



Camden Council

Business Paper

Ordinary Council Meeting
14 February 2017

Camden Council
Administration Centre
Oran Park



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
DoIRE	Department of Industry Resources and Energy
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
GSC	Greater Sydney Commission
LAP	Local Approvals Policy
LEP	Local Environmental Plan
LGA	Local Government Area
MACROC	Macarthur Regional Organisation of Councils
NSWH	NSW Housing
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
SREP	Sydney Regional Environmental Plan
STP	Sewerage Treatment Plant
VMP	Vegetation Management Plan
WSROC	Western Sydney Regional Organisation of Councils

General Manager
Ron Moore Mayor
Lara Symkowiak

Director Customer and Corporate Services
David Reynolds

Manager Governance and Corporate
Services
Charles Weber

Director Planning and Environmental Services
Nicole Magurren

Director Community Infrastructure
Vince Capaldi

SEATING DIAGRAM

Camden Council Meeting

Councillor
Rob Mills

Councillor
Theresa Fedeli

Councillor
Peter Sidgreaves

Councillor
Michael Morrison

Councillor
Ashleigh Cagney

Councillor
Eva Campbell

Councillor
Paul Farrow

Councillor
Cindy Cagney

Public Address

Public Seating

Media





ORDINARY COUNCIL

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ORDINARY COUNCIL

SUBJECT: PRAYER

PRAYER

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

Amen

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

Amen

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

Amen

AFFIRMATION

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

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

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

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

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



ORDINARY COUNCIL

SUBJECT: ACKNOWLEDGEMENT OF COUNTRY

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



ORDINARY COUNCIL

SUBJECT: RECORDING OF COUNCIL MEETINGS

In accordance with Camden Council's Code of Meeting Practice and as permitted under the *Local Government Act 1993*, this meeting is being audio recorded by Council staff for minute taking purposes.

No other recording by a video camera, still camera or any other electronic device capable of recording speech, moving images or still images 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 1993*, be expelled from a meeting of a Council for using or having used a recorder in contravention of this clause.



ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

RECOMMENDED

That leave of absence be granted.



ORDINARY COUNCIL

SUBJECT: DECLARATION OF INTEREST

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

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

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

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

RECOMMENDED

That the declarations be noted.



ORDINARY COUNCIL

SUBJECT: PUBLIC ADDRESSES

The Public Address session in the Council Meeting provides an opportunity for people to speak publicly on any item on Council's Business Paper.

The Public Address session will be conducted in accordance with the Public Address Guidelines. Speakers must submit an application form to Council's Governance team no later than 5.00pm on the working day prior to the day of the meeting.

Speakers are limited to one topic per Public Address session. Only seven speakers can be heard at any meeting. A limitation of one speaker for and one speaker against on each item is in place. Additional speakers, either for or against, will be identified as 'tentative speakers' or should only be considered where the total number of speakers does not exceed seven at any given meeting.

Where a member of the public raises a question during the Public Address session, 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 question per speaker