan (within the meaning of the EPAA Act) to impose a condition under s94 of the Act in respect of the Developments requiring the payment of a monetary s94 contribution towards the same or a similar purpose as that for which the Financial Contribution is required to be made, the Developer is not required to make the Financial Contribution under this Agreement.

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## 19 MISCELLANEOUS

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### 19.1 Obligation to act in good faith

The parties must at all times:

- (1) cooperate and use their best endeavours to profitably and professionally give effect to the rights and obligations of the parties set out in this Agreement; and
- (2) not unreasonably delay any action, approval, direction, determination or decision which is required of it; and
- (3) make approvals or decisions that are required of it in good faith and in a manner consistent with the completion of the transactions set out in this Agreement; and
- (4) be just and faithful in its activities and dealings with the other parties.

### 19.2 Consultation concerning development applications

If the Developer is required to lodge an application for development consent for any matter required to be carried out by it under this Agreement then it will consult with the Council in good faith in relation to the relevant works before lodging any such application.

### 19.3 Legal costs

The Developer agrees to:

- (1) pay or reimburse the reasonable legal costs and disbursements of the Council for the negotiation, preparation, execution, and stamping of this Agreement.
- (2) pay the reasonable legal costs and disbursements referred to in paragraph (1) within fourteen (14) days of receipt of a Tax Invoice from the Council.
- (3) pay or reimburse the legal costs and disbursements of the Council arising from the ongoing administration and enforcement of this Agreement including any breach or default by the Developer of its obligations under this Agreement.

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## 20 ADMINISTRATIVE PROVISIONS

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### 20.1 Notices

- (1) Any notice, consent or other communication under this Agreement shall be in writing and signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
  - (a) delivered to that person's address; or
  - (b) sent by pre-paid mail to that person's address; or
  - (c) transmitted by facsimile to that person's address.
- (2) A notice given to a person in accordance with this clause is treated as having been given and received:

- 
- (a) if delivered to a person's address, on the day of delivery if a Business Day, otherwise on the next Business Day; and
  - (b) if sent by pre-paid mail, on the third Business Day after posting; and
  - (c) if transmitted by facsimile to a person's address and a correct and complete transmission report is received, on the day of transmission if a Business Day, otherwise on the next Business Day.

(3) For the purpose of this clause the address of a person is the address set out in this Agreement or another address of which that person may from time to time give notice to each other person.

#### **20.2 Entire Agreement**

This Agreement is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this Agreement.

#### **20.3 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

#### **20.4 Cooperation**

Each party must sign, execute and deliver all Agreements, documents, instruments and act reasonably and effectively to carry out and give full effect to this Agreement and the rights and obligations of the parties under it.

#### **20.5 Counterparts**

This Agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

#### **20.6 Amendment**

This Agreement may only be amended or supplemented in writing signed by the parties.

#### **20.7 Unenforceability**

Any provision of this Agreement which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

#### **20.8 Power of Attorney**

Each attorney who executes this Agreement on behalf of a party declares that the attorney has no notice of:

- 
- (1) the revocation or suspension of the power of attorney by the grantor; or
  - (2) the death of the grantor.

**20.9 Governing law**

The law in force in the State of New South Wales governs this Agreement. The parties:

- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this Agreement; and
  - (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.
-

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**EXECUTION**

**Executed as an agreement**

Dated:

**Signed, Sealed and Delivered by Camden Council** by its General Manager and Mayor by the affixing of the Common Seal of Council in accordance with a resolution of the Council dated

\_\_\_\_\_  
General Manager (Signature)

\_\_\_\_\_  
Mayor (Signature)

\_\_\_\_\_  
Name of General Manager (Print Name)

\_\_\_\_\_  
Name of Mayor (Print Name)

**Signed, Sealed and Delivered by Dandaloo Pty Limited** in accordance with section 127(1) of the Corporations Act by authority of its directors.

\_\_\_\_\_  
Director/Secretary (Signature)

\_\_\_\_\_  
Director (Signature)

\_\_\_\_\_  
Name of Director/ Secretary (Print Name)

\_\_\_\_\_  
Name of Director (Print Name)

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## Voluntary Planning Agreement - Annexure 1

### Defined Terms and Interpretation

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#### Part 1 - Definitions

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<b>Agreement</b>	means this agreement <u>and includes any annexures to this agreement.</u>
<b>Assign</b>	as the context requires refers to any assignment, sale, transfer, disposition, declaration of trust over or other assignment of a legal and/or beneficial interest.
<b>Authority</b>	means (as appropriate) any: <ol style="list-style-type: none"> <li>(1) federal, state or local government; or</li> <li>(2) department of any federal, state or local government; or</li> <li>(3) any court or administrative tribunal; or</li> <li>(4) statutory corporation or regulatory body.</li> </ol>
<b><u>Bank Guarantee</u></b>	<p>means <u>an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:</u></p> <p><u>(a) one of the following trading banks:</u></p> <ol style="list-style-type: none"> <li><u>(i) Australia and New Zealand Banking Group Limited,</u></li> <li><u>(ii) Commonwealth Bank of Australia,</u></li> <li><u>(iii) Macquarie Bank Limited,</u></li> <li><u>(iv) National Australia Bank Limited,</u></li> <li><u>(iv) St George Bank Limited,</u></li> <li><u>(v) Westpac Banking Corporation, or</u></li> </ol> <p><u>(b) any other financial institution approved by the Council in its absolute discretion.</u></p>
<b>Bushland Conservation Works</b>	means the Harrington Grove East Bushland Conservation Works and the Harrington Grove West Bushland Conservation Works.
<b>Confidential Information</b>	means: <ol style="list-style-type: none"> <li>(1) <b>intellectual property:</b> any and all Intellectual Property;</li> </ol>

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and

- (2) **financial information:** information regarding costs, profits, markets, sales and other financial information; and
- (3) **business information:** information regarding business relationships and strategies, development plans, marketing, product concepts, trade secrets and other business information the business of the disclosing party and the disclosing party's clients or third party suppliers; and
- (4) **personal information:** any personal information relating to the officers (as defined in s9 of the *Corporations Act 2001*), partners, employees, agents, contractors or clients of the disclosing party; and
- (5) **information obtained through performance:** all information which becomes known to a party as a consequence of it performing the obligations under this Agreement including (without limitation) all records, documents, accounts, plans, specifications, price lists, customer lists, correspondence, photos and papers of every description relating to the disclosing party; and
- (6) **technical information:** information regarding designs, development processes and tools, hardware specifications, know-how, production, research, software specifications, data bases and software developed or used by a party whether as owner or under licence from any person and other technical information; and
- (7) **disclosed information:** any other information disclosed by a disclosing party that:
  - (a) is identified as being confidential; or
  - (b) would be apparent to a reasonable person that such information was disclosed in confidence by the disclosing party.

**Contribution Works**

means the Contributions comprised of the "Contribution Works" set out in **Schedule 1 of Annexure 2**.

**Contributions**

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

**Council**

means "Council" as set out in the **Schedule**.

**Developer**

means the "Developer" set out in the **Schedule**.

**Developments**

means the subdivision and development of the Land in

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	accordance with the Development Consents.
<b>Development Consents</b>	means the Harrington Grove West Development Consent and the Harrington Grove East Development Consent, as amended from time to time.
<b>Dispute</b>	means a dispute regarding the terms or operation of this Agreement.
<b>EPAA Act</b>	means the <i>Environmental Planning &amp; Assessment Act (NSW) 1979</i> .
<b>Explanatory Note</b>	means the Explanatory Note set out at <b>Annexure 132</b> .
<b>Financial Contributions</b>	means a monetary Contribution comprised of the "Financial Contributions" as set out in <b>Schedule 2 of Annexure 2</b> .
<b>GST</b>	means goods and services tax payable in accordance with the <i>A New Tax System (Goods and Services Tax) Act 1999</i> and all incidental and ancillary legislation and regulations.
<b>Harrington Grove CMS</b>	means the conservation management strategy set out at <b>Annexure 7</b> , or such other strategy as agreed between the parties from time to time.
<b>Harrington Grove East Bushland Areas</b>	means those areas of the Harrington Grove East Development that are subject to the Harrington Grove East CMP.
<b>Harrington Grove East Bushland Conservation Works</b>	means the works required to be carried out under the Harrington Grove East CMP.
<b>Harrington Grove East CMP</b>	means the Conservation Management Plan prepared by the Developer and submitted to the Council in accordance with Clause 6.1(2)(a) as set out at <b>Annexure 5</b> , or such other plan as agreed between the parties from time to time.
<b>Harrington Grove East Community Association</b>	means the community association(s) constituted under the <i>Community Land Development Act (NSW) 1989</i> for the Harrington Grove East Development.
<b>Harrington Grove East Development</b>	means the development subject to the Harrington Grove East Development Consent.
<b>Harrington Grove East Development Consent</b>	means a consent or consents granted by the Council for approval of the development substantially as described in the Indicative Master Plan set out at <b>Annexure 8</b> for a minimum of at least 77.53 hectares of land zoned 2(d) and 41.69 hectares of land zoned 7(d4) under the provisions of the New LEP (or the equivalent zoning under any new planning instrument that might be adopted by the Council for the Land following the signing of this Agreement).
<b>Harrington Grove East Land</b>	means the whole of the Land contained in Certificate of Title

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	Folio Identifier 3420/1105169
<b>Harrington Grove West Bushland Areas</b>	means those areas of the Harrington Grove West Development that are subject to the Harrington Grove CMP.
<b>Harrington Grove West Bushland Conservation Works</b>	means the works required to be carried out under the Harrington Grove West CMP.
<b>Harrington Grove West CMP</b>	means the Conservation Management Plan prepared by the Developer and submitted to the Council in accordance with Clause 6.1(2)(a) as set out at <b>Annexure 6</b> , or such other plan as agreed between the parties from time to time.
<b>Harrington Grove West Community Association</b>	means the community association(s) constituted under the <i>Community Land Development Act (NSW) 1989</i> for the Harrington Grove West Development.
<b>Harrington Grove West Development</b>	means the development subject to the Harrington Grove West Development Consent.
<b>Harrington Grove West Development Consent</b>	means a consent or consents granted by the Council for approval of the development substantially as described in the Indicative Master Plan set out at <b>Annexure 9</b> for a minimum of at least 44.78 hectares of land zoned 2(d), 19.91 hectares of land zoned 7(d4) and 13.70 hectares of land zoned 1(f) under the provisions of the New LEP (or the equivalent zoning under any new planning instrument that might be adopted by the Council for the Land following the signing of this Agreement).
<b>Harrington Grove West Land</b>	means the whole of the Land contained in Certificate of Title Folio Identifier 101/1107591.
<b>Harrington Park</b>	means the building and curtilage defined as "Harrington Park" in the Harrington Park Heritage Agreement.
<b>Harrington Park Heritage Agreement</b>	means the proposed agreement between the NSW State Heritage Office and the Developer as set out in draft form at <b>Annexure 3</b> .
<b>Harrington Park Heritage Works</b>	means the works defined as "Conservation Works" in the Harrington Park Heritage Agreement.
<b>Heads of Planning Agreements</b>	means the Heads of Planning Agreement - Harrington Grove West and the Heads of Planning Agreement - Harrington Grove East entered into between the parties and dated 9 October 2006.
<b>Heritage Agreements</b>	means either or both the Harrington Park Heritage Agreement and the Orielson Heritage Agreement as the context requires.
<b>Heritage Works</b>	means either or both the Harrington Park Heritage Works and the Orielson Heritage Works as the context requires.

<b>Land</b>	means the "Land" set out in the <b>Schedule</b> and being the Harrington Grove East Land and the Harrington Grove West Land.
<b>Law</b>	means all legislation, plans, regulations, by-laws, common law and other binding order made by any Authority.
<b>LES</b>	means the Local Environmental Study undertaken with respect to the Development.
<b><u>Narellan Sports Hub</u></b>	<u>means a sports facility on the Narellan Sports Hub Land.</u>
<b><u>Narellan Sports Hub Land</u></b>	<u>means the land shown outlined by a dashed line and marked 'DPF' on the plan of the Developments in Annexure 2.</u>
<b>New Law</b>	means an amendment, variation or change made to a Law in force at the date of this Agreement, or a Law that comes into force on or after the date of this Agreement.
<b>New LEP</b>	means the "New LEP" as set out in the <b>Schedule</b> .
<b>Orielton</b>	means the building and curtilage defined as "Orielton" in the Orielton Heritage Agreement.
<b>Orielton Heritage Agreement</b>	means the proposed agreement between the NSW State Heritage Office and the Developer as set out in draft form at <b>Annexure 4</b> .
<b>Orielton Heritage Works</b>	means the works defined as "Conservation Works" in the Orielton Heritage Agreement.
<b>Planning Legislation</b>	means the EPAA Act and the <i>Local Government Act (NSW) 1993</i> .
<b>Representatives</b>	means the nominated representatives of the parties from time to time.
<b>Residential Lot</b>	means a single residential lot within the Development.
<b><u>Security</u></b>	<u>means a Bank Guarantee, or a bond or other form of security to the satisfaction of the Council indexed in accordance with the CPI from the date of this Deed.</u>
<b>Subdivision Certificate</b>	has the same meaning as that set out in the EPAA Act.
<b>Part 2 - Interpretational Rules</b>	
<b>clauses, annexures and schedules</b>	a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this Agreement.
<b>reference to statutes</b>	a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

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Attachment 3

<b>singular includes plural</b>	the singular includes the plural and vice versa.
<b>person</b>	the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.
<b>executors, administrators, successors</b>	a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.
<b>dollars</b>	Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia.
<b>calculation of time</b>	if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
<b>reference to a day</b>	a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
<b>accounting terms</b>	an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.
<b>reference to a group of persons</b>	a group of persons or things is a reference to any two or more of them jointly and to each of them individually.
<b>meaning not limited</b>	the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
<b>next day</b>	if an act under this Agreement to be done by a party on or by a given day is done after 4.30pm on that day, it is taken to be done on the next day.
<b>next Business Day</b>	if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.
<b>time of day</b>	time is a reference to Sydney time.
<b>headings</b>	headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this Agreement.
<b>agreement</b>	a reference to any agreement, Agreement or instrument includes the same as varied, supplemented, novated or replaced from time to time.
<b>gender</b>	a reference to one gender extends and applies to the other and neuter gender.

**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**

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**ORD05**

**Appendix 2**

(Clause 5)

**Schedules 1 and 2 and plans in Annexure 2 of  
Planning Agreement**

**Attachment 3**









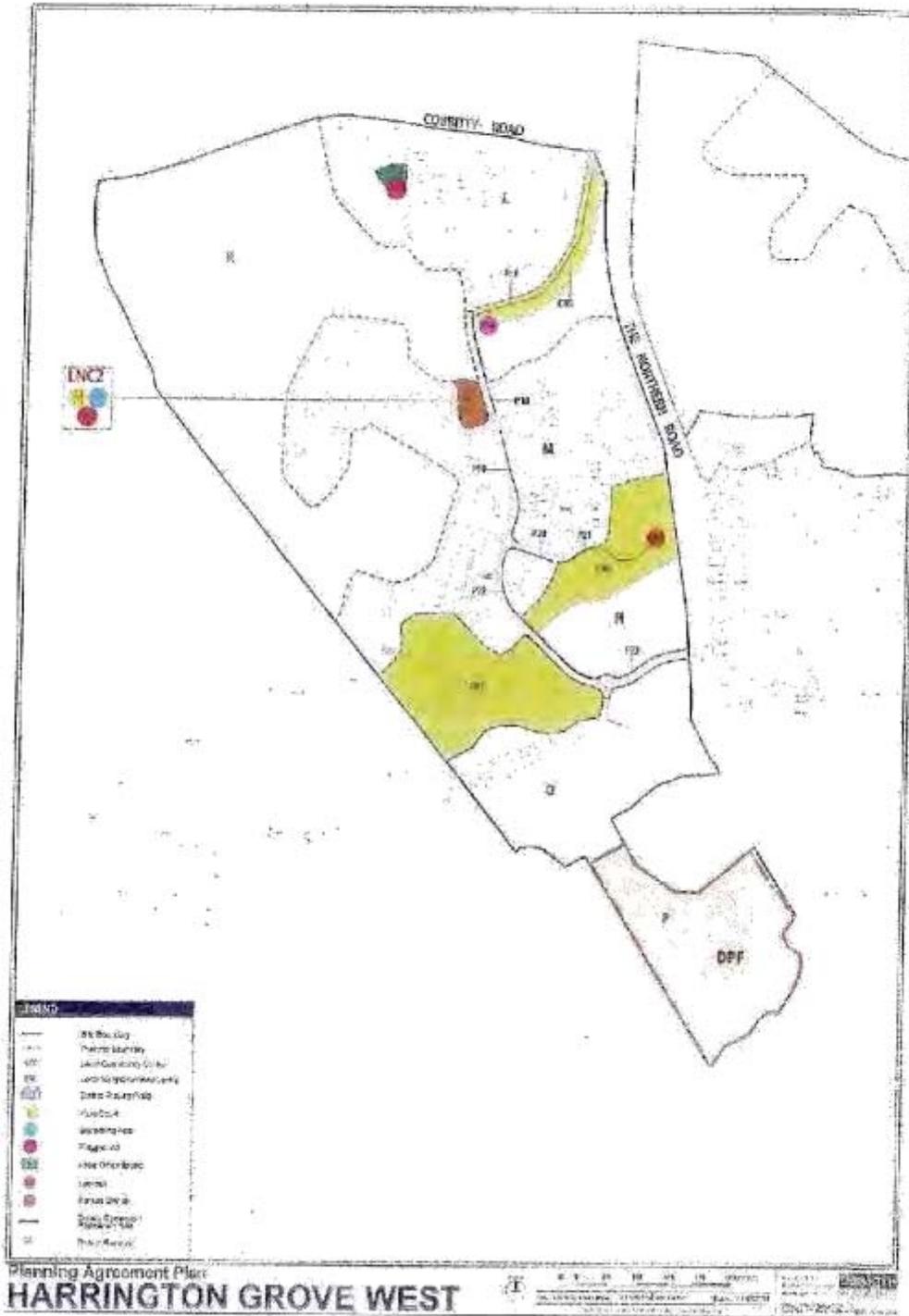


Harrington Grove Planning Agreement – Deed of Variation  
 The Council of Camden  
 Dardano Pty Limited



ORD05

Attachment 3



**ORD05**

**Attachment 3**

**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**



ORD05

### **Appendix 3**

(Clause 6)

### **Explanatory Note**

*Environmental Planning and Assessment Regulation 2000*

(Clause 25E)

### **Deed of Variation to the Harrington Grove Planning Agreement**

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

#### **Parties**

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

**Dandaloo Pty Ltd** ABN 77 002 338 543 of PO Box 42, NARELLAN NSW 2567  
 (Developer)

#### **Description of the Land to which the Deed of Variation Applies**

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

#### **Description of Proposed Development**

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

Attachment 3

**ORD05**

**Attachment 3**

**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**



ORD05

## **Summary of Objectives, Nature and Effect of the Deed of Variation**

### **Objectives of the Deed of Variation**

The objective of the Deed of Variation is to amend the Planning Agreement to include provisions relating to varying Contribution Works, deferral of work, access to land by Council, owners' consent to making of a development application and amending the Contribution Works and Financial Contributions to be provided under the Planning Agreement.

### **Nature of the Deed of Variation**

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

### **Effect of the Deed of Variation**

The Deed of Variation amends the Planning Agreement in the manner set out in clause 5 and Appendix 1 of this Deed.

## **Assessment of the Merits of the Draft Deed of Variation**

### **The Planning Purposes Served by the Deed of Variation**

The planning purposes served by the Deed of Variation are the same as those set out in the Planning Agreement.

### **How the Draft Planning Agreement Promotes the Public Interest**

The Deed of Variation promotes the public interest in the same manner set out in the Planning Agreement.

### **For Planning Authorities:**

#### ***Development Corporations - How the Deed of Variation Promotes its Statutory Responsibilities***

N/A

#### ***Other Public Authorities - How the Deed of Variation Promotes the Objects (if any) of the Act under which it is Constituted***

N/A

#### ***Councils - How the Deed of Variation Promotes the Elements of the Council's Charter***

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

- (i) directly providing, after due consultation, adequate, equitable and appropriate services and facilities for the community and

Attachment 3

**Harrington Grove Planning Agreement – Deed of Variation**  
**The Council of Camden**  
**Dandaloo Pty Limited**



- ensuring that those services and facilities are managed efficiently and effectively,
- (ii) promoting, providing and planning for the needs of children,
  - (iii) having regard to the long term and cumulative effects of its decisions,
  - (iv) allowing the Council to act as an effective custodian and trustee of public assets by allowing the Council to effectively account for and manage the assets for which it is responsible,
  - (v) raising funds for local purposes by requiring the payment of monetary contributions by the parties that create the need by for infrastructure and services, and thus easing the financial burden on the community at large, and
  - (vi) keeping the local community and the State government (and through it, the wider community) informed about its activities.

***All Planning Authorities – Whether the Deed of Variation Conforms with the Authority's Capital Works Program***

The Deed of Variation requires that specified works be carried out by the Developer for the purposes of providing public facilities, particularly recreation facilities.

These works are not included in the Council's relevant current capital works program. It is noted that the developer will make a financial contribution toward the construction of recreation facilities at the Narellan Sports Hub site. This monetary contribution will part fund the works on this site, which Council will undertake in accordance with its capital works program.

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

This Deed of Variation does not specify that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued. However, the Planning Agreement does specify such requirements.

# ORDINARY COUNCIL

ORD06

ORD06

**SUBJECT: EXPRESSION OF INTEREST TO LEASE COUNCIL PROPERTIES**  
**FROM:** Director Customer & Corporate Services  
**TRIM #:** 15/280730

## PURPOSE OF REPORT

This report provides details of submissions received to lease various Council properties listed below, and notes that Council officers will enter into lease negotiations with the entities identified in the report, or alternatively, identify a preferred tenant and require officers to carry out further investigations into the selected proposal following Council's decision as to their preferred tenants.

## BACKGROUND

As a consequence of Council relocating its administration operations to Oran Park in 2016, a number of building assets will no longer be required for Council's use.

These buildings are:

- Council Administration Building – 19 Queen Street, Narellan
- Council Parks & Gardens Depot – 15 Elyard Street Narellan
- Former SES Building – 27 John Street, Camden
- Council Administration Building – 37 John Street, Camden
- Macaria – 37 John Street, Camden

It is anticipated that all of the above sites will be vacated by July/August 2016, with the exception of the Parks & Gardens Depot which will be vacated in early 2016.

Council sought quotations from commercial real estate agents to undertake a campaign to seek expressions of interest from parties wishing to lease the properties.

Combined Commercial Real Estate Narellan was subsequently engaged by Council to undertake the project. Council was also assisted by Mr Steve Eccleston with respect to expert valuation advice.

The marketing campaign ran from 5 August 2015 to 14 October 2015. 55 inspections were conducted during the campaign period, comprising of the following:

<b>Building</b>	<b>No. of inspections</b>
Council Administration Building – 19 Queen Street, Narellan	14
Council Parks & Gardens Depot – 15 Elyard Street Narellan	4
Former SES Building – 27 John Street, Camden	10
Council Administration Building – 37 John Street, Camden	16
Macaria – 37 John Street, Camden	11

The marketing comprised of signboards, on-line marketing, brochures, magazines and newspaper advertising (local & Sydney).

A briefing was provided to Council on 1 December 2015.

## MAIN REPORT

### Expressions of Interest

Applicants were asked to submit expressions of interest outlining their proposed use and terms. A total of 26 submissions were received as follows:

Administration Building Narellan	6
Parks & Garden Depot	2
Former SES Building	8
Administration Building Camden	5
Macaria	5

Expressions of interest were received from the following companies/organisations listed in alphabetical order together with a brief description of their proposal.

#### Council Administration Building – 19 Queen Street, Narellan

Dickinson Group	Serviced offices
Icon Visual Marketing	Marketing Services Agency, including design, digital, web and print production.
Living Hope Church Inc.	Local church with associated administration and programs
Primary Health Care Limited	Large medical centre and small on-site pharmacy
Sector Connect Inc.	Provide shopfront for Volunteering Macarthur's services
Stramit Buildings Pty Ltd	Head Office for Stramit Building Solutions (5 Business Units)

#### Council Parks & Gardens Depot – 15 Elyard Street Narellan

Michelle Panadjik	Sales office and display buildings. Supply & erect Colourbond Sheds. Buildings delivered direct to sites. Storage of building materials.
Samkev Investments Pty Ltd.	Childcare Centre

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Former SES Building – 27 John Street, Camden

Brimeehol Pty Ltd	Supplementary Education Centre (Education programs for local students K-6)
Camden Early Learning Centre	Child Care Centre
Interchange Australia	Office and Day Programs for people with a disability to facilitate the acquisition of living and learning skills both in the community and a centre based environment.
Leaping Learners	Child Care Centre
Macarthur Disability Services Ltd	Disability support services and resource centre
Mother Hubbard's Cupboard	Opportunity shop run by volunteers
Sector Connect Inc.	Provide shopfront for Volunteering Macarthur's services
Samkev Investments	Child Care Centre

Council Administration Building – 37 John Street, Camden

BGNH Securities Pty Ltd	Multi Disciplinary Medical Centre & Associated Services. To operate extended hours 7 days
C3 Church	Church services and a wide variety of other programs including counselling, administration, community services and training courses. Also propose to operate an area as an "Innovation Hub" during business hours.
Mother Hubbard's Cupboard	Opportunity shop run by volunteers
Sector Connect Incorporated	Provide shopfront for Volunteering Macarthur's services

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Macaria – 37 John Street, Camden

Alan Baker Art Gallery	Alan Baker Gallery
Goodfield Event Pty Ltd	Bake House (Breakfast & patisserie) fresh Bread (Bakery) French Cakes and Café (fresh produce)
Henry T	Café - Coffee shop showcasing local produce.
Roasters & Brewers	Speciality Coffee & Roastery
Sector Connect Incorporated	Provide shopfront for Volunteering Macarthur's services

Copies of all submissions are provided in **Supporting Documents**. Please note that this information is Commercial in Confidence.

**Assessment of submissions**

An assessment evaluation panel was established and the submissions were assessed on rent and non-rent factors as agreed by the evaluation panel. Rent was given a weighting of 45% and non-rent factors a weighting of 55%, with the exception of Macaria which was given a rent rating of 20% and non-rent weighting of 80%.

Non-rent factors considered for this project included:

- Suitability of tenant to building;
- Economic and/or community benefit;
- Proposed terms; and
- Completeness of proposal.

**Preferred Tenants**

Using the above assessment evaluation the panel members all agreed on the following applicants being the most competitive in terms of rental income and meeting the non-rent factors and are recommended as preferred tenants.

Council Administration Building – 19 Queen Street, Narellan

Primary Health Care Limited.

Council Parks & Gardens Depot – 15 Elyard Street Narellan

Michelle Panadjik.

Former SES Building – 27 John Street, Camden

Macarthur Disability Services Ltd.

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Council Administration Building – 37 John, Street

BGNH Securities Pty Ltd.

Macaria – 37 John Street, Camden

Given the special nature of the Macaria building and the need to maximise community access to and use of that site, officers believe the matter should be determined by Council. In view of this, officers propose to further investigate the submission lodged on behalf of the Alan Baker Art Gallery and report further to Council on this proposal.

**Applications Requiring Development Consent**

A number of the preferred tenants will be subject to development consent. Council's endorsement will be used to provide owner's consent to the relevant applications to enable them to be lodged for determination.

**Probity Plan**

A Probity Plan was prepared with the assistance of Sparke Helmore solicitors for the leasing process. Provision has been made in the Plan to ensure that Council staff have clear guidelines for dealing with development applications. These are outlined in the following sub-clauses of the Plan:

*Clause 5.5 (c) That any negotiations for the lease of the five sites and any possible development application assessment process be clearly separated and documented to remove any potential probity issues; and*

*Clause 5.5 (d) That the segregation of responsibilities and reporting requirements occur to ensure separation between Council and the proposed tenant and between the Council officers with responsibility for the leasing negotiations and those with responsibility for assessing any Development Application.*

No staff from the Development Branch, including the Director of Planning and Environmental Services, have be involved with the leasing negotiations.

All DA's will be externally assessed. Any pre-DA meetings will also be conducted by the external assessor.

**Lease Negotiations**

Negotiations will start following Council's endorsement of the preferred tenants. Finalised lease negotiations will be reported to Council for formal approval.

**FINANCIAL IMPLICATIONS**

Council has sufficient funds allocated in the 2015/16 budget to cover legal and valuation costs associated with the leasing of these properties. The agent's negotiation fee is an industry standard of one month's rental. This fee will be offset against the first year's rental income and an appropriate budget adjustment made once Council has determined the leasing arrangements. In the event that all properties are negotiated with a rent free period in the first year the agents fee will be funded at the next available quarterly budget review.

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## **CONCLUSION**

Council has undertaken an extensive advertising campaign seeking expressions of interest to lease the 5 properties listed above. 26 submissions were received and from those the *preferred tenants* selected for the sites other than Macaria represent best value to not only the Council but also the community. Council staff will now enter into lease negotiations with these preferred tenants.

Council officers will conduct further investigations into the preferred use of the Macaria site and report back to Council on this aspect.

## **RECOMMENDED**

**That Council:**

- i. agree in principle to the preferred tenants listed above in order of ranking priority;**
- ii. Note that further investigations will be carried out into the preferred use of the Macaria site for the Art Gallery proposal set out above;**
- iii. note that officers will enter into lease negotiations with the preferred tenants listed above; and**

## ATTACHMENTS

1. EOI Supp Doc Council Admin Building 19 Queen St Narellan reduced - *Supporting Document*
2. Supp Doc EOI Council Admin Camden 37 John St - *Supporting Document*
3. Supp Doc EOI Council Parks & Gardens Depot 15 Elyard St - *Supporting Document*
4. EOI Supp Doc Former SES Bulding 27 John Street Camden reduced file - *Supporting Document*
5. Supp Doc EOI Macaria 37 John St Camden - *Supporting Document*

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## ORDINARY COUNCIL

ORD07

ORD07

**SUBJECT: DELEGATIONS TO THE MAYOR - CHRISTMAS/NEW YEAR PERIOD**  
**FROM:** Director Customer & Corporate Services  
**TRIM #:** 15/324973

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Council will be in recess from 9 December 2015 until Tuesday 9 February 2016 („the recess period“). During the recess period, it may be necessary to approve development applications or other urgent matters requiring a decision which may not fall within the sub-delegations granted to staff, for example, development applications of a contentious nature or where objections have been received.

The *Local Government Act 1993* („the Act“) allows Council to delegate functions and in addition, authority is also provided to the Mayor under section 226 of the Act, to exercise functions between meetings. It is Council’s normal practice, to delegate authority to the Mayor during the recess period to approve development applications and matters of a critical nature. In this way, authority is provided to exercise the development approval function and allow Council to fulfil its statutory obligations between meetings.

This delegation would only be exercised in matters of urgency. In the event of an issue of significant magnitude and impact arising, a special Council Meeting will be convened.

A report outlining any exercise of this delegation will be provided to the Ordinary Council Meeting of 9 February 2016.

### **RECOMMENDED**

#### **That Council:**

- i. delegate authority to the Mayor and Deputy Mayor (in the absence of the Mayor) for the approval of development applications and cases of necessity, during the period 9 December 2015 to 9 February 2016 as provided under sections 226 and 377 of the *Local Government Act 1993*, and**
- ii. be informed as to the use of such delegated authority by report to the Ordinary Council Meeting of 9 February 2016.**

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## ORDINARY COUNCIL

ORD08

**SUBJECT: RMS ACQUISITION OF COUNCIL OWNED LAND**  
**FROM:** Director Customer & Corporate Services  
**TRIM #:** 15/327768

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's approval for Roads and Maritime Services („RMS“) to acquire Council owned land to facilitate the future upgrade of Bringelly Road in conjunction with the development of the South West Growth Centre.

### BACKGROUND

RMS seek Council consent to the proposed compulsory acquisition of Council owned land under the provisions of the *Land Acquisition (Just Terms) Compensation Act 1991* („the Act“). The land to be acquired is located at:

- 885 Bringelly Road, Bringelly (part Lot 30, Section 12, DP 2650) („Site 1“); and
- 685 Bringelly Road, Rossmore (part Lot 1, DP 204127) („Site 2“).

Location plans are **attached**.

### MAIN REPORT

Both parcels of land are classified as community land and in accordance with section 177 of the *Roads Act 1993* („Roads Act“), RMS may acquire land:

- that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument, or
- that forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired for the purpose of opening, widening or constructing a road or road work.

The land in question has been designated for the purpose of road widening for the future upgrade of the South West Growth Centre and is a Federally funded project.

Under the Act, the land may be acquired either by mutual agreement or compulsory acquisition. The RMS, being a State Government Department, is unable to negotiate the acquisition of land by mutual agreement and, by virtue of their own internal policy, is required to go through the compulsory acquisition process. The compulsory acquisition process can be conducted with or without agreement.

In order to assist securing early entry to the land RMS has requested that Council consent to the acquisition of the land by the compulsory acquisition process and agree to accept compensation in the amount as determined by the Valuer General. By agreeing to the acquisition, the process as set out by the Act is much quicker than acquisition without agreement.

### **Calculation of compensation**

The compensation payable is determined by the Valuer General for compulsory acquisitions with or without agreement pursuant to the provisions of the Act. The key distinction with acquisitions by agreement is that if Council consents to the compulsory acquisition process by agreement, Council will waive its entitlement to lodge an appeal

in the Land and Environment Court with respect to the amount of compensation determined by the Valuer General. It is noted, however, that when calculating value, the Valuer General will value the land based upon market value taking into account recent sales evidence, land area and type, zoning and improvements, etc.

The benefit of Council consenting to the acquisition process is that the process is less time consuming and onerous on both parties.

The timing of settlement is currently unknown. It will depend upon:

1. the Valuer General carrying out a valuation; and
2. RMS obtaining Ministerial approval for the acquisition (post this report).

#### **Site 1 - Lot 30, Section 12, DP 2650 - 885 Bringelly Road, Bringelly**

The area of land located at 885 Bringelly Road, Bringelly, to be acquired is approximately 1,170m<sup>2</sup> and consists of vacant land that would have minimal use due to access issues associated with vegetation and drainage. The proposed acquisition will have no adverse impact on the land or on Council's interests therein.

#### **Site 2 - Lot 1 DP 204127 - 685 Bringelly Road, Rossmore**

This parcel of land is located on the corner of Bringelly and Allenby Roads, Rossmore (Rossmore Reserve). An area of approximately 3,400m<sup>2</sup> is proposed to be acquired.

Whilst there will be no adverse impact on the land as a result of the proposed acquisition, the land:

- is a key location of interest for Council's Tree Planting Committee;
- is seasonally hired to a Pony Club; and
- has recently had its fencing replaced.

RMS will be required to consult with the Pony Club and the Tree Planting Committee during the construction phase.

RMS has met with Council Officers and provided landscape design plans for the replacement of fencing and replanting of the land. Council officers are satisfied with these plans.

### **FINANCIAL IMPLICATIONS**

Council will receive compensation in the amount determined by the Valuer General for the land to be acquired. Once the value of the compensation is known a debtor will be raised and the income brought to account in Council's budget at the next quarterly budget review.

### **CONCLUSION**

RMS has the power to acquire Sites 1 and 2 described above. RMS has requested that Council consent to the proposed acquisitions. If Council does not consent to the acquisition, the land will be acquired by RMS compulsorily in accordance with the Act and the amount of compensation payable to Council will still be determined by the Valuer General.

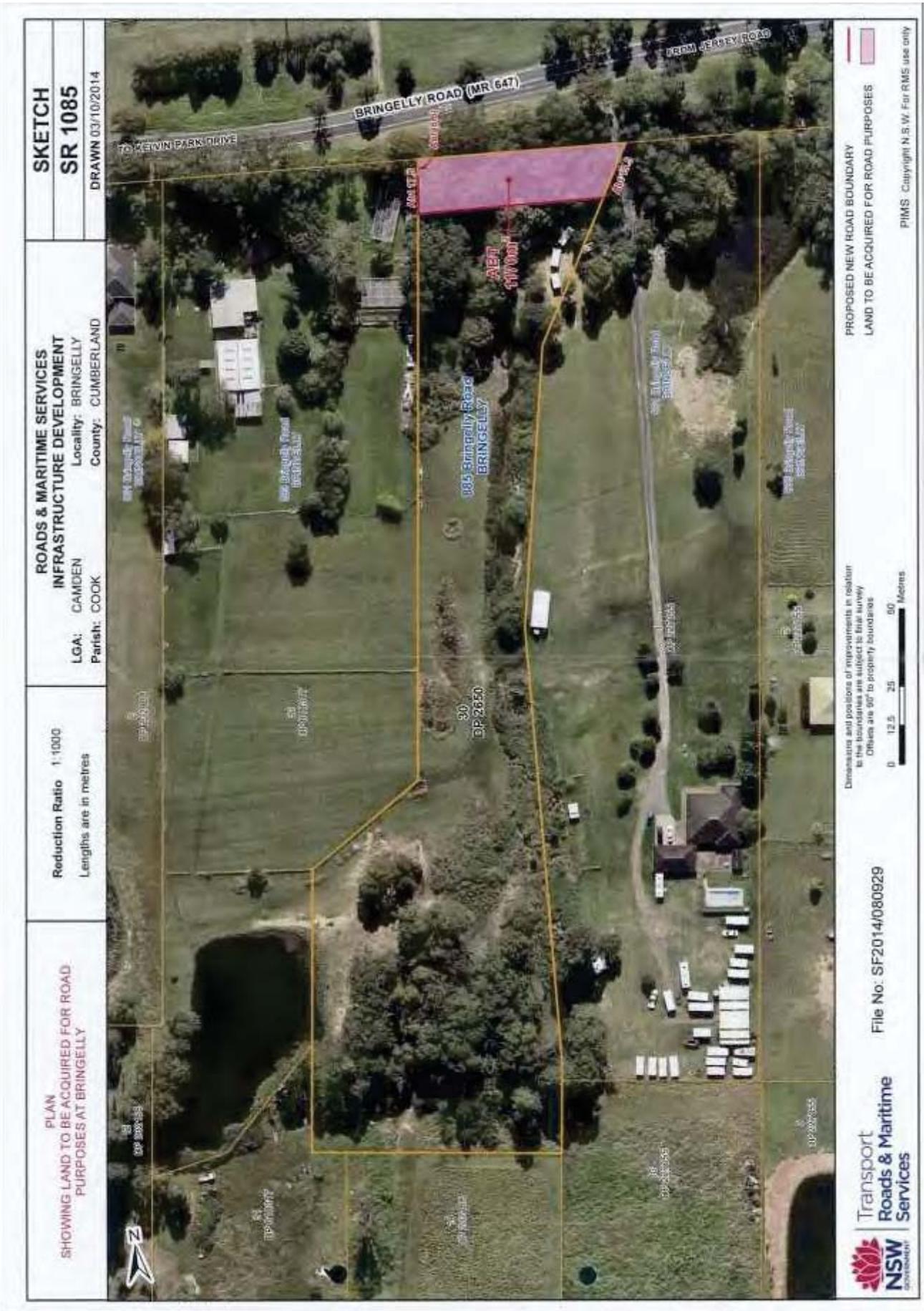
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**RECOMMENDED**

That Council agree to the compulsory acquisition of part Lot 30, Section 12, DP 2650 (885 Bringelly Road, Bringelly) and part Lot 1, DP 204127 (685 Bringelly Road, Rossmore) being the area highlighted in pink on the attached plans.

## ATTACHMENTS

1. Site 1
2. Site 2



Attachment 2

ORD08



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## ORDINARY COUNCIL

ORD09

ORD09

**SUBJECT: WESTERN SYDNEY AIRPORT - DRAFT AIRPORT PLAN AND DRAFT ENVIRONMENTAL IMPACT STATEMENT**

**FROM:** Acting Director Community Infrastructure

**TRIM #:** 15/311425

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### PURPOSE OF REPORT

To advise Council of the Australian Government's public exhibition of a Draft Airport Plan (draft Airport Plan) and Draft Environmental Impact Statement (draft EIS), for a Western Sydney Airport to be located at Badgerys Creek, and seek Council's endorsement of a submission prepared in response to the draft Airport Plan and draft EIS.

### BACKGROUND

On 15 April 2014 the Australian Government announced that Badgerys Creek would be the location of a new airport for Western Sydney. This decision was based on the findings of a number of comprehensive studies completed over the last 40 years including an EIS prepared in 1985, 1997-1999, the *2012 Joint Study on Aviation Capacity in the Sydney Region (Joint Study)* and the *2014 Study of Wilton and RAAF Base Richmond for civil aviation operations (Wilton and Richmond Study)*.

At its ordinary meeting of 23 March 1998, Council considered a report on a submission prepared in response to a previous draft EIS for the airport at Badgerys Creek. The resolution of this matter was as follows:

*That Council adopt the "Review of the Draft EIS, Badgerys Creek Airport Proposal" as its submission to Environment Australia, in objecting to the proposed Second Sydney Airport".*

Council's submission noted the Badgerys Creek proposal as lacking, with unacceptable consequences in a wide range of economic, environmental and community health areas for Western Sydney and South-Western Sydney, and in particular Camden. Similar resolutions opposing the airport at Badgerys Creek were made by Council, on the following dates:

- 28 October 1996;
- 9 December 1996;
- 13 December 1999.

At its ordinary meeting of 24 July 2012, Council considered a report recommending endorsement of a position paper in opposition to any second airport in the Sydney Basin, particularly at Wilton and Badgerys Creek. The resolution of this matter was as follows:

- endorse the draft Position Paper to oppose any second airport in the Sydney basin, particularly at Wilton or Badgerys Creek; and*

- ii. *defer consideration of any direct financial contribution to the broader campaign until after the Federal Government's „scoping study“ is completed.*

A copy of the 2012 position paper is provided as **Attachment 1** to this report.

While the Badgerys Creek site has been subject to extensive environmental assessment in the past, the Australian Government identified a need for accurate and up-to-date information on the environmental and social issues of the proposed airport and to provide opportunities for public consultation. The updated draft EIS is intended to facilitate the necessary environmental approvals to commence construction and operation of a second Sydney airport at Badgerys Creek Stage 1, planned to be operational by the mid-2020's.

At its ordinary meeting of 9 June 2015, Council considered a report on a proposal for Western and South-Western Sydney Councils" to jointly contribute funds to obtain an independent analysis (peer review) of the draft EIS. Council subsequently resolved to participate in the joint peer review of the draft EIS, providing Council with a cost effective opportunity in assessing the environmental impacts of the Western Sydney Airport on the Camden Local Government Area.

On 19 October 2015 a new draft Airport Plan and draft EIS for the Western Sydney Airport was released for public exhibition. It includes assessments on noise, air quality, transport, heritage, water quality, ecology, local and regional economy, social impacts, property values and other aspects. A number of specialist studies and site investigations have been undertaken, with the draft Airport Plan and draft EIS presenting detailed analysis of the data from these studies.

Subsequent to the EIS release, the independent peer review has also been completed, informing Council's submission in response to the draft Airport Plan and draft EIS.

It is important to note that as part of an approval process for the Western Sydney Airport, the currently exhibited draft Airport Plan and draft EIS represents Council's only opportunity to comment on the proposed development and its associated impacts. Any future consultation or opportunity for Council to comment would not likely occur until such time as an airport operator is confirmed, and a finalised airport masterplan is subsequently exhibited.

Following is an overview of the Western Sydney Airport project, and the key issues identified through the independent peer review of the draft Airport Plan and draft EIS that form part of Council's submission.

### **MAIN REPORT**

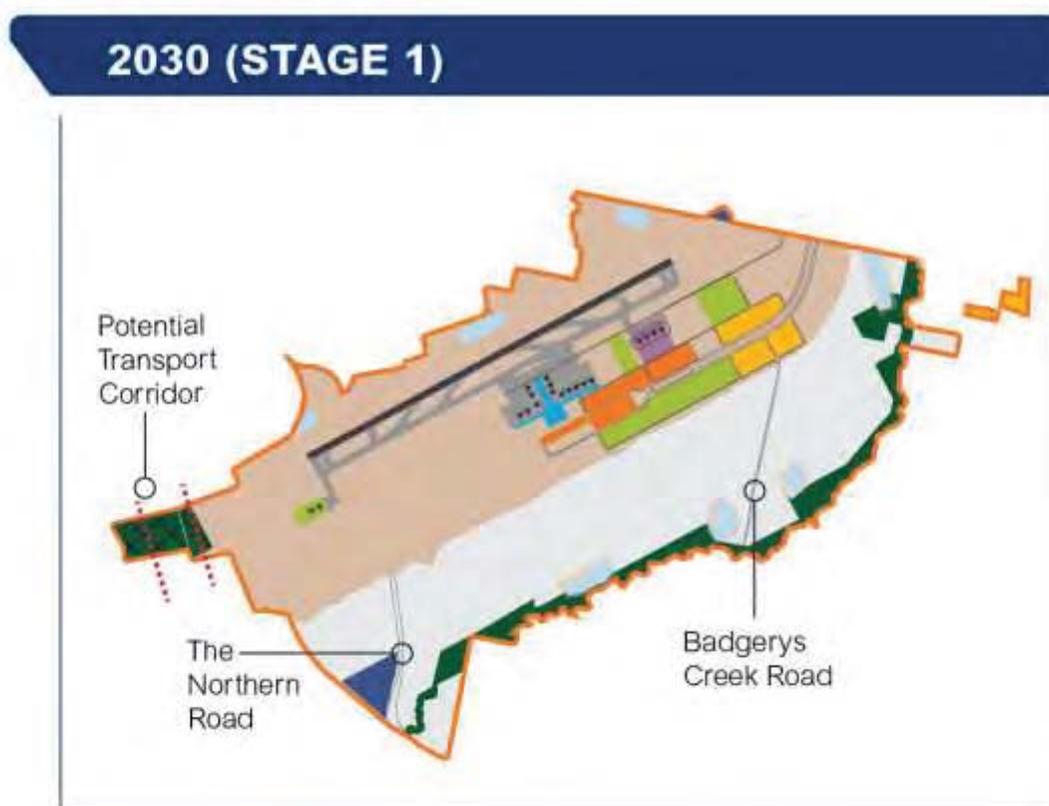
An airport for Western Sydney is intended to facilitate economic growth and provide an additional connection to global markets/destinations, capitalising on the opportunities presented through an increasing demand internationally for Australian made products and services. In support of developing a Western Sydney Airport, to date the Australian Government have noted the following achievements:

- Commenced a \$3.6 billion roads package via the „Western Sydney Infrastructure Plan“;
- Preparation of a draft Airport Plan, providing a strategic vision of the airport development;
- Preparation of a draft Environmental Impact Statement;

- Declaration of the Badgerys Creek site under the *Airports Act 1996*.

It is anticipated the proposed Western Sydney Airport will create thousands of jobs in Western Sydney, driving employment and economic activity in the business, manufacturing, tourism, logistics, education and research sectors.

Expected to be operational by the mid-2020's, the proposed airport would service international, domestic and some freight aircraft, operating 24 hours a day, 7 days a week. The airport would initially have a single runway and a terminal to accommodate up to 10 million passengers a year. Following is an indicative airport layout for Stage 1 development (2030) as prepared by the Australian Government:



At a recent briefing session the Australian Government identified a shift in community opinion over the life of the Western Sydney Airport project at Badgerys Creek. Through extensive consultation, including approximately 4,000 community members, 7,500 households and 1,000 attendees at information sessions, it was found community attitude as surveyed indicates:

- 50% or more believe positives of the airport outweigh the negatives;
- 63% believe there is a need for an airport in Western Sydney;
- 56% are excited about the prospect of an airport in Western Sydney;
- 52% welcome the economic potential of the airport;
- 63% believe the airport will create thousands of jobs.

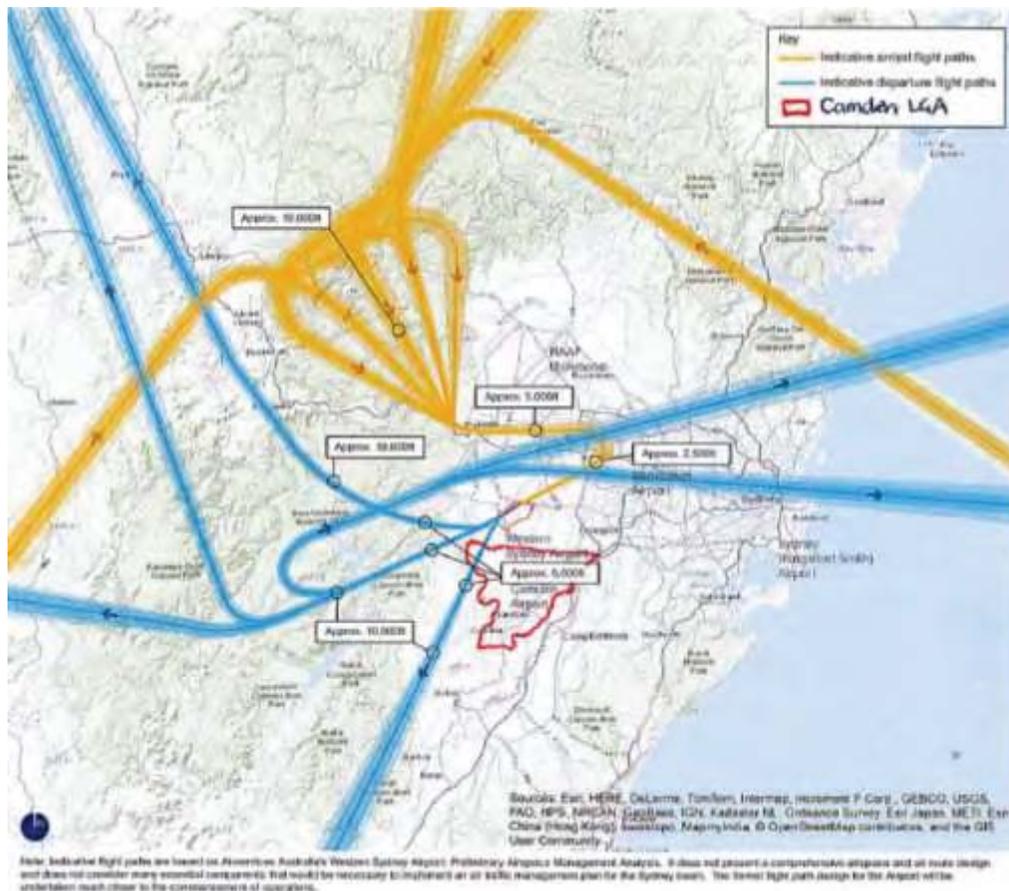
Notwithstanding this analysis, historically there has been strong opposition from the community to the construction of a second major airport within the Sydney Basin, including the proposed Badgerys Creek site. Council's longstanding policy position of opposition to the proposed airport has reflected this community sentiment.

Council is presented with a unique challenge in responding to the Australian Government’s draft Airport Plan and draft EIS. While the proposed airport will certainly impact Camden’s current population of approximately 70,000 residents, Council’s submission must give due consideration to the future population; projected to be upwards of 250,000 residents at a time when the proposed airport is fully developed. In this regard, Council’s submission in response to the draft Airport Plan and draft EIS, provided as **Attachment 2** to this report, seeks to represent the interests of both our current and future communities, summarised in the following key issues.

Based on the overall analysis conducted in the peer review, a recurring theme throughout is one that preparation of the draft Airport Plan and draft EIS was „rushed“; that being, it is clearly evident there are occurrences of information gaps, as well as factual, typographical and editing errors. This point of concern highlights the potential lack of accurate information on which Council has relied in identifying the key issues impacting on the Camden Local Government Area.

Aircraft Flight Paths (Noise)

The issue of aircraft noise has been one of the most significant drivers of community concern over many years. The absence of defined flight paths and other airspace management strategies for the proposed airport is of significant concern. This means the draft EIS is predicated on flight path alignments that may be significantly different compared to when the proposed airport is operational, subject to decisions made by the future airport operator and Air Services Australia.



The absence of definitive flight paths in the draft EIS means there is no assessment of the scale or severity of community annoyance resulting from aircraft noise. In this regard, given uncertainties concerning the final form of the airspace design, the extent of noise mitigation measures is not adequately determined.

It is noted that the draft EIS states a study undertaken by the Bureau of Meteorology, indicates the most significant weather aspect of the airport site is likely to be the occurrence of fog. This is a key point of concern, as the draft EIS states the development of fog overnight in the western Sydney Basin is possible during all months of the year (and for extended periods of time during winter). Notwithstanding the advent of systems such as „Runway Visual Range“ and „Instrument Landing Systems“ to land modern aircraft in such conditions, a robust assessment is required in „Appendices H - Hazard and Risk“ of the draft EIS relative to the issue of fog.

### Air Quality & Human Health

Along with the issue of aircraft noise, air quality resulting from a second major airport within the Sydney Basin has long been a key point of concern for Council. As the exhibited draft EIS does not adequately respond to the guidelines, the following statement raised in Council’s 1998 EIS submission to the Australian Government, still holds true:

*“The construction of a major international airport at Badgerys Creek would impose dangerously high incremental burdens of critical air pollutants on an already stressed environment. A major airport development would „lock in“ long term....pollutants from both air and ground transport sources”.*

The outcome of poor air quality, resulting from the proposed airport, will ultimately adversely impact on human health, that being; the community that Council represents. Findings from the draft EIS should be presented in a way that helps to communicate the scale of the population affected by issues such as air quality, and other significant issues, so that a quantitative and qualitative assessment of the combined impacts to our community may be determined.

### Traffic & Transport

The issue of transport remains a prominent point of concern for South-Western Sydney, both now and into the future. Notwithstanding the commitment demonstrated to this issue through the Governments „Western Sydney Infrastructure Plan“, lack of detailed analysis on the impacts of the proposed airport demonstrated through limited modeling data in the draft EIS, is of significant concern.

Early provision of rail access to the proposed airport site is essential to facilitate sustainable outcomes for the local and regional transport networks. It is important to note that post-exhibition of the draft Airport Plan and draft EIS, the Australian Government announced a 12 month scoping study into the future provision of a rail connection to the proposed airport site. It is strongly recommended that the outcomes of this study are integrated with those of a revised and amended draft EIS, with both technical documents concurrently re-exhibited thereafter.

It also remains Council’s position that rail services should at least include the rail line extension to Narellan, and further to the Main Southern Rail Line to service the recently announced „Greater Macarthur Land Release Investigation Area“.

### Environment (Biodiversity)

As in assessing the various other parts of the draft airport plan and draft EIS, with regard to biodiversity there is cause for concern as to the lack of non-compliance in some areas relative to the EIS guidelines. In particular there appears an underestimation of the range of mitigation and management measures required to account for threatened biodiversity in the longer-term development area (including future location of biodiversity offsets), nor what implications any of the stage 1 management measures might have.

In this regard, it is recommended there be a review of current listings of threatened species, populations and communities prior to any construction of the proposed airport. Furthermore, a review of the current biodiversity legislation, assessment and offsetting requirements would also be appropriate, prior to construction of the longer-term development.

### Economic & Employment

The draft EIS notes a number of economic benefits resulting from the proposed airport, however the extent of these benefits are not adequately quantified. While the projection for jobs growth is speculated to be in the thousands, it is not clear as to what type of employment opportunities this represents, nor the cumulative impact as a consequence of adjacent employment areas.

While it is anticipated the proposed airport will be a catalyst for business growth in South-Western Sydney, the draft EIS does not adequately respond to the way in which future business centres (i.e. Bringelly Enterprise Corridor, Western Sydney Employment Area, Leppington Major Centre etc.) will operate relative to each other.

Given the magnitude of the proposed airport development, it is noted that indirect financial implications for Council are likely to occur, consistent with the other infrastructure projects of this scale. As an example, Council has already benefited from funding for the Argyle Street project via the Western Sydney Infrastructure Plan. Any future indirect financial implications require further analysis pursuant to a finalised Airport Plan and EIS, which is inclusive of accurate and reliable information.

### Lack of Mitigation Measures

There is an apparent need for the development of a robust mitigation package as part of a draft Airport Plan and draft EIS review, to address identified impacts. Gaps in the draft EIS in a number of areas, such as evaluating the cumulative impacts of ground noise, pollution loads and population growth, reflects the case that proposed impacts are not clearly identified, nor appropriate mitigation responses to those impacts.

## **FINANCIAL IMPLICATIONS**

There are no anticipated direct financial implications for Council, associated with the proposed Western Sydney Airport.

## **CONCLUSION**

The Australian Government's proposed Western Sydney Airport project has the potential to transform South-Western Sydney, including the Camden Local Government

Area, bringing with it a range of facilities, services, employment and other opportunities for the community.

Council has a longstanding policy position of opposition to the construction of a second major airport within the Sydney Basin, including the proposed Badgerys Creek site. Notwithstanding Council's position, the submission drafted in response to the draft Airport Plan and draft EIS acknowledges the intent of the proposed airport, and seeks to articulate objective commentary based on the independent peer review reports.

The proposed Western Sydney Airport represents a „once in a generation“ project, that will in part define South-Western Sydney, including parts of the Camden Local Government Area. In this regard, it is important to ensure that there is a robust mitigation package to address identified impacts. The weakness of the draft EIS in a number of areas does not clearly identify the proposed impacts and/or action to address these impacts.

### **RECOMMENDED**

#### **That Council:**

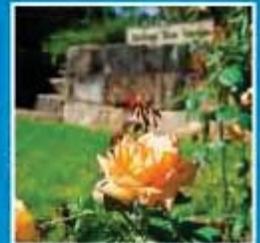
- i. approve the submission attached to this report, in response to the Western Sydney Airport – draft Airport Plan and draft Environmental Impact Statement;**
- ii. lodge a submission with the Australian Government in response to the public exhibition for the stakeholder consultation for the Western Sydney Airport – draft Airport Plan and draft Environmental Impact Statement;**
- iii. forward copies of Council's final submission to the State Member for Camden, Mr Chris Patterson, and the Federal Member for Macarthur, Mr Russell Matheson, for information and support for Council; and**
- iv. continue to engage with the Australian Government on the implications and responses to the draft Airport Plan and draft Environmental Impact Statement public exhibition.**

#### **ATTACHMENTS**

1. Camden Council - Position Paper on Second Sydney Airport (2012)
2. DRAFT Camden Council Submission - draft Airport Plan and draft Environmental Impact Statement

ORD09

Attachment 1



# Camden Council

Position Paper on the Proposed Second Sydney  
Airport at Wilton

July 2012



[www.camden.nsw.gov.au](http://www.camden.nsw.gov.au)



## Background

Camden Council has a longstanding policy position of opposition to the construction of a second major airport within the Sydney Basin, and was an active member of the Western Sydney Alliance opposing the previously proposed Badgerys Creek airport.

That campaign was successfully won during 1997 to 1999 when the Federal Government ruled out an airport for Badgerys Creek. Earlier campaigns against sites at Holsworthy and Wilton were also considered by Council at the time to have unacceptable social, environmental and economic impacts on Camden residents. As a result, Council opposed any second airport within the Sydney Basin.

The Joint Study for the Aviation Strategic Plan was announced on 16 December 2009 by the Hon Anthony Albanese MP, the Minister for Infrastructure and Transport as part of the launch of the National Aviation Policy White Paper.

Overseen by an independent Steering Committee of Government and industry experts, the Joint Study considered the short, medium and long-term aviation infrastructure and supporting surface transport requirements of the Sydney region, and identified strategies and locations to meet future needs. It also considered options for the use of Commonwealth-owned land at Badgerys Creek.

The Joint Study provided a series of key findings and directions including:

- From around 2030, an additional airport will be needed to supplement the capacity of Sydney (Kingsford-Smith) Airport.
- The Badgerys Creek site, which was acquired by the Commonwealth between 1986 and 1991 for a future airport, is the best site for an additional major airport.
- If Badgerys Creek is not ruled out, work should begin immediately to update the Environmental Impact Statement, and to plan towards the development of the first stage of the airport (single runway).
- If Badgerys Creek is ruled out, Wilton is the next best site and processes should be put in train to secure the site and undertake the full environmental assessment and airport planning processes required to protect and prepare the site for future development.

The Australian and NSW Governments were presented with the report of the Joint Study on Friday 2 March 2012. Following the release, Federal Transport Minister Albanese nominally rejected the Badgerys Creek site on the grounds of past undertakings, and indicated that evaluation of the Wilton site would be commenced.

## Council's Current Position and Campaign

Council's current position remains actively opposed to the construction of any second major airport in the Sydney Basin, including Badgerys Creek and the latest proposal to evaluate Wilton for a potential airport site.

ORD09

Attachment 1



Camden Council has joined Campbelltown and Wollondilly Councils, along with MACROC, to launch a campaign to oppose the construction of an airport at Wilton.

There is no doubt that Sydney's future aviation and airport needs require adequate consideration and planning. However, investigations into the need for a second major airport in the Sydney Basin need to be examined holistically in the context of Sydney's overall transport needs (including its existing problems and potential solutions), and not in isolation.

A combination of alternatives to an airport at Wilton (as discussed later in this Paper) would help alleviate the surface transport congestion problems currently occurring in Sydney, without the imposition of a major airport on an existing community that has not been built to cope with the environmental impacts of a major airport.

## Policy Issues

### ***Lack of Coordination and Integration***

All relevant Federal & State studies must be fully coordinated and integrated. There are currently 3 major transport planning and policy processes being undertaken, including:

- Joint Study on Aviation Capacity for the Sydney Region, released in March 2012;
- The Australian Government's East Coast High Speed Train Implementation Study, currently in progress; and
- The NSW Long Term Transport Master Plan, to be developed over the coming twelve month period.

No sensible decision on a second major airport for Sydney is possible until the above studies are complete and all the results are known and made publicly available.

### ***Conflict between Federal and State Planning Policies***

A conflict exists between policies of Federal and State levels of Government.

Federal transport studies identify a real need to address Sydney's congestion problems and suggest that a second major airport at Wilton may be appropriate (subject to further detailed studies).

However, in contrast, the State Government is encouraging a significant amount of residential investment and development in the South West Growth Centre area and the future Macarthur South Release Area for the provision of much needed housing. Camden's population is predicted to increase dramatically from 57,000 to approximately 250,000 due to its inclusion in the South West Growth Centre area.



Policies such as State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the State Government's recent collaborations with private land holders for releases of private land for residential subdivision will result in direct conflict with any future airport in Wilton. Issues such as noise, air and water pollution, as well as increased traffic (both private and public) associated with a major airport will have direct impacts on the aims and objectives of the State's strategic plans for residential development.

An airport at Wilton would prejudice the potential supply of cost effective and amenable housing to current and future generations.

## Environmental Issues

### ***Water Quality***

The development of a second major Sydney airport at Wilton would pose a serious threat to the long term quality and integrity of Sydney's drinking water supply, as potential airport sites in Wilton are located in sensitive catchments that serve three of Sydney's most important water storage reservoir systems, being:

- Warragamba Dam;
- Upper Nepean dams; and
- Prospect Dam.

A future airport in Wilton would increase the risks associated with fuel storage and handling in the area (such as leaks and spills), threatening underground water systems with contamination.

### ***Curfew and Noise***

A curfew free airport at Wilton (as proposed) will mean 24/7 noise impacts on surrounding communities, including residents of the Camden Local Government Area, due to flight paths.

In addition, as a major airport at Wilton has not been previously planned, there are no ANEF (noise impact) contours for Wilton, and buildings in the area have not been constructed to cope with the serious impacts of aircraft noise, including structural, health and amenity impacts.

### ***Air Quality in South Western Sydney***

The development of a major airport at Wilton would have a significant and unreasonable impact on air quality in South Western Sydney, due to not only aircraft

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Attachment 1



emissions, but also emissions from associated traffic and infrastructure ancillary to any airport facility.

Council's recent investigations into air quality (impacts of wood fired heaters) indicated that the geography and meteorology of the Sydney Basin results in the accumulation and concentration of air pollutants in southwest Sydney. Winter temperature inversions and calm wind conditions particularly exacerbate the air pollution experienced in southwest Sydney. A second major airport would further intensify the adverse health impacts caused from poor air quality on Sydney residents.

### ***Heritage, Ecology and Biodiversity***

The development and operation of a major airport at Wilton would threaten sensitive heritage sites, including a number of Aboriginal and cultural heritage items. In addition, the inevitable destruction of habitat associated with the construction of an airport would have impacts on vulnerable flora and fauna ecosystems (such as loss of koala populations).

## **Economic Issues**

The Joint Study on Aviation Capacity in the Sydney region indicated that an airport at Wilton is likely to fail in economic terms, with financial returns not even expected for approximately 20 years.

The distance of Wilton from the Sydney CBD (being approximately 80km) would result in significant transport costs, in addition to costs of duplicating infrastructure. All other options should therefore be considered fully before such economic costs are borne by Australian taxpayers.

## **Alternative Options**

There are a variety of more sensible and sustainable alternatives to a second Sydney airport at Wilton, including:

- Review of efficiency and optimisation of capacity and performance at Sydney's Kingsford Smith Airport;
- Enhanced use of Bankstown and Richmond airports, which have less environmental impacts;
- Provision of upgraded ground infrastructure (road and rail) to help alleviate existing transport congestion problems in Sydney;
- Planning for the implementation of a high speed rail system for the east coast of Australia, especially for high traffic routes such as Sydney/Melbourne, Sydney/Brisbane and Sydney/Canberra;



- Using new and proposed train links to connect existing airports such as Canberra and Newcastle.

A combination of all or any of the above alternatives to an airport at Wilton may help alleviate the surface transport congestion problems being experienced in Sydney and should be considered in a fully integrated approach.

## Summary

Camden Council has had a longstanding policy position of opposition to the construction of a second major airport within the Sydney Basin, and this position is upheld in light of the recent plans to develop a second major airport at Wilton.

Conflicts between Federal transport plans with strategic State policies (for transport and housing) need to be resolved. A more integrated approach to resolving Sydney's congestion is required.

Significant environmental and economic risks are associated with the proposal for a second major airport at Wilton. Such risks should not be overlooked and deserve adequate attention. Thorough investigations into a range of alternatives, and in particular the feasibility of a high speed rail link along the east coast of Australia, should be considered.

Camden Council looks forward to supporting the regional campaign against a second airport in the Sydney basin.

ORD09

Attachment 2



# Camden Council

Submission to Western Sydney Airport -  
draft Airport Plan and  
draft Environmental Impact Statement 2015





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## Executive Summary

The Australian Government's proposed Western Sydney Airport project has the potential to transform South-Western Sydney, including the Camden local government area, bringing with it a range of facilities, services, employment and other opportunities for the community.

Camden Council has a longstanding policy position of opposition to the construction of a second major airport within the Sydney Basin, including the proposed Badgerys Creek site. Notwithstanding Council's position, it is important to note the following submission acknowledges the intent of the proposed airport, and seeks to articulate objective commentary based on the conclusions of planning merit enshrined in the draft airport plan and draft Environmental Impact Statement (EIS). In this regard, given the scale of the project, Council is of the view that the draft airport plan and draft EIS warrant an exhibition period of more than the 60 days prescribed by the Australian Government.

Council is currently presented with a unique challenge, in responding to the draft airport plan and draft EIS. While the Camden local government area is currently a community of 70,000+ residents, upon opening of a proposed airport at Badgerys Creek in the mid-2020's our community is anticipated to be upwards of 150,000, with the potential for 250,000 residents once the proposed airport is fully developed. In this regard, Council's submission is considered in a context mindful of our future residents, whom have not yet arrived in the Camden area. It is both the current community, and the community of the future that Council seeks to effectively represent through the following submission, to ensure the Camden beyond 2040 reflects the vision of today.

Pursuant to this point, the issue of delivering effective and efficient integrated planning and transport infrastructure in South-West Sydney remains a considerable challenge for all tiers of government. Camden Council has identified a number of key issues regarding the proposed airport, highlighting points of concern, implications and recommendations for project outcomes. Council's submission is structured in response to issues pertinent to the Camden local government area identified in the Australian Government's draft airport plan and draft EIS.

Following is an overview of the key messages identified by Council. Of particular concern is the apparent urgency with which the draft airport plan and draft EIS was prepared. This is evident in the extent of information gaps that exist throughout various technical documents. Compounded by a rejected request to the Australian Government for access to data used in formulating the draft airport plan and draft EIS, Council strongly recommends that further work be undertaken before proceeding any further with the proposed development.

### Key Messages

#### Aircraft Flight Paths (Noise)

The absence of defined flight paths and other airspace management strategies for the proposed airport is of significant concern for Council. This means the draft EIS is predicated on flight path alignments that may be significantly different compared to



when the proposed airport is operational, subject to decisions made by the airport operator and Air Services Australia.

The absence of definitive flight paths in the draft EIS means there is no assessment of the scale or severity of community annoyance resulting from aircraft noise. In this regard, given uncertainties concerning the final form of the airspace design, the extent of noise mitigation measures is not adequately quantified.

### **Air Quality & Human Health**

Air quality resulting from a second major airport within the Sydney Basin has long been a key point of concern for Council. As the exhibited draft EIS does not adequately respond to the guidelines, the following statement raised in Council's 1998 EIS submission to the Australian Government, still holds true:

*"The construction of a major international airport at Badgerys Creek would impose dangerously high incremental burdens of critical air pollutants on an already stressed environment. A major airport development would 'lock in' long term....pollutants from both air and ground transport sources".*

The adverse outcome of poor air quality resulting from the proposed airport will ultimately impact on human health; the community that Council represents. Findings from the draft EIS should be presented in a way that helps to communicate the scale of the population affected by issues such as air quality, and other significant issues, so that a quantitative and qualitative assessment of the combined impacts to our community may be determined.

### **Traffic & Transport**

The issue of transport remains a prominent point of concern for South-Western Sydney, both now and into the future. Notwithstanding the commitment demonstrated to this issue through the Governments 'Western Sydney Infrastructure Plan', lack of detailed analysis on the impacts of the proposed airport demonstrated through limited modelling data in the draft EIS is of significant concern. Further work is needed in this area prior to the proposed airport development proceeding.

Council notes that post-exhibition of the draft airport plan and draft EIS, the Australian Government announced a 12 month scoping study into the future provision of a rail connection to the proposed airport site. It is strongly recommended that the outcomes of this study are integrated with those of a revised and amended EIS, with both technical documents concurrently re-exhibited thereafter.

As part of a strategic response to public transport connections in South-Western Sydney, Council advocates the position that rail services should include the rail line extension to Narellan, and further to the Main Southern Rail Line to service the recently announced 'Greater Macarthur Land Release Investigation Area'.

### **Environment (Biodiversity)**

As in assessing the various other parts of the draft airport plan and draft EIS, with regard to biodiversity Council is concerned as to the lack of non-compliance in some areas relative to the EIS guidelines. In particular there appears an underestimation of the



range of mitigation and management measures required to account for threatened biodiversity in the longer-term development area, nor what implications any of the stage 1 management measures might have.

In this regard, it is recommended there be a review of current listings of threatened species, populations and communities prior to any construction of the proposed airport. Furthermore, a review of the current biodiversity legislation, assessment and offsetting requirements would also be appropriate, prior to construction of the longer-term development.

### **Economic & Employment**

The draft EIS notes a number of economic benefits resulting from the proposed airport, however the extent of these benefits are not adequately quantified. While the projection for jobs growth is speculated to be in the thousands, it is not clear as to what type of employment opportunities this represents, nor the cumulative impact as a consequence of adjacent employment areas.

While it is anticipated the proposed airport will be a catalyst for business growth in South-Western Sydney, the draft EIS does not adequately respond to the way in which future business centres (i.e. Bringelly Enterprise Corridor, Western Sydney Employment Area, Leppington Major Centre etc.) will operate relative to each other. That being, will each of these enterprise sites be complimentary, competitive or conflicting?



## Draft Airport Plan (& Airspace)

### Key Issues for Council

- Need for a coordinated approach with the NSW Government to re-visit the South West Growth Centre Structure Plan in the context of the proposed airport, with a revised focus on integrated land use planning and transit orientated development.
- Important to re-visit the hierarchy of Centres identified in the South West Growth Centre Structure Plan.
- If population is a key element for identifying the need for a proposed airport in Western Sydney, it is crucial any EIS assessment is based on greater certainty of population projection and location.
- Potentially problematic issue of proposed higher density development in key centres, before supporting infrastructure is constructed (e.g. a rail line) to the proposed airport, resulting in dis-orderly rate of development and potentially adverse urban planning outcomes (whether temporary or permanent).
- The level of analysis and detail in the draft EIS does not reflect the level of significance of the expected impacts on the environment. Unknown variables and assumptions made in the assessment, such as future aircraft types, proposed staged runway development, technology implementation, assumed traffic projections require further, require more detailed analysis.
- Stage 1 of the proposed airport should be re-assessed using realistic (i.e. not conservative) projected passenger numbers.

### Implications & Opportunities

- The proposed airport project provides a significant opportunity as a catalyst for a targeted approach to integrated land use planning and transit orientated development. However, based on the existing South West Growth Centre Structure Plan, the project may potentially result in planning outcomes inconsistent with this approach.

For example, the existing 'Growth Centres Model' of achieving 15 dwellings per hectare may be considerably altered throughout parts of the Camden and Liverpool local government area, particularly in proximity to the proposed airport site (and any proposed future rail station locations connecting to the proposed airport site).

An additional element to this issue is the period of transition in time between when the proposed airport is constructed (and subsequently operational). It may be reasonable to expect that development will proceed in anticipation of future land use in proximity to the proposed airport, without key items of infrastructure committed to (e.g. rail line access to the proposed airport site). This is further



complicated by applying existing planning controls that may be inconsistent with future land use. The potential implications of this issue should warrant a concurrent review with the NSW Government of the South West Growth Centre Structure Plan.

- Further to the issue of reviewing the South West Growth Centre Structure Plan, a key element of this issue is the need to re-visit the hierarchy of Centres identified. For example, construction of a proposed airport may advocate the emergence of higher order Centres in the Camden local government area; conversely, there may be cause to reflect on the status of the Leppington Major Centre, given it is no longer situated as a pivotal origin/destination. These examples, combined with the other Centres that may soon benefit from the proposed airport, should warrant a concurrent review of the Centres hierarchy, and how they relate to each other.
- The issue of timing in delivery of the proposed airport is critical as to its potential impact on development, particularly for pre-empting re-zonings in the South West Growth Centre. For example, permitting higher density development in key centres before supporting infrastructure is delivered may be problematic (i.e. from low density to high density, in the absence of the necessary supporting transport infrastructure).

As part of a concept plan for delivery of the proposed airport, a strategy is required to determine how the orderly rate of development may be managed to mitigate any adverse urban planning outcomes resulting from this phenomenon, whether temporary or permanent. For example, residential areas in proximity to the proposed airport site to feature an option to up-lift zoning once the airport is constructed.

- With regard to flight paths for the initial development of the proposed airport, the draft EIS refers to a single model of flight paths, with specific entry and exit 'gates'. It does not consider alternatives which move noise and emission corridors away from sensitive and populated areas. The evaluation relies on mitigation as justification, but does not consider other possible methods of avoiding environmentally sensitive (populated) areas.

The initial flight paths and airspace for the airport are constructed so as not to require a change to Sydney Kingsford Smith Airport operations. There will, however, be changes required to operations at both Bankstown and Camden Airports, with the former having significant amendment required and possibly operational restrictions. This impact is not quantified.

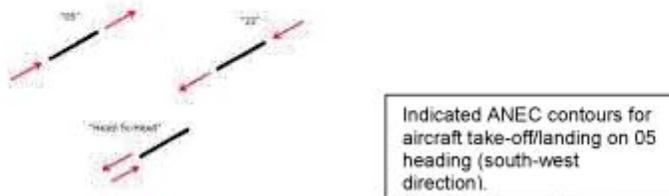
The flight paths developed for the initial proposed airport layout do not coincide with those intended for the ultimate airport layout. This may have resistance to change by the time those procedures could be implemented. It is worth considering a Sydney Basin Traffic Management Review sooner than the proposed timeline indicates.

- Stage 1 of the proposed airport is predicated on conservatively low projected passenger numbers. To ensure a robust assessment of the potential impacts



associated with the initial stage of the proposed airport, the draft EIS should be re-visited based on the possibility of higher passenger numbers.

\*Figure 10: Affected airport operating hours between 0500 and 2000 hours (December 2015)



- Rationale for the north-east/south-west runway alignment configuration is based on aircraft flying over the Western Sydney Employment Area (to the north-east of the proposed airport site), or 'the predominantly rural area to the south-west'. While Council questions the rationale of the latter part of this statement, the pertinent point to raise is the potential 'head-to-head' aircraft movements on the 05 heading (as per the image above).

Council is of the understanding that, subject to prevailing conditions (wind, volume of aircraft movements) a 'head-to-head' pattern (where aircraft take-off and land to/from the south-west) may become a common occurrence in operation of the proposed airport. This may in part negate the rationale for the locating of the Western Sydney Employment Area, as it is subject to fewer aircraft movements than residential areas. The extent of this possibility is not adequately addressed in the draft EIS, and requires further investigation.



## Noise (aircraft)

### Key Issues for Council

- The absence of defined flight paths and other airspace management strategies in the draft EIS.
- No assessment of the scale or severity of community annoyance resulting from aircraft noise.
- Given uncertainties concerning the final form of the airspace design, the extent of noise mitigation measures is not adequately quantified.
- High passenger numbers per plane, possibly decreasing overall plane movements.

### Implications & Opportunities

- The absence of defined flight paths and other airspace management strategies in the draft EIS and technical documents highlights a key concern for Council regarding the aircraft noise assessment. The effect of this absence is that the flight paths used for the modelling may change at the time operations commence for Stage 1 of the proposed airport. This creates significant uncertainty as to the modelling presented and the assessment of what areas and how many people will be affected by aircraft noise. The review also highlights that there has been no attempt to try and quantify this uncertainty. In addition, there has not been any sensitivity analysis that would give an idea of the implications that changes in flight paths would have.
- Not having final flight paths and airspace design also limits impacts on the identification of appropriate mitigation methods, an aspect that is not adequately addressed in the draft EIS.



Indicative flight paths – how can the community expect aircraft to take-off/land in these directions?

- There has been no assessment of the potential scale or severity of community annoyance that is likely to result in reaction to aircraft noise. This point is also highlighted in the Health Risk Assessment. This issue is particularly relevant to the Camden local government area; whilst there are small areas in the north of Cobbitty and Bringelly that fall within areas designated as affected using standard aircraft noise criteria (e.g. ANEC/ANEF, N70 and N60 contours) there are much greater areas of the local government area that will be exposed to aircraft noise, that is less than these criteria. Further work is required through the draft EIS to respond to this issue.
- As previously noted, further work is required on the draft EIS based on more definitive (i.e. not indicative) flight paths and other aspects of air space management, to allow a better prediction of aircraft noise impacts.
- *Low Stage 1 movement numbers:* the total aircraft movement numbers for the Stage 1 development are relatively low when compared to other international airports in Australia. Given the objective of the proposal is to develop a major international airport, the low movement numbers raises the question of the suitability of the 5 year time horizon as the appropriate primary assessment scenario for the purpose of obtaining approval for the development. Further, it is unclear how the incremental and periodic approvals that would need to occur as part of the ongoing expansion of the airport provides a sufficient basis for considering the initial 5 years of operation as the primary period for the assessment of noise impacts.
- *Airspace management strategy uncertainties:* the draft EIS clearly indicates that the airspace management strategy used as the basis for noise modelling is a proof-of concept design, and as previously noted, further work is required to determine the actual flight paths which would be flown in practice. Information about the extent of potential changes is limited. The uncertainty surrounding the final airspace management design that would be implemented represents a



potentially significant source of uncertainty in the noise assessment. The potential significance of this source of uncertainty has not been quantified and, with exception of alternative merge points for Stage 1, there has not been any sensitivity analysis carried out to assess the implications of potential flight path changes.

- Assessment of community annoyance:** the draft EIS includes exposed population statistics which provide a useful indication of the potential scale of the community who may be affected by aircraft noise to varying degrees. However, in isolation, this data does not provide an indication of the scale or severity of potential community reaction to aircraft noise levels as a result of annoyance. The Health Risk Assessment provides the most discussion of community annoyance, including references to research concerning the relationship between noise exposure and community annoyance, but ultimately states that no quantitative assessment of annoyance was conducted as part of the study. While the assessment of the risk of community annoyance is complex, the scale of the proposed airport and the number of people potentially affected warrant further evaluation of the subject. The introduction of a new 24-hour international airport at a greenfield development site introduces a risk of wide spread and prolonged community annoyance. A better understanding of this potential risk would be prudent to inform the environmental impact assessment process and the extent to which operational noise mitigation should be prioritised relative to other non-safety related airspace management considerations.
- Land use impacts:** the draft EIS includes calculated Australian Noise Exposure Concept (ANEC) contours for the Stage 1 and long term development operating scenarios. ANECs are often presented as an indication of the extent of a potential future Australian Noise Exposure Forecast (ANEF) contour which would be used to guide land use planning for noise-sensitive developments in the vicinity of airports. However, while the draft EIS provides population counts for the various ANEC bands, no assessment is provided of the extent to which land use controls may change as a result of a future ANEF prepared as part of the detailed airspace design for the project. Specifically, the draft EIS does not quantify the potential extent of changes to land use controls relative to the measures which have been in place since the original EIS was undertaken in 1985. Most significantly, the discussion of land use planning impacts in the draft EIS notes that the National Airports Safeguarding Framework (the Framework) would *'be instrumental in managing potential future operational noise impacts for future land use planning and development around the airport'*. The Framework could potentially translate to the creation of land use planning controls which extend over significantly greater areas than either the current land use planning controls (based on the 1985 EIS) or the 2063 ANEC contours provided in the draft EIS, however this has not been discussed or assessed in the draft EIS.
- Greater Blue Mountains World Heritage Area (GBMWhA):** the draft EIS presents information to evaluate the potential impacts of aircraft operations on the acoustic amenity of the GBMWhA. The assessment indicates the potential for a large number of audible aircraft events within the GBMWhA. While the levels are predicted to be relatively low (below 50 – 55 dB L<sub>Amax</sub>), aircraft over flights would be expected to be audible and represent a significant and widespread impact for a World Heritage Area where natural soundscapes are a likely to be a



valued feature of the areas amenity. Accordingly, the assertion within draft EIS chapter that noise levels below 50 and 55 dB LAmax are 'not significant' is not considered to have been sufficiently justified, and the assessment may therefore not adequately reflect the potential impact to the values of tranquillity within the World Heritage Area.

- *Mitigation measures and residual noise impacts:* the draft EIS noise modelling is based on an indicative proof-of concept air traffic management design which does not present a comprehensive airspace and air route design. Given the uncertainties concerning the final form of the airspace design, the final form of noise mitigation measures to be implemented is not yet known. Accordingly, the mitigation measures that have been referred to in the aircraft noise assessment are generic in nature. This is a particularly important point for an airport development as, unlike other forms of infrastructure development, the policies used to manage aircraft overflight noise do not generally stipulate noise limits that airport operations must adhere to at surrounding noise-sensitive locations. Accordingly, without a defined airspace design, a defined noise mitigation strategy or defined noise criteria to adhere to in practice, the residual impacts and the location of these impacts is subject to considerable uncertainty. Further, it is unclear how noise considerations would be prioritised among other non-safety related airspace management and operational considerations associated with the proposed airport site.

Based on the above considerations, further information and assessment are considered necessary before Council can reach an informed view on the potential scale and significance of aircraft overflight noise impacts associated with the proposed airport site.

## Noise (ground operations, construction, road and rail)

### Key Issues for Council

- Inadequate response to EIS guidelines for ground noise impacts.

### Implications & Opportunities

- The assessment does not fulfil the requirements of the *Guidelines for the Content of a Draft Environmental Impact Statement – Western Sydney Airport 2015* (EIS Guidelines) which state that the type and magnitude of impact, both pre-mitigation and post-mitigation should be presented. The ground noise assessment should be updated to include this assessment.
- There is insufficient detail to satisfy the EIS Guidelines on the source of the noise data used in noise predictions. As these assumptions form the basis for the noise assessment, changes to the source noise data could potentially lead to a significantly different outcome.



- The assessment excludes the use of Auxiliary Power Units (APU) and does not present sufficient detail for an alternative ground-based power supply. As an alternative power supply method is not presented, there is potential for additional noise sources being introduced that have not been considered.
- A single rating background level has been assumed for all receptors, rather than several location-specific values. This generalisation has underestimated the magnitude of noise impacts at receptors close to the airport that are currently exposed to low levels of environmental noise.
- The nearest noise sensitive receptors in Luddenham were not included in the background noise monitoring and therefore it is uncertain if noise impacts have been adequately assessed at this location.

Furthermore, noise sensitive receptors represented in the draft EIS reflect only existing communities; they make no representation of the potential future sites of other noise sensitive receptors i.e. residential areas, schools, parks etc. This data should be re-modelled using the South West Growth Centre Structure Plan, to identify future community locations.

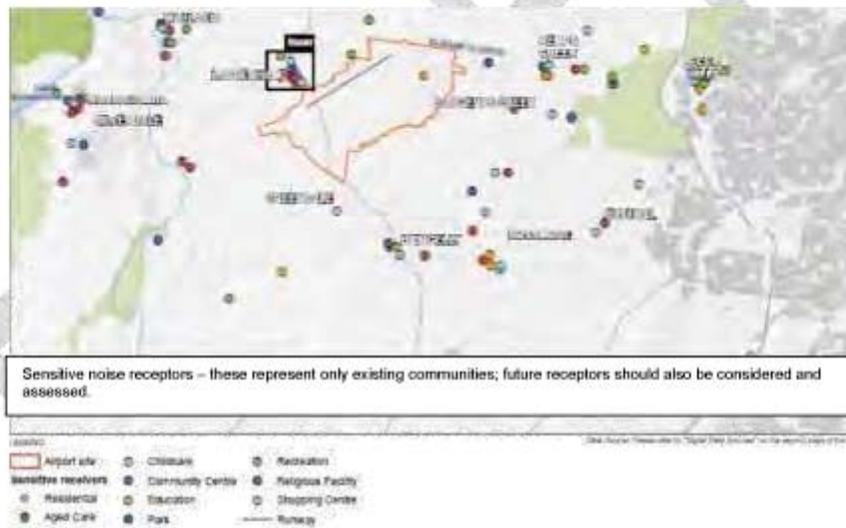


Figure 10-7 - Sensitive Receivers surrounding the airport site



- No consideration has been given to the cumulative noise impact from all ground noise sources at the nearest noise sensitive receptors both with and without mitigation measures as required by the EIS Guidelines. Additional assessment should also be undertaken for other ground noise sources, such as the compass calibration pad.



- It is recommended that the mitigation measures identified in the assessment, including the restriction of APUs and the limitation of engine ground run-ups during the night, are formalised as part of the project approval.
- The assessment does not provide sufficient evidence that all reasonable and feasible mitigation measures have been considered to reduce noise impacts from taxiing and ground run-ups.
- Semi-enclosed pens and bunded areas to reduce noise impacts from engine ground run-up noise are considered in the assessment. It is recommended that these measures are considered further as part of the approvals and subsequent design stages.
- No consideration has been given to the cumulative noise impact from the new M12 motorway and realignment of The Northern Road that are being developed to accommodate the proposed airport.
- The draft EIS contains misleading statements relating to operational road traffic noise which do not acknowledge the limitations of the assessment. The development of the M12 motorway and realignment of The Northern Road have been excluded from the assessment and statements regarding operational road traffic noise should include these limitations.
- The draft EIS does not include ground-based noise in the summary or conclusion for the long term development. It is recommended that the outcomes of the revised long-term development ground-based noise assessment are included in these sections so that all impacts are clearly presented.
- It is considered that the ground-based noise assessment does not provide an appropriate level of detail on a number of key aspects including:
  - The derivation and allocation of assessment criteria
  - Noise impacts at the nearest sensitive receptors in Luddenham
  - Noise source levels
  - The type and magnitude of impacts with and without mitigation
  - Evidence that all reasonable and feasible mitigation has been considered
  - Cumulative noise impacts from operational activities and road traffic projects.

As a result, without further clarification or justification, it is uncertain that the draft EIS has adequately presented and addressed the noise impacts associated with the proposed development.

It is recommended that these items are addressed to reduce the level of uncertainty, increase the accuracy of the assessment and to satisfy the requirements of the EIS Guidelines.



## Air Quality and Greenhouse Gases

### Key Issues for Council

- Inadequate response to EIS guidelines for air quality and greenhouse gases.

### Implications & Opportunities

- It is noted that with regard to the air quality and greenhouse gases chapter of the draft EIS, there exist a number of typographical errors and inconsistencies that undermine the credibility of the air quality assessment. In this regard, these sections of the draft EIS require a thorough technical and editorial review by its authors to address the issues outlined in the review to improve transparency and credibility of the air quality assessment.
- As a consequence of the rail line not being part of the draft EIS, the air quality assessment of the longer term development of the proposed airport is speculative, and does not provide a sufficiently robust basis to support approval of the longer term development of the proposed airport.
- The draft EIS indicates that the proposed airport will increase the 1-hour ozone concentration by 4.5 parts per billion (ppb); significantly more than the 1ppb maximum allowable increment allowed in the NSW EPA's tiered approach. A similar result was also noted for the 4-hour average ozone concentration which is predicted to be 3.7ppb, significantly more than the 1ppb maximum allowable increment allowed in the NSW EPA's tiered approach. Exposure to ozone results in a number of health effects such as induction of respiratory symptoms (such as coughing, throat irritation and chest tightness, wheezing and shortness of breath) a decrease in lung function and inflammation of airways. Exposure to ozone can also make asthma symptoms worse and increase sensitivity to asthma triggers.
- The potential impacts due to fuel dumping were not quantified. The EIS stated *"fuel dumping is not considered likely to have a significant immediate or future impact on air quality"* due to *"the inability of many aircraft to perform dumps, the rapid vaporisation and wind dispersion of jettisoned fuel, the strict guidelines on fuel dumping altitudes and locations, and the anticipated reduction in fuel dumping events and volumes in the future."*

In addition to the issues associated with risk, there is a need for the draft EIS to quantify the implications for air quality with regard to fuel dumping.

- Council has retained longstanding concerns associated with the air quality and the proposed airport, as was reflected in our submission to the Australian Government in response to the 1998 draft EIS. The following points were noted in Council's previous submission, which still hold true today regarding air quality.



The Sydney Airshed is located within the valleys and estuaries of three major river systems of Sydney, being the Georges, Parramatta and the Hawkesbury/Nepean, and is surrounded by mountains in the south and west.

Air movement in the Sydney Airshed is essentially circular – moving west on the prevailing wind during the day, draining northward down the valleys at night, eastward to the coast in the early morning then returning back inland. Because of this circular pattern, parcels of air become entrained in the flow, the same parcels crossing back over the metropolitan area, accumulating pollutants and returning the following day to the Hawkesbury Basin.

During times of stable weather, and when temperature inversions occur, this cycle can go on for days or weeks with pollutants either emitted within the basin or transported into it from the east being retained rather than dispersed. Thus the capacity of the Hawkesbury Basin to assimilate pollutant emissions is less than that of the eastern sectors of the Sydney Airshed.

The Camden local government area comprises an area of land approximately 206km<sup>2</sup>, the greater part of which lies within a topographic basin within the Sydney Airshed known as the Camden Basin. This Basin lies within the Hawkesbury Basin and is bounded on the north by a series of low hills to the west of South Creek (near the proposed airport site) and on the west, east and south by the 100m contour. While of only shallow depth (approximately 40m) the Camden Basin is an important sub-region in local air quality considerations because of its ability to trap and inhibit the dispersion of low level air emissions.

The Camden Basin is subject to extremely stable air conditions at night resulting from deep strong temperature inversions and is completely decoupled from the flow of air above thus allowing trapped air to deteriorate within the Basin until the inversion has lifted and sufficient wind flow occurs to displace it.

In the absence of clear analysis in the draft EIS on this issue, it may be reasonable to conclude that an accurate picture of what happens with air chemistry, and in fact air quality as a whole, within the Camden Basin has not yet been established.

## Human Health

### Key Issues for Council

- The health chapters of the draft EIS should assess the health impacts/effects of changes in the full range of environmental and social determinants of health and the potential inequalities/equity issues due to the proposed development. The level of analysis and detail should be reflective of their likely significance. Examples are changes to road traffic movements and their potential health consequences (community severance, risk of road traffic accident and injury), changes in qualities and characteristics of the surrounding areas (including land values and other economic impacts) and changes in recreational use, amenity of natural areas and access to greenspace and nature and their associated health



and wellbeing impacts through, for example, changes to levels of physical activity; effects on services and amenities.

- Findings from the draft EIS should be presented in a way that helps to communicate the scale of the population affected, by determinant of health, and also what the combined impacts are likely to be to various communities from exposure to the combined hazards.
- Not all unknown variables, assumptions, and limitations are included in the assessment. A specific comment relates to certain health impacts (e.g. air quality-related health impacts on children, other chronic effects such as incidence of chronic bronchitis in adults) known to occur from exposure to air pollution but for which the level (extent/magnitude) of the health impact associated with a certain level of pollution exposure is uncertain or unknown. These additional health impacts, for which quantification is uncertain or unknown, are not discussed. The Health chapters of the draft EIS should consider and discuss health impacts where quantification is not currently recommended by national guidance (e.g. Australian Government 'Guidelines for Health Risk Assessment') such as air quality impacts on children, other chronic effects, and other additional morbidity effects of short-term exposure but for which there is a widely acceptable evidence base supporting their likely occurrence.

#### Implications & Opportunities

##### Air Quality & Noise

- It is not clear what baseline incidence rates were used (Sydney average or Liverpool/suburb rates). If Sydney rates are used, this may have resulted in a small underestimation of risks.
- Risks are estimated for 2030 and 2063 snapshots and separately for each pollutant. An overview of the expected scale of impacts resulting from the combined effect of all pollutants should be provided to convey a picture of the total risk to the exposed communities.
- There is no discussion of the implication of the distribution of effects for inequality and equity although baseline information on sensitive/vulnerable groups.
- Community feedback and any potential perceptions or concerns of local residents are not discussed. Community feedback on health concerns should be described and how this feedback was considered and addressed in the assessment should be discussed. Where community comments have not been incorporated or addressed an explanation justifying this should be presented. If there were no specific comments or concerns about health impacts/effects or some determinants of health then this should also be stated explicitly. There should also be a discussion of how communities were consulted.
- Perception effects are different from biological or epidemiological risks, can cause stress and anxiety, and should be considered separately from mortality and morbidity effects.



- Mitigation measures are not discussed; readers are cross-referred to the air quality chapter. An outline of proposed measures (i.e. an air quality management framework or plan) should be provided in the health chapter and an explanation provided for how and to what extent these measures will mitigate the identified health impacts.
- A qualitative analysis and discussion of impacts/risks/effects on vulnerable/sensitive groups and on health inequality/equity issues has not been undertaken.

#### Water Quality

- A complete health risk assessment is not provided for water quality due to the limitations in water quality sampling (i.e. only 1997 data was available; no new data was collected for the draft EIS). A more complete assessment is required that includes a clear list of assumptions, a description of population affected, and an assessment of impacts on vulnerable population groups.

#### Traffic and Transport

- Higher levels of traffic in residential areas are associated with poor health and lower levels of social cohesion. This particularly affects older people and children. Time spent commuting can impact on family life and mental wellbeing. Increases in traffic can lead to increases in traffic related accidents. The social impact assessment identifies opportunity for *“comprehensive planning, improvements to the road network in conjunction with new public transport infrastructure would create connected communities, reducing commute times and providing opportunities for an active lifestyle”* (pg. 97). In addition, increased local job opportunities were predicted to reduce travel times and improve quality of life. Risk due to aircraft accidents is discussed but road traffic accidents due to increased traffic density have not been assessed.

#### Odour

- Odour can cause annoyance and avoidance behaviour (for example, changes in use of outside areas). Odour from exhaust emissions and the on-site waste water treatment plant is assessed within the Air Quality Assessment. These were assessed to be below detectable levels off site for Stage 1. Odour was not assessed for the longer term scenario.

#### Climate Change

- Climate change has significant impacts on human health ranging from changes to food production to increases in extreme weather events. Climate change is addressed in the draft EIS in the Biodiversity assessment, and is identified as being exacerbated by the proposed airport. Potential impacts on health from climate change have not been identified.



### Employment

- Evidence shows that higher levels of employment lead to better population health. Participating in employment has been shown to have strong positive effects on mental and physical wellbeing. In general, being in work is better for health than having no job; however there are exceptions. Workers in jobs that are poor quality, low paid and precarious (insecure) have similar health scores to the unemployed. Low paid, low skill, insecure jobs with few opportunities for training, development and progression are less healthy than higher paid, higher skill, secure jobs with good opportunities for training, development and progression. Previous health impact assessments of airports have shown that airports tend to generate a relatively high proportion of lower paid, low skill level jobs.
- Employment and economic impacts are discussed in depth in the Social Impact Assessment (SIA) technical report. It is estimated that during stage 1 construction there will be approximately 758 full-time equivalent (FTE) jobs created. In addition, there is an estimated 7,500 FTE airport related employment by the end of stage 1 (2030) and a further 4,400 FTE jobs in the business parks associated with the airport. Longer term it is estimated that approximately 61,500 FTE jobs would be required for airport operations (2063). Although employment opportunities are expected to increase there are some expected negative impacts on agricultural and manufacturing industry due to competition for land. This could also result in potential loss of agricultural land. The potential health impacts related to the existing local economy and those employed in that economy are not described in the SIA.

The SIA identified a potential reduction in commuting times for Western Sydney residents by being able to access jobs closer to where they live. This could have positive benefits for community and family life.

### Community facilities

- Changes on population, both residential and workforce, can lead to increased demand on health services. There are also potential effects on health services through risks associated with airport development. People within healthcare facilities also tend to be disproportionately vulnerable to impacts such as noise and air quality. The SIA identifies insignificant impacts on healthcare demand for Stage 1 and potential additional demand in the longer term scenario. Health care facilities are also identified as 'sensitive social infrastructure' more likely to be affected by impacts such as noise, social amenity, etc. but the specific health impact on these sensitive settings is not assessed.

### Other public and community services

- The SIA identifies sensitive social structures that may be particularly vulnerable to potential negative impacts (child care, schools, hospitals, recreational spaces and places of worship) but the specific health impact on these sensitive structures is not assessed.
- The SIA identifies that it is likely that new facilities will be developed as part of the growth associated with the airport.



### Recreation resources

- Access to good quality green space is associated with improved mental and physical health outcomes. This may happen through ameliorating stress, increased physical activity and there is also evidence of exposure to nature reducing blood pressure. The mental health benefits of activities in a natural environment have been identified as:
  - Social, emotional, creative and cognitive development of children and young people
  - Quality of life and relaxation
  - Recovery from stress
  - Relief of symptoms
  - Therapeutic and healing; spiritual
  - Physical activity; sport; adventure; challenge
  - Learning; intellectual and creative development
  - Sense of meaning/purpose/perspective
  - Social contact; cohesion; belonging; identity
  - Volunteering; conservation; "giving something back"

The SIA identifies loss of amenity for recreational areas from visual and noise impacts. Noise is expected to negatively impact on the amenity of Bents Basin Recreational Area in Greendale, Rossmore Grange, Twins Creek Golf and Country Club, Whalan Reserve at St Marys, Burratorang State Conservation Area and a small part of the Western Sydney Parklands and Prospect Nature Reserve). The Greater Blue Mountains World Heritage Area is going to be negatively impacted on by noise and visual impact from planes. The impacts on recreational facilities and greenspace on health have not been considered.

### Social capital and community cohesion

- Research has demonstrated a link between social capital and health, in particular mental wellbeing. Communities with high social capital have higher levels of trust, reciprocity and participation. At an individual level social participation and support are associated with lower levels of mental health problems and higher levels of self-reported health. Further discussion on how social capital and community cohesion is addressed in the points below.

### Land take for airport

- Loss of housing and forced relocation of residents and businesses have been shown to have significant negative health impacts on individuals as well as community level impacts due to loss of or disruption to social capital and community cohesion. The SIA excludes the impacts of forced relocation on health and wellbeing because the relocations have already taken place.
- The SIA identifies that there will be a loss of agricultural land. Food security is an important public health issue and has not been assessed within the EIS.



#### Community disruption due to noise of air traffic and noise and severance of construction and operation related road traffic

- The health chapter includes an assessment of noise related impacts in terms of awakenings, cardiovascular events, learning and cognitive development in children. Air quality is assessed in terms of impacts on physical health (e.g. cancer risk, increased mortality and morbidity). Community disruption and impacts on social capital and community wellbeing are not assessed in the health chapters. Stress and anxiety related impacts are also not assessed. Within the SIA loss of amenity due to air and road traffic noise is identified as a potential negative impact. The implications of this for public health and wellbeing are not identified. The draft EIS has not assessed the potential increase in road traffic accidents as a result of airport related traffic.

#### Migration of workers and presence of non-local workers

- Migration of workers and the presence of non-local workers in communities can cause community disruption and impacts on local facilities and resources. The SIA identifies that the majority of the workforce is expected to be local but also some moving into the area permanently and also people commuting in from other parts of Sydney. The expectation for a mostly local workforce appears to be based on the availability of working-age people in the South Western Sydney area. It is not clear whether the expected increase in employment opportunities will benefit young residents, unemployed residents and residents experiencing deprivation in the surrounding area. These residents are also likely to be most negatively affected by existing and future environmental, social and health impacts from airport activities.

#### Community concerns/perceptions and beliefs about the airport

- Evidence of health impacts, as laid out in the draft EIS, may not be the same as the community's perception of health risks. The perception of changes to noise, air quality, and home prices can influence the behaviour of local community members and in turn affect their health. This has been evidenced by other health impact assessments on airport developments. The extent to which individuals and communities have control over their lives has a significant influence on mental health and overall health. Lack of control and lack of influence (believing you cannot influence the decisions that affect your life) are independent risk factors for stress. Heightened risk perceptions, low control and low involvement in decision-making are associated with negative physical and mental health impacts. The SIA acknowledges uncertainty over the airport plans (e.g. flight path location) that could cause anxiety among local community but the potential impacts on health and wellbeing are not drawn out. This is a potentially significant area of health impact that has not been assessed.

#### Housing

- The SIA reports that most stakeholders noted housing affordability during consultation as a key issue. The SIA identified no significant impacts on values for large blocks of land that are currently common around the airport. The population forecast carried out for the draft EIS predicts significant population



growth in South-Western Sydney. Areas close to the airport have been identified as both employment and housing growth areas. The SIA identifies that potential longer term housing unaffordability due to growth may negatively impact on already disadvantaged groups.

- In addition, housing prices may be relatively more affordable in areas exposed to higher levels of noise. This means that already vulnerable population groups are more likely to live closer to environmental risks. Communities close to the airport may have already experienced disruption and corresponding loss of identity, social capital and social cohesion due to relocation of housing and community facilities, changes in employment opportunities, and other environmental impacts due to the airport development. Although longer-term housing unaffordability is identified as a potential problem in the SIA, the implications of this for health and health equity are not drawn out.

#### Visual intrusion

- The proposed airport and associated development, construction and additional traffic will negatively impact on visual amenity. The SIA identifies the loss of agricultural land; this will impact on the visual amenity of the area as it is replaced by other more built up industries. As mentioned previously, recreational areas including the Blue Mountains will suffer loss of visual amenity due to the presence of planes overhead and for some areas changes to the landscape. Some residential areas will also have views of the airport.
- The potential negative permanent impacts from the loss of amenity and green space on health are not identified in the SIA. These impacts would affect future generations. The potential health impacts on communities that will experience multiple amenity impacts (e.g. noise and visual) has not been considered. These impacts can lead to a significant loss of community and sense of place (with or without any additional increase in aircraft noise) making the area less desirable to live in and affecting community identity and cohesion.

## Hazard and Risk

### Key Issues for Council

- Early preservation of a corridor, and early construction of a dedicated pipeline to supply aviation fuel to the proposed airport site.
- The risks associated with fuel dumping, and the proximity of the proposed airport site relative to Sydney's primary water catchment area.
- Proximity of vital infrastructure to the proposed airport site, and indicative flight paths.
- The impacts of safe operation of the proposed airport resulting from adverse weather conditions i.e. fog.



### Implications & Opportunities

- As noted elsewhere in Council's submission, a key concern is the cumulative impacts of the proposed airport on the Western Sydney transport network. A significant contributor to this issue is the forecast fuel demand for the proposed airport operation that would require the mobilization of approximately 43 B-double trucks of fuel per day. This number of additional, hazardous truck movements on the local road network presents a clear risk to the community.

As noted in the draft EIS, if a dedicated fuel supply pipeline is not provided to the proposed airport site, the number of truck movements would need to increase in line with the growth in air traffic. In this regard, Council recommends the early preservation and construction of a fuel supply pipeline, as well as comprehensive risk mitigation strategies to safeguard the community from road-based fuel supply movements.

- Observations noted in the draft EIS depict a low risk assessment associated with the jettisoning of fuel from aircraft, due primarily on the basis that occurrences are rare. Council is concerned any occurrence of the airborne emission of toxic chemicals in the form of aviation fuel as a significant environmental and community risk.

For example, more than four million people in Sydney, the Illawarra and the Blue Mountains rely on water from the surrounding catchments; one of which is in immediate proximity to the proposed airport site. Water is collected from over 16,000 km<sup>2</sup> of land and stored in 21 storage dams (11 major dams) that hold a total of 2,500 billion litres of water. Exposure to this natural resource from airborne chemical spillage, even of a rare occurrence, is a significant issue that requires an appropriate mitigation strategy.

- It is noted that 'Appendices H - Hazard and Risk' in the draft EIS addresses issues such as aircraft accidents, adverse weather, terrorism and other risk-related issues associated with the proposed airport site. However, there are other significant risks that require consideration, such as those associated with public infrastructure.

Aircraft accidents impacting on vital infrastructure such as electricity (e.g. substations), telecommunication, roads and bridges, rail etc. are significant considerations that warrant an appropriate response in a revised draft EIS.

- It is noted that the draft EIS states a study undertaken by the Bureau of Meteorology, indicates the most significant weather aspect of the airport site is likely to be the occurrence of fog. This is a key point of concern, as the draft EIS states the development of fog overnight in the western Sydney Basin is possible during all months of the year (and for extended periods of time during winter). Notwithstanding the advent of systems such as 'Runway Visual Range' and 'Instrument Landing Systems' to land modern aircraft in such conditions, a robust assessment is required in 'Appendices H - Hazard and Risk' of the draft EIS relative to the issue of fog.



## Traffic, Transport and Access

### Key Issues for Council

- Earlier provision of rail access to the proposed airport site (than is indicated in the draft EIS).
- Accurate, corroborated traffic data upon which meaningful modeling may be conducted, and associated impacts assessed.

### Implications & Opportunities

- In the context of stage 1 of the proposed airport development, no analysis is conducted as to the benefit derived on the surrounding transport network based on the earlier provision of a rail link. Conversely, as assessment of the draft EIS suggests an additional rail link capacity (above and beyond the South West Rail Link Extension) would be required to accommodate both proposed airport trips and background growth trips, before 2063.

The post-draft EIS announcement by the Australian and NSW Governments of a scoping study into the provision of a rail link to the proposed airport site highlights the significance of this issue, in that it warrants meaningful and supported analysis.

It remains Council's position that rail services should at least include the rail line extension to Narellan, and further to the Main Southern Rail Line to service the recently announced 'Greater Macarthur Land Release Investigation Area'.

- The strategic transport model (STM3) used as a basis for the draft EIS assessment is currently in development and requires further review and corroboration by Transport for NSW. In the absence of confirmed assumptions on which the EIS are based, there is diminished certainty as to whether many of the claimed conclusions are valid.
- In line with similar major projects, intersection modelling needs to be completed as part of the assessment of the traffic and transport impacts resulting from the proposed airport. Assessing the impact of the proposed airport on key intersections and corridors is essential as part of the stage 1 development. As a further example, as noted in the draft EIS the traffic impacts caused by the proposed airport is predicted to be significant, and should there be no rail options, the new M12 Motorway is predicted to fail in 2050 (being approximately 13 years before the ultimate long term airport development year (2063)).
- Intersection layouts, including the potential need for grade separation and associated land acquisition, need to be established. Of particular concern for the Camden local government area are the following intersections:
  - Bringelly Road / Camden Valley Way / Cowpasture Road;
  - Camden Valley Way / Raby Road; and



- The Northern Road / Camden Valley Way / Narellan Road / Camden Bypass.
- Vehicle travel time comparisons need to be provided, to enable a comprehensive assessment of the potential impacts of the proposed airport on the local and regional traffic network.
- Traffic generation of freight (other than for air cargo) and private vehicles (other than air passengers) need to be assessed for the airport precinct.
- Long term strategic mitigation measures for The Northern Road should be identified in the assessment including detailed public transport alternatives to road travel.
- The draft EIS states *"the substantial package of road improvements proposed as part of the [Western Sydney Infrastructure Plan], in addition to those identified in the [Broader Western Sydney Employment Area] and [South West Growth Centre] would have sufficient capacity to cater for the expected airport passenger and employee travel demand in 2031."*

However, it is noted that Western Sydney Infrastructure Plan has funded the Northern Road upgrade and Bringelly Road upgrade, in providing four lanes, which is the provision identified by the NSW Government to cater for the initial stages of the South West Growth Centre only. No commitment has been made by the NSW or Australian Government to further upgrade these roads to six lanes or provide additional intersection grade separation. Furthermore no commitment beyond the Special Infrastructure Contribution gazettal has been made to the upgrade of Raby Road. Without such guarantees in place there is no certainty that such road upgrades will be undertaken by 2031.

- Council is aware that the NSW Government is currently investigating a study area to identify a recommended corridor, for the future Outer Sydney Orbital. As a significant future transport corridor for South-Western Sydney (and the Sydney region), one of the key elements of the Outer Sydney Orbital is to facilitate strategic access to the airport site. In this regard, given the NSW Government release of a recommended corridor for the Outer Sydney Orbital is imminent, Council recommends further assessment in the draft EIS of the subject implications to the broader traffic network.



Proposed airport site access  
– the draft EIS does not  
assess access context  
inclusive of a future Outer  
Sydney Orbital

## Biodiversity

### Key Issues for Council

- With regard to conducting an overall assessment of the draft EIS relative to Biodiversity, Council is concerned as to the lack of non-compliance in some areas relative to the EIS guidelines e.g. the biodiversity package has not yet been finalised.
- Council would support a threatened flora translocation plan to consider the suitability of the sites within the environmental conservation zone and biodiversity offset sites, (in proximity to the proposed airport site), in order to maintain populations of these species as close to their original location as is possible.



## Implications & Opportunities

### Biodiversity matters for consideration

- The site contains the Critically Endangered Ecological Community *Cumberland Plain Woodland (CPW)* and the Endangered Ecological Communities *River-Flat Eucalypt Forest (RFEF)* and *Shale-Gravel Transition Forest (SGTF)*. These communities total 433.8 ha in area. There is a small component of artificial freshwater wetlands (35.4 ha).
- One threatened species *Pultenea parviflora* (which is listed as Vulnerable under the *Commonwealth's Environment Protection & Biodiversity Conservation Act 1999 (EPBC Act)* and Endangered under the *NSW Threatened Species Conservation Act 1995 (TSC Act)*) was recorded at the site. An additional seven flora species are considered to likely occur at the airport site and may be affected by the proposed airport. Three of these occur in the Camden local government area. They include *Cynanchum elegans* and *Pimelia spicata* (both listed as Endangered under the EPBC Act and TSC Act), and *Grevillea juneripina subsp. juneripina* which was found in recent years in Gundungurra Reserve at Narellan Vale and is listed as Vulnerable under the TSC Act.
- Ninety three stems of the *Marsdenia viridiflora subsp. viridiflora* which is listed as an Endangered Population under the TSC Act have been recorded in the centre of the proposed airport site adjacent to Longleys Road. *Marsdenia viridiflora subsp. viridiflora* is recorded in Camden local government area and has been identified along the roadside at Bringelly Road and Greendale Road.
- Connectivity for fauna species is mainly along the Badgerys Creek riparian corridor or between closely linked patches within the proposed airport site. Connectivity with vegetation outside the airport site is limited. There is limited connectivity to South Creek riparian corridor.
- Fifty one species of threatened fauna (listed under the EPBC Act and/or TSC Act) have been recorded or are predicted to occur at the proposed airport site or within the locality.
- Nine threatened fauna species were found on the site during the survey. Eight of these species occur in the Camden local government area. They include the Grey-headed Flying-fox (*Pteropus poliocephalus*) listed as Vulnerable under the EPBC Act and the TSC Act and the Eastern Freetail-bat (*Mormopterus norfolkensis*), the following bird species which are listed as Vulnerable under the TSC Act, Varied Sittella (*Daphoenositta chrysoptera*), Little Lorikeet (*Glossopsitta pusilla*), Little Eagle (*Hieraaetus morphnoides*), Blue-billed Duck (*Oxyura australis*), Scarlet Robin (*Petroica boodang*). The Cumberland Plain Snail (*Meridolum comeovirens*) is listed as Endangered under the TSC Act. All species are recorded at a number of sites in the Camden local government area.
- Seven migratory bird species which are listed under the EPBC Act under the international agreements such as the China-Australia Migratory Bird Agreement (CAMBA) or the Japan Australia Migratory Bird Agreement (JAMBA) were



recorded at the proposed airport site during the field surveys. Four of these species have been recorded in the Camden local government area. They include the Cattle Egret (*Ardea ibis*), Latham's Snipe (*Gallinago hardwickii*), White-bellied Sea Eagle (*Haliaeetus leucagaster*), Rainbow Bee-eater (*Merops ornatus*).

#### Identified Impacts on Biodiversity

- Approximately 280.8 hectares of native vegetation will be removed, comprising around 146.1 hectares of good native vegetation, 146.1 hectares which is in good condition and 134.7 hectares in poor condition. Most of the vegetation to be lost is CPW with a small area of good condition artificial freshwater wetland (25.4 ha). Around 61 hectares of native vegetation would also be retained in the environmental conservation zone at the proposed airport site.
- The draft EIS estimates that the percentage loss of terrestrial and wetland fauna habitat is 0.91 % loss of woodland in the locality (i.e. 90.80 ha from 10,014 ha) and 1.6 % loss of riparian forest (29.8 ha from 2,555 ha). However these percentages are based on Western Sydney regional vegetation and not on percentages based on the local extent of the vegetation.
- The draft EIS identifies that "notably, the population of *Marsdenia viridiflora* subsp. *viridiflora* at the airport site would be removed, which would comprise a significant impact at the local scale."
- The draft EIS also states that the removal of vegetation at the airport site would result in the loss of fauna foraging, breeding, roosting, sheltering and/or dispersal habitat. The loss of habitat includes grassland, artificial wetlands and patches of woodland vegetation. Construction of Stage 1 development will result in the loss of 50 hollow-bearing trees which may provide roosting and nesting habitat for birds and arboreal mammals species including microbats. As a result of the vegetation removal, habitat fragmentation and fauna displacement will occur.
- Other impacts identified with fauna include bird and bat strike. The risk assessment found that a number of bird species would present at least a moderate strike risk during operation of the Stage 1 development. Habitats that are found to create the most risk are farm dams, landfills and Flying Fox camps in the locality. It is noted that one of major food source for Australian White Ibis is the Eastern Creek Landfill Site and it is proposed to close in 2017.

#### Proposed Mitigation and Management Measures

- The draft EIS identifies that mitigation measures and biodiversity offsets would be further developed with reference to relevant conservation advice and recovery plans for threatened biota potentially affected by the proposed airport.
- The proposed environmental conservation zone will retain woodland along Badgerys Creek, Oaky Creek and Duncans Creek and will maintain some degree of fauna movement along riparian corridors and habitat stepping stones. This includes approximately 122 hectares of land and 61 hectares of land that will need to be revegetated.



- It is proposed to stage vegetation clearance to provide the opportunity for fauna that are resident in the construction zone to seek refuge in alternative habitat in the environmental conservation zone, long term development area or outside the airport area. It is proposed to prepare a biodiversity management plan and threatened fauna management plan prior to construction and this would include mitigation measures. It is also proposed to prepare a threatened flora translocation plan.
- An offset package has been prepared to compensate for the removal of approximately 90.8 hectares of CPW, 120.6 hectares of foraging habitat for the Grey-headed Flying Fox, and other features mentioned in regards to the affected mentioned threatened flora and fauna species, and to some extent the population of *Marsenia viridiflora subsp. viridiflora*.

#### Further commentary

- The direct impact of the loss of vegetation and habitat for threatened fauna and flora is confined within the proposed airport site. The loss of mostly CPW (90.8 ha) and the abovementioned threatened flora and fauna is significant. While the draft EIS identifies that the percentage loss of remnant vegetation is a few percentage points, at a local extent the loss is approximately 20%.
- The above proposed removal of vegetation and translocation of threatened species do not directly impact Camden local government area. Indirect impacts such as offsetting and fauna and flora management as discussed below are not identified to occur in the Camden local government area. However in the short to medium term there will be displacement of fauna and a considerable number will likely relocate to the northern part of the Camden local government area.
- A threatened flora translocation plan is proposed to consider the suitability of the sites within the environmental conservation zone and biodiversity offset sites within the vicinity of the site in order to maintain populations of these species as close to their original location as is possible.
- Potential Biobank Offset sites have been identified at a number of sites outside the proposed airport site. None are located within Camden local government area but are identified and make a reference to the Biobanking methodology and the required species credits.
- The suggested Biobank sites for CPW are based on candidate sites from a desktop assessment which includes BioBanking online registers and "like for like" vegetation match.
- Potential offsite sites for threatened fauna and flora include some of these candidate sites that allow for appropriate "like for like" vegetation and habitat. It also acknowledges that the listed threatened flora and fauna species have been recorded at some of these candidate sites.



- Camden Council has extensive areas of CPW, and will in the coming year assess the Biobanking potential of some of its high conservation significant reserves with the view to register them as potential Biobank candidate sites. A Biodiversity Corridor Plan is also to be prepared in the coming year for the Cobbitty/Cobbitty Hills corridor which contains high conservation value land. Additionally it is noted that there will be a significant loss of habitat trees and Council should consider accommodating the reuse of these hollows as part of its Biobanking Sites Assessment and Biodiversity Corridor Plan for Cobbitty/Cobbitty Hills.

## Surface Water and Groundwater

### Key Issues for Council

- With regard to conducting an overall assessment of the draft EIS relative to Surface Water and Groundwater, Council is concerned as to the lack of qualification of the data and interpretation of the reliability and uncertainty of outcomes.

### Implications & Opportunities

- Comment on how the reliability of the information was tested and what uncertainties (if any) are in the information is not presented. Further, figures and maps are provided, however, many figures and maps are not clear and could be improved to aid understanding. Mitigation and management measures are identified, however, are generally broad and do not necessarily target specific residual impacts or propose specific measures or targets.

The identified gaps in the assessment relate to:

- Flooding – Residual impacts in Cosgroves, Oaky and Badgerys Creek are identified. It is difficult to confirm whether the statements and conclusions are valid as there is a lack of supporting information and presentation of inputs and results are not clear and concise. Further, these impacts still require management to mitigate them to negligible levels.
- Duncans Creek and its tributaries have not been modelled to allow definition of baseline and relative hydraulic impacts in these locations. Such impacts have been assessed by the changes in the hydrology for these catchments. As such, all summary impacts do not fully consider impacts to the Duncans Creek downstream areas. Investigation of a basin at this location is proposed as a mitigation/management measure.
- Many of the figures/maps provided in both the main chapters of the draft EIS and in the technical reports are either not easy to understand or omit relevant information to aid ease of understanding.



- Cumulative impacts have been discussed, however, no assessment has been undertaken to quantify the potential impacts other than for climate change scenarios.
- Water quality has not been presented in terms of achieved pollutant load reduction or assessment against guideline pollutant reduction targets. The draft EIS seems to dismiss any relevance of increased pollutant loads on the receiving environment and instead determines that impacts are acceptable because there are general improvements in pollutant concentrations due to increased flow volumes.
- The draft EIS discusses the tributary of Badgerys Creek that joins Badgerys Creek approximately 300 metres downstream of Elizabeth Drive under existing conditions. It acknowledges that threatened ecological communities have not been mapped outside the site as part of the biodiversity assessment, but there is evidence of some remnant native vegetation along this reach of creek which would be reliant on occasional flooding and would be impacted under the current proposals. Such impacts need to be assessed to ensure there are no impacts and any mitigation and management measures identified.

Surface water impact management is required to address the following residual risks to surface water:

- Outstanding localised increases to flood depths in Cosgroves, Oaky and Badgerys Creeks.
- Risks to erosion and geomorphological changes to the downstream creeks due to increases in bed shear stress at various locations.
- Undefined impacts and mitigation for runoff to Duncans Creek.
- Implications of increases in pollutant loads, particularly for cumulative impacts are not addressed.
- Ecological impacts in receiving waters are not clearly addressed.
- Impacts of potential use of stormwater to provide water supply for site preparation works has not been considered.

Ground water system impacts contain a number of shortcomings with regard to data analysis. The identified gaps in the assessment relate to:

- The lack of qualification of the data (previous data and interpretation of the reliability and uncertainty of outcomes).
- The identification of MNES is not provided in the groundwater studies. The MNES of relevance appears to be the Cumberland Plain Woodland. This ecosystem is also classified as a high priority groundwater dependant ecosystem under the NSW regulatory framework. The text of the draft EIS does not clearly define the Cumberland Plain Woodland as a MNES. Additionally, the text in the



draft EIS documents locates the Cumberland Plain Woodland along Badgerys Creek; however, the map appears to locate the ecosystem at several places over the site. Due to the nature of the project, vegetation over most of the site is expected to be cleared. As such, impacts to the Cumberland Plain Woodland ecosystem need only to be addressed for the groundwater impact assessment along creek lines. This is provided in the draft EIS documents.

- Sufficiently complete characterisation of the weathered rock (regolith) aquifer is not provided as no additional data from previous studies was collected.
- Similarly, no baseline time-series data has been collected. This is especially a limitation when it comes to characterisation of the weathered rock (regolith) aquifer and the contribution of this aquifer to the alluvium formations along the creek lines where groundwater dependant ecosystems are primarily located.
- The impacts are reasonably well identified; however some of the impact assessment is missing a clear outcome statement.
- Impact management and mitigation measures are only discussed generally with potential mitigation measures to be considered and monitoring to be implemented. Groundwater impact management is required to address the two residual risks to groundwater values:
  - Risk of soil and subsurface contamination from spill/release of chemicals or contaminants.
  - Risk of impact on groundwater dependant ecosystems from reduced water supply to the creek alluvium system. The draft EIS documents do not provide a robust impact assessment of the risk to the Cumberland Plain Woodland along Badgerys Creek. The following management and mitigation approach could be considered to address the draft EIS guidelines requirements:
    - Implementation of baseline data acquisition with an aim to document the contribution of recharge to the creek alluvial system from the weathered rock (regolith) aquifer and the Bringelly Shale;
    - A review of the risk to the groundwater dependant ecosystem;
    - Based on the outcome of the previous item, the management and mitigation will vary with the level of risk. A risk propagation based monitoring strategy and response plan may be suitable. In this case, a response plan would propose a suitable early warning indication of impact propagation and provide the management and mitigation measures if necessary to prevent adverse impact. If the risk is identified to be more significant, engineered solutions may need to be considered in the site design.



## Aboriginal Heritage

### Key Issues for Council

- The site is owned by the Australian Government, and thus for heritage is covered by federal legislation (not State or local legislation) i.e. the *Environmental Protection and Biodiversity Conservation Act* (EBPB Act). However the heritage assessment undertaken is consistent with that required by the NSW Heritage Council.

### Implications & Opportunities

- 74 aboriginal sites are identified on the airport site (49% consist of single stone tools).
- At least 39 sites are directly impacted upon (requiring destruction).
- The alteration of landscape will have adverse effects on the intangible value of the landscape to Aboriginal people.
- The potential to avoid or to mitigate the items is limited due to the need to create a large flat platform that is well drained for the proposed airport.
- 11 sites (including a highly significant grinding grooves and scarred tree) are located in Badgerys Creek and thus can be retained and incorporated in open space and conservation areas.
- Salvage of the items (which need to be removed) and continued consultation with Aboriginal people is recommended.
- There is no direct impact on the Aboriginal items of the Blue Mountains World Heritage site, however the protection of quiet wilderness areas are important and should be considered in determining the flight paths.

## European Heritage

### Key Issues for Council

- The proposed airport does not have any direct impacts on the heritage of Camden Council, due to its distance from the Camden local government area. The study area (which is larger than the proposed area of the airport) extends to the corner of Bringelly and the Northern Roads.

### Implications & Opportunities

- 19 European items are identified within the airport site, and 22 within the study area. Most were assessed as being of Commonwealth (equivalent to local



heritage significance). Of these, 18 items within the site will be directly affected (demolished), and most will be indirectly affected, for example by visual and ambience impacts.

- The items to be demolished include those in the townships of Badgerys Creek, Luddenham, Bringelly and Greendale.
- Mitigation and management measures proposed prior to commencement of construction include:
  - further archival and archaeological investigations;
  - relocation of movable objects;
  - relocation of remains interred in graves from cemetery sites;
  - interpretation by displaying items in an onsite museum, use of heirloom plantings in landscaping.

## Social

### Key Issues for Council

- *Translation of issues within the draft EIS* - the Specialist Social Impact Study identifies a number of likely adverse impacts to local communities. Despite the significance of these impacts and their potential to raise notable social concerns, many are given relatively minor reference in the relevant chapters (23 and 37) with no reference in the Executive Summary. This results in an ill-informed view of social issues for readers of the draft EIS who may not progress to read Chapter 23 or Appendix P in detail.
- *Statements without Assessment* - In both the social and economic chapters (23, 24 and 37) many of the potential issues are stated with little assessment of their implications to communities, their degree of significance or duration and alternative approaches that may be applied to alleviate them i.e. alternative open spaces available during construction, the severity of noise impacts to recreational areas, the degree of noise disturbance for different locations over the short and longer terms. This approach weakens the readers' appreciation of the issues and the means to mitigate them. It could also result in greater angst by the community as to the likely degree, duration and severity of impacts.
- *Mitigation of Longer Term Impacts* - a review of the discussion concerning mitigation measures over the longer term focuses heavily on planning mechanisms (i.e. zoning of land to exclude residential uses) together with local and State Government investment to address broader traffic, transport and infrastructure issues. There is no discussion however of how this would be co-ordinated or resourced to address specific impacts resonating from the proposed airport. There is no discussion either as to who the key accountability would fall with. This results in a potential risk that some mitigation measures and impacts would be missed or forgotten over time.



- *Direct Response to Stakeholder Engagement* - the initial stakeholder engagement program for the proposed airport identified a range of social and economic concerns (Vol.1). A number of these concerns are listed by the specialist studies yet are not specifically addressed by the draft EIS. It is recommended that each is appropriately considered and responded to so as to identify the most appropriate mitigation measures and minimise community concerns.
- *Potential of adverse implications associated with the proposed airport* - It is noted in the draft EIS for the proposed airport that perceived impacts are as important as actual impacts, as people may modify their behaviours or experience discomfort simply because of a perceived impact.

#### Implications & Opportunities

- The physical and perceived impacts of a new airport (and resulting restrictions to access across the locality) to social cohesion should be considered, and any associated community and cultural connections.
- The potential social concerns relating to the perceived or actual impacts of the proposed airport to the local communities health (i.e. noise disturbance, fuel jettisoning etc.) should be evaluated.
- Consideration should be given of the social implications of the locality changing from a rural and low density residential area to a more urbanised one. Whilst the draft EIS makes the assumption that this transition would be a positive one, Council notes that different communities may value varying levels of urbanisation differently. Therefore a change to a denser built form may be considered undesirable and stressful for some established and retired community members.
- Consideration should be given of the degree and duration of the impacts to existing residents located in Luddenham, Badgerys Creek, Bringelly, Greendale and Wallacia during construction and operation i.e. construction noise, access and traffic congestion.
- It remains un-clear as to how potential social and economic impacts would be managed and mitigated with such a significant and relatively quick increase in the number of passengers and associated on site employment (+120%) over the 13 year period between 2050 and 2063.
- The draft EIS should identify what impact the additional flight paths, operations and associated amenity impacts would have to the longer term development potential of affected areas in Western Sydney i.e. height and noise restrictions to increasing residential density.
- Consideration should be given as to the degree to which the airport could "...lead to the reduction in social amenity and impacts on the existing lifestyle of people living and working...." (Pg. 138) identified by the draft EIS.



- Further analysis is required as to the economic costs or implications of the proposed airport's "...role in attracting economic activity to the Region" at the expense of others i.e. "There is a reduction in value-add in the Rest of Australia" (Pg. 139).
- The draft EIS identified the potential for additional amenity impacts to the local communities as a consequence of the proposed airport. Means to mitigate these impacts are not identified other than general references to the need for local and state Government planning (i.e. appropriate land use zoning) and service provision (i.e. new community facilities etc.).

Whilst it is difficult to be definitive with respect to mitigation measures over such a period of time, this predicament, combined with the significant scale of the development, creates a significant risk over the longer term. This risk is on account of uncertainties as to how these additional facilities would be funded and who would be responsible for their provision, operation and maintenance to a level that adequately addressed the impacts. This reliance on other parties to manage the proposed airport's impacts has the potential to result in missed mitigation measures and governance overlaps or gaps.

- While potential social issues are stated in the draft EIS, little assessment of the associated implications (e.g. discussion of potential health impacts) have been explored; furthermore, community feedback/discussion was not outlined indicating several assessment gaps. In this regard, it is strongly recommended that there is further assessment of social impacts.
- It is noted that consultation with Indigenous stakeholders is apparently unclear in the draft EIS. In this regard, further clarification is required as to the extent of consultation that has occurred, and/or that further consultation take place if required.
- Existing residents may experience associated negative effects due to relocation, the change to a denser built form and the associated changes to land use. There will also be issues around loss of access to existing facilities, recreation resources and green space affecting health, mental health, food security etc.

## Economic

### Key Issues for Council

- Impacts – while there is a strong focus in the draft EIS on the economic benefits of the proposed airport, this is distinct from a balanced discussion of economic and social costs and benefits. For example the economic Chapter (24) in Vol. 2 focuses entirely on the regional (Western Sydney) and broader (Sydney, NSW and Australian) employment and economic benefits of the proposed airport with only one general and unclear reference to potential adverse economic impacts:



*"However there would be some negative impacts in the immediate vicinity of the airport site due to combination of the airport development and the changing land uses" Vol. 2, Chapter 23, Pg. 504*

Council seeks a better balance of discussion in relation to matters such as impacts to local business activity during construction or the potential impacts of a new business park (with retail as a permissible use) to existing and proposed centres in the South West (i.e. Leppington, Edmondson Park and Liverpool).

- Geography – Council also has concerns as to the balance of discussion regarding the draft EIS's strong focus on the regional and Australian economic benefits of the proposed airport as distinct from any prospective local impacts. For example the economic benefits and costs to centres within close proximity to the proposed airport (i.e. Bringelly, Luddenham etc.) are little, if at all discussed.
- Transfer and Redistribution Effects - the draft EIS commentary regarding the economic value add as a consequence of the proposed airport recognises its "...role in attracting economic activity to the Region" at the expense of others i.e. "There is a reduction in value-add in the Rest of Australia" (Pg. 139) and "The model assumed the future regional employment growth would be redistributed across Sydney..." (Pg. 141).

Whilst the generation of jobs in Western Sydney is a strong positive of the proposed airport, the draft EIS does not discuss the economic or social implications of this transfer of activity from the other areas in Sydney or "the rest of Australia"

#### Implications

- While it may be debated that the overall benefits of the proposed airport might outweigh the costs for Sydney, a more detailed discussion of costs, and who would be affected is recommended i.e. costs with respect to increased traffic generation and congestion, health impacts, the loss of agricultural land, local business impacts etc.
- In this regard it is unclear what the 'standing' of any cost benefit analysis is for the assessment – that is what is the area being assessed. If the standing is Western Sydney as a whole, there would be a net benefit gained by the proposed airport to the area of assessment. If the standing is Greater Sydney, the Specialist Studies infer that there would be no net increase with regards to job growth or value add over the short term as result of the proposed airport.
- The draft EIS recognises that the proposed airport would increase congestion on parts of the M4, M5 and M7 Motorways together with the M31 Hume Highway. The potential impacts to businesses reliant on these access routes for servicing and delivery should be considered.
- There is no assessment of the potential impacts of the proposed airport (positive or negative) to the future operation of businesses within the Western Sydney



Employment Area (i.e. in relation to noise or congestion impacts, access improvements and land value).

- The draft EIS does not assess the potential economic impacts of the retail floorspace relative to the economic viability of existing centres in the South West (i.e. Luddenham or Liverpool) or the timely delivery of proposed centres (i.e. Leppington and Edmondson Park).
- There is no assessment of the demand for, or impacts as a result of, a new business park in this part of the South West and the potential implications to other centres such as Leppington that are identified as a future major centre in South-Western Sydney.
- The draft EIS does not assess the demand for, and implications of a potential 845,000m<sup>2</sup> of additional industrial floorspace to the Western Sydney Employment Area, nor the potential benefits of a business park and how these jobs would align with the characteristics and skills of the new population in South-Western Sydney.
- The draft EIS does not assess the level of demand for, and impact to social infrastructure in the locality as a result of these uses and their employees (+4,400 to +27,000 people).
- While the draft EIS identified an adverse correlation between airport noise and land values in Brisbane and Adelaide, it did not make the same finding for land affected by Sydney and Melbourne airports. The draft EIS poses a number of reasons for this result including the fact that property values in central Sydney may be more significantly and positively influenced by factors other than noise including proximity to Sydney CBD. Council cautions any conclusions that seek to draw the same correlation as central Sydney between property prices and airport noise for the proposed airport. Despite this, Chapter 24 of the draft EIS concludes:

*"Overall there would be no discernable negative impact expected on property values, as the anticipated value uplift from land use changes will outweigh any consequence or concern about noise impacts" Pg. 489*

Council is of the view that the characteristics of land and properties surrounding the proposed airport could be more akin to the localities surrounding Adelaide or Brisbane airports (i.e. land that is not located within a few kilometres of a Global CBD) resulting in a different correlation between noise and land values to the Sydney airport analysis.

Council also questions the draft EIS conclusion made on the growth rates for properties affected by Sydney airport being on par with other non-affected areas in Sydney. Whilst this may certainly be the case with respect to growth rates, there is likely to be very different actual sale value starting points i.e. lower land values in noise affected areas than non-affected areas consistent with the findings of other literature cited by the draft EIS.



### Opportunities

Camden Council's Economic Development Strategy (EDS) is built around maximising and seizing opportunities from growth while supporting and encouraging local business. The proposed airport will provide areas of opportunity that will enhance and support this strategy and Council's community strategic plan, *Camden 2040*.

- The need to reduce long journeys to work is a key challenge for the South-Western Sydney (including the Camden local government area), the location of the proposed airport at Badgery's Creek will provide employment opportunities for local residents closer to home, enabling reduced costs of travel; potentially reducing commuter times for individuals and thereby reducing energy use, cutting carbon emissions, raising the overall productivity of the workforce and increasing people's quality of life and social benefits.
- The location of the proposed airport which is approximately 5-10kms from Camden local government area (i.e. Bringelly Road, Bringelly) will provide increased employment opportunities for Camden local government area residents.
- The proposed airport will make it more attractive for business to establish in the Camden local government area as they will have access to a greater number of workers, operating in closer proximity to other firms, enabling knowledge spill-over.
- The Camden local government area is well placed to attract new businesses into South-Western Sydney, providing a desirable location for business and family life.
- The proposed airport will provide an opportunity to increase 'visitor appeal' and to maximise domestic and international tourism into the Camden local government area.
- The proposed airport will provide key tourism infrastructure such as road and potential rail infrastructure, which will support tourism growth in South-Western Sydney and the Camden local government area.
- The proposed airport will provide a mix of direct and indirect employment opportunities for residents of the Camden local government area. It has the potential to impact jobs and population growth spatially throughout NSW, influencing where people will live and work. In particular, it is expected to significantly contribute to employment growth in and around the airport.
- Camden's construction industry has a unique opportunity to enhance its financial position during the construction phase of the proposed airport. The construction sector is currently Camden local government area's largest industry, accounting for 3,995 local jobs, equalling 17.1% of the employment in the Camden region (2013/2014- *National Institute of Economic and Industry Research - NIEIR*).



Current planning forecasts show that jobs in the construction industry are likely to closely follow the planned growth in population. The significant population growth is driving growth in the construction sector over a number of decades and provides employment and training opportunities for existing and potential new Camden residents. With the total Western Sydney employment footprint expected to reach 2,700 jobs in 2022 and a total of 11,300 persons over the construction period, Camden residents employed in construction, and construction related businesses have a unique opportunity to take advantage of the construction occurring as part of the proposed airport project.

- Many Camden residents will be attracted to jobs at the on-site business park which will support 4,440 employees in 2031 and 27,150 employees in 2063.
- As a neighbouring Council to the proposed airport site, more information and assessment is required on the negative and positive economic impacts to the Camden local government area businesses e.g. what are some of the negative impacts in the immediate vicinity of the proposed airport (to the Camden local government area) that will occur due to construction (traffic related issues), changing land uses and airport development/new business park? More specifically what would the economic impact be on the Leppington Major Centre?

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## ORDINARY COUNCIL

ORD10

**SUBJECT: SES VEHICLE DEDICATION**  
**FROM:** Acting Director Community Infrastructure  
**TRIM #:** 15/302592

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### PURPOSE OF REPORT

The purpose of this report is to make a recommendation to Council that will see the existing Council funded Emergency Management vehicles, used by the State Emergency Services (SES), to be dedicated to the SES at no cost.

### BACKGROUND

At the Councillor Briefing of 1 December 2015, Councillors were informed of an opportunity to dedicate the Emergency Management Fleet to the SES with all future costs for maintenance, repairs and replacement to be borne by the SES under NSW State run contracts.

Under the existing Emergency Management arrangements Camden Council provides operational vehicles to the SES for the purpose of emergency response in the Camden Area, covering all costs.

### MAIN REPORT

The NSW State Government has committed funding as part of a Strategic Disaster Readiness Package delivered to the SES in response to recommendations from the Commission of Inquiry into the Queensland Floods.

The funding package is in recognition of the outstanding work the NSW SES and its volunteers have done in response to past NSW floods and allows for the acquisition and ongoing funding of its vehicle and equipment fleet.

The funding arrangement aims to standardise and centralise the SES operational vehicle fleet under the control of the SES, the majority of which is currently owned and managed by local government authorities.

Upon transition of the vehicles to the SES, Camden Council would no longer be responsible for the procurement, running costs (all expenditure) and maintenance of the SES operational vehicles.

The current replacement cost to Council of these vehicles is \$206,500, with ongoing maintenance, repairs and running costs being \$37,500 per year.

The current SES Fleet supplied and serviced by Camden Council includes the following:

Plant item	Registration no.	Plant no.	Due for Replacement
Nissan ST Patrol	AO15NF	9236	2015
Nissan Patrol Wagon	BB28FM	9241	2016
Isuzu Crew Cab	BI39EF	9450	2017
Box Trailer	X61941	9739	2015

A number of other Councils have dedicated their SES vehicles, with some Councils "gifting" the vehicles at no cost or "donating" the vehicles for a nominal fee such as \$1 plus GST, as per the following table:

Council	Vehicles Dedicated	Cost of Transfer
Liverpool Council	4 Vehicles	\$1.10 each (incl. GST)
Fairfield Council	8 Vehicles	\$1.10 each (incl. GST)
Sutherland Council	10 Vehicles	Free
Campbelltown Council	9 Vehicles	Free

85 vehicles across NSW LGAs have already been sold for a nominal fee or gifted for free to the SES by other Councils.

Camden Council has the opportunity to make a determination based on the following options:

**Option 1** - Gift the vehicles and trailer at no cost

**Option 2** - Negotiate an agreed fee for the transfer of the fleet

**Option 3** - Charge a nominal fee for vehicle transfer at Council's discretion.

### **FINANCIAL IMPLICATIONS**

While Council will not receive compensation for the transfer or trade in of this fleet, significant savings per annum will be realised through no future ongoing maintenance, repairs or replacement costs. These costs will now be funded by the State Government.

### **CONCLUSION**

The NSW State Emergency Service has approached Camden Council and other NSW Councils asking for vehicles to be dedicated to the State Emergency Service via a gift or sale at a nominal fee. It is recommended that the fleet be gifted to the SES for the reasons outlined in this report and for the Community benefit that will be achieved.

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**RECOMMENDED**

**That Council gift its emergency management vehicles and trailer as identified in this report to the State Emergency Service at no charge.**

**ATTACHMENTS**

1. Attachment - SES Vehicle Costs

**SES Vehicle Costs**

Budget Year	Plant item in current budget		Proposed Action	Estimated Current Trade in value	Annual running expenses saving to Council	Capital Expense
SES	Isuzu dual cab Truck		SES Dedication	\$ 35000	\$16500	\$65000
SES	4WD Nissan Patrol		SES Dedication	\$ 28000	\$10500	\$65000
SES	4WD Nissan Patrol		SES Dedication	\$ 28000	\$10500	\$65000
SES	Trailer		SES dedication	\$0	\$0	\$1500
		<b>TOTALS</b>		<b>\$ 91000</b>	<b>\$ 37500</b>	<b>\$206500</b>

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## ORDINARY COUNCIL

**ORD11****SUBJECT: TENDER T005/2016 - BIRRIWA RESERVE OUTDOOR YOUTH SPACE CONSTRUCTION****FROM:** Acting Director Community Infrastructure**TRIM #:** 15/324311

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### PURPOSE OF REPORT

To provide details of the tenders received for contract T0005/2016, being the Birriwa Reserve Outdoor Youth Space Construction and to recommend that Council accept the tender submitted by Lamond Contracting Pty Ltd and to seek further funding to include a toilet and additional car parking.

### BACKGROUND

At the ordinary meeting of Council held on 9 December 2014, Council resolved to:

1. *adopt Birriwa Reserve as the location of the Multipurpose Outdoor Youth Space; and*
2. *proceed with the preparation of detailed designs of the Multipurpose Youth Space at Birriwa Reserve with a view to commence construction in the 2015/2016 financial year.*

At the ordinary meeting of Council held on 12 May 2015, Council resolved to:

1. *allocate \$899,598 from Section 94 Funding for the purpose of completing the Birriwa Reserve Outdoor Youth Space.*

This increased the 2015/16 budget for this project to \$1,469,531.

A detailed landscape plan was developed for the Birriwa Reserve Outdoor Youth Space and this plan was utilised as part of an extensive public consultation process with the local community. The public consultation included:

- Information on Council webpage;
- Two on site information sessions;
- Advertising in the local paper of the public exhibition period in conjunction with the Mount Annan Leisure Centre Development Application process;
- Flyers to approximately 700 residents in the Mount Annan area.

During the consultation process there were three written submissions received which were supportive of the proposal and a limited number of residents attended the face to face information sessions.

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## MAIN REPORT

### Scope of Works

The design for the Birriwa Reserve Outdoor Youth Space includes the following components:

- District level playground featuring large scale equipment and varied play experiences predominantly for older children and youths;
- Retaining walls and large turfed areas;
- Landscaping including large garden areas, tree planting, retaining walls, pathways and softfall;
- Feature garden area;
- Shelters, BBQs, bins, seating etc;
- Toilet facility; and
- 42 space sealed car park and access road.

A pre-tender cost estimate of the ultimate design indicated that the ultimate scope of works may not be able to be delivered within the available budget. The tender document therefore included pricing of options which would allow Council to adjust the scope of works to within the project budget. The optional items included were the toilet facility and carpark. These elements were seen as improvements which could be added at a later date, rather than reduce the provision of youth play equipment and facilities.

Due to the long lead times (11 to 14 weeks) associated with the procurement of the play equipment, Council has placed orders for the equipment and supply of these items and they are not included in the construction tender.

Tenderers were asked to provide a lump sum price for Tender T005/2016 - Birriwa Reserve Outdoor Youth Space Construction. The invitation to submit a Tender was advertised on 27 October 2015 in the Camden Chronicle, Sydney Morning Herald and the NSW e-tendering website. The tender closed on 17 November 2015 and four submissions were received.

### Tender Submissions

Tenders were received from the following companies listed below in alphabetical order:

<b>Company</b>	<b>Location</b>
• Lamond Contracting Pty Ltd	Wilton
• Regal Innovations Pty Ltd	Annangrove
• Landscape Solutions Aust Pty Ltd	Seven Hills
• North Shore Paving Pty Ltd	Arncliffe

An assessment of the tenders was undertaken in line with the Tender Evaluation Plan. A summary of this assessment is provided in the **Supporting Documents**.

### Tender Evaluation

The intention of the tender process was to appoint a contractor with proven capacity and experience in similar scale projects as well as providing good value and quality services to Council.



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A tender evaluation panel was established and the submissions were assessed on price and non-price factors as agreed by the evaluation panel. Price was given weighting of 70% and non-price factors a weighting of 30%.

Non Price Factors considered for this project included:

- understanding of the project and proposed methodology;
- experience on projects of similar nature;
- project program;
- proposed project team, capacity, and systems including Work Health and Safety (WHS).

Lamond Contracting Pty Ltd provided the most competitive tender in terms of cost and meeting all requirements of Council's tender documentation.

### **Relevant Legislation**

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

### **Critical Dates / Time Frames**

Lamond Contracting Pty Ltd have tendered to complete the works in twelve weeks from commencement with full opening being dependent upon weather conditions and the establishment of the new turf.

### **FINANCIAL IMPLICATIONS**

This project is funded through a combination of Section 94 Developer Contributions and Council's General Funds, with a total budget of \$1,469,531 in the 2015/16 financial year.

There are sufficient funds available within the current budget to construct the new outdoor youth facility, excluding the proposed toilet and additional car parking. In order to include these elements into the scope of works, an additional \$200,000 is required to be allocated to the project budget.

Funds are available within the Capital Works Reserve, should Council resolve to include these elements into the project scope.

### **CONCLUSION**

The proposed toilet and additional car parking are considered to be elements which will add significant value to the proposed facility.

The additional funds of \$200,000 required to include these elements is available from Council's Capital Works Reserve.

Lamond Contracting Pty Ltd has submitted a conforming tender.

The tender assessment concludes that the offer by Lamond Contracting Pty Ltd represents the best value to Council and the company has a proven track record of performance on projects of a similar nature.

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## **RECOMMENDED**

### **That Council:**

- i. allocate additional funds of \$200,000 to the project budget from Council's Capital Works Reserve to enable inclusion of the proposed toilet and additional car parking in the project scope;**
- ii. accept the tender provided by Lamond Contracting Pty Ltd for the lump sum of \$1,184,748 (GST exclusive); and**
- iii. authorise the relevant documentation to be completed under Council's Power of Attorney, granted on 27 August 2013, Minute Number ORD215/13.**

### **ATTACHMENTS**

- 1. TenderT005/2016 - Birriwa Reserve Outdoor Youth Space Construction - *Supporting Document***

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## ORDINARY COUNCIL

**ORD12****SUBJECT: TENDER T006/2016 - ARGYLE STREET STREETScape UPGRADE -  
STAGE 1B****FROM:** Acting Director Community Infrastructure**TRIM #:** 15/340882

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### PURPOSE OF REPORT

To provide details of the tenders received for contract T006/2016, being Stage 1B of the Argyle Street Streetscape Upgrade, to recommend that Council accept the tender submitted by Statewide Civil Pty Ltd, and to seek additional funding to complete the proposed works.

### BACKGROUND

Council recently completed the detailed design and approvals phase of this project, and is committed to undertaking improvements required in Argyle Street Camden.

#### **The aim of these works are to:**

- create an environment that will encourage a slower speed environment;
- create an environment which upgrades and enhances pedestrian mobility safety and access;
- enhance the main street of Camden so that it can continue to be relevant in a growing and changing LGA, as well as the broader region; and
- facilitate the continued retail and commercial success of the Town Centre.

The scope of works for Stage 1B generally comprises the section of road between John Street and Hill Street, and will include a set of pedestrian signals located mid way between these streets. The proposed upgrade will include construction of new footpath pavements, kerb and gutter, drainage works, utility adjustments, granite path paving, installation of pedestrian signals, installation of new street lighting, fencing, signage, line marking, adjustment of road pavement levels and landscape works.

A contractor is required to act as the Principal Contractor for the site and be responsible for the construction works. The Contractor will manage and coordinate all sub-contractors and integrate their output at all stages.

Procurement of a contractor for the works has been undertaken in two stages. The first stage was to issue an open Expression of Interest (EOI) to select suitable firms to participate in a Tender. This EOI was issued on 24 February, 2015, with no restrictions as to those organisations that may respond. The closing date for submissions was 17 March, 2015. Fourteen (14) firms responded to the EOI and seven (7) firms were assessed by the evaluation panel as suitable for participating in the tender. The recommended companies were approved by the Director Community Infrastructure.

The second stage of procurement was to issue Tender invitations to the selected firms. This was issued for stage 1B on 23 October, 2015 with tender returns required by 16 November, 2015.

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## MAIN REPORT

### **Invitation to Tender**

The tender for Stage 1B of the Argyle Street Streetscape Upgrade, was issued to the pre-selected list of tenderers, using the NSW e-tendering website. Tenderers were asked to provide a lump sum price for the Stage 1B works.

### **Tender Submissions**

Tenders were received from companies listed below in alphabetical order:

<u>Name of Tenderer</u>	<u>Location</u>
CA&I Pty Ltd	Chippendale NSW
Quality Management & Constructions Pty Ltd	Bella Vista NSW
Statewide Civil Pty Ltd	Norwest NSW

A summary of the submissions is provided in the **Supporting Documents**. Please note this information is Commercial in Confidence.

### **Tender Evaluation**

The intention of the tender process is to appoint a contractor with proven capacity and experience in similar scale projects, as well as providing good value and quality services to Council.

A tender evaluation panel was established and the submissions were assessed on price and non-price factors as agreed by the evaluation panel. Price was given weighting of 50% and non-price factors a weighting of 50%

Non Price Factors considered for this project include:

- Conformity to the specification and tender documents
- Previous experience
- Proposed team, reliability and capacity
- Program
- Methodology for undertaking the works.
- WH&S

Statewide Civil Pty Ltd has provided the most competitive tender in terms of cost and meeting all requirements of Council's tender documentation. Past clients were contacted and provided positive feedback for Statewide Civil Pty Ltd.

Statewide Civil Pty Ltd has demonstrated a proven track record in delivering projects of a similar scale and nature for Local Government.

The panel members all agreed that the tender by Statewide Civil Pty Ltd represented the best value to Council.

### **Relevant Legislation**

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



## Critical Dates / Time Frames

Statewide Civil Pty Ltd has submitted a program to complete the works in 18 weeks from commencement. This program does not include any allowance for wet weather which would extend the completion date.

The commencement date is currently scheduled following Australia Day 2016. Council will however continue discussions with businesses to determine the most suitable arrangements for undertaking the works.

## Budget Implications

The overall budget for Stage 1 was established as a pre-design estimate in the amount of \$4.1m. As noted in the Council report of 25 November 2014, estimates were to be further refined as the detailed design was developed and the full extent of the works were known.

During the detailed design phase and upon receipt of the tenders for Stage 1A, it was apparent that several components of the project had increased. It was considered appropriate to complete the tender process for Stage 1B before finalising an overall review of the budget implications. The tender process for Stage 1B has now clarified the overall budget that may be required for the works.

The components that have particularly increased from the original pre-design estimate are:

Additional road reconstruction works	\$165,000
Additional electrical and utility adjustment works	\$975,000
Additional design and approvals	\$160,000

## Road Reconstruction Works

The original predesign estimates used for budget purposes had identified only limited road works, principally for adjustment of levels to suit the new kerb. The existing road surface is visually in good condition however, geotechnical investigations revealed that the road pavement was weaker than anticipated. Should the existing road pavement have been retained, it is considered that the road would fail within 3 to 5 years, requiring ongoing renewal works.

Therefore it was appropriate to bring forward the road reconstruction works to achieve a 20 year asset life, which would have a lower overall cost and least disruption if undertaken as part of the current town centre works.

It is also noted that these costs have further increased due to unforeseen sub-surface conditions encountered during construction in some isolated locations, which required increased pavement depths.

## Electrical adjustment and utility works

During the electrical investigations and design, it was found that a number of premises were not connected to the usual independent utility power circuit, but were connected to the street lighting circuit. It was necessary to separate these services from the street lighting circuit, which incurred significant design and approval costs, as well as the additional costs for the actual separation works, including significant underground cabling costs.

Other essential utility adjustments including Telstra, NBN, Jemena (gas) and Sydney Water were substantially higher than in the pre-design estimate, and are unavoidable costs which need to be funded.

***Design and Approval Costs***

In order to respond to the above requirements, additional external specialist design services were required.

These external resources have contributed to the increased cost of the project. Additionally, the wider scope of the utility adjustments required additional approval fees from the relevant utility authorities.

**FINANCIAL IMPLICATIONS**

The 2015/16 budget includes a funding package of \$4.1 million for Stage 1 works in Argyle Street. The completion of the tender process for Stage 1B has confirmed that additional funding of \$1.85 million will be required in order to complete Stage 1.

This is based on anticipated additional investment of \$1,300,000 for the overall project, plus a contingency amount of \$550,000, to provide for possible variations and latent conditions that may be encountered. Any of the contingency funds that are not required, will be returned to Reserves.

The following additional funding package is available to Council:

Regional Block Grant – currently unallocated	\$155,000
Roads To Recovery Grant – currently unallocated	\$413,694
Asset Renewal Reserve (*)	\$781,306
Capital Works Reserve	\$500,000
<b>Total</b>	<b>\$1,850,000</b>

(\*) Council has applied for additional funding under the Western Sydney Infrastructure Plan (WASIP); the additional funding available to Council under the program guidelines is \$238,105. If this grant application is successful the amount required to be transferred from the Asset Renewal Reserve will be reduced to \$543,201.

The remaining balance within Council’s Asset Renewal Reserve upon the proposed transfer of \$781,306 will be \$1,223,703 which is available for allocation to other renewal projects. The uncommitted balance of this reserve will increase if the WASIP grant is successful as discussed above, and if the included contingency is not fully committed.

The remaining balance of the Capital Works Reserve upon the proposed transfer of \$500,000 will be \$2,220,790 this balance will further reduce to \$2,020,790 if Council approves the allocation of \$200,000 at tonight’s meeting for the proposed works at Birriwa Reserve.

**CONCLUSION**

The overall budget for Stage 1 was established as a pre-design estimate in the amount of \$4.1m. As noted in the Council report of 25 November 2014, estimates were to be further refined as the detailed design was developed and the full extent of the works were known.

The tender for stage 1B has now clarified the overall budget that may be required for the works. Increased funding allocations have been summarised above to allow for the additional unforeseen and unavoidable costs.

The increased funding will allow for the delivery of a high quality streetscape for the Camden Town Centre, which ensures that the infrastructure and utility improvements will meet the future needs of the Camden community. The additional road reconstruction works have been brought forward to ensure that the road will achieve a 20 year asset life and is a renewal cost that Council would have otherwise been required to fund in the future.

Statewide Civil Pty Ltd has provided a conforming tender for Stage 1B. The tender assessment concludes that the offer by Statewide Civil Pty Ltd represents best value to Council and the company has a proven track record of performance on projects of a similar nature.

### **RECOMMENDED**

#### **That Council:**

- i. **accept the tender provided by Statewide Civil Pty Ltd for Stage 1B, between John and Hill Streets, for the lump sum value of \$1,806,116.92 (GST exclusive);**
- ii. **adopt the following additional funding package for works in Argyle Street:**

<b>Regional Block Grant</b>	<b>\$155,000</b>
<b>Roads To Recovery Grant</b>	<b>\$413,694</b>
<b>Asset Renewal Reserve</b>	<b>\$781,306</b>
<b>Capital Works Reserve</b>	<b>\$500,000</b>
<b>Total</b>	<b>\$1,850,000</b>

**and**

- iii. **authorise the relevant documentation to be completed under Council's Power of Attorney, granted on 27 August 2013, Minute Number ORD215/13.**

#### **ATTACHMENTS**

1. **Tender T006/2016 - Argyle Street Streetscape Upgrade - Stage 1B - *Supporting Document***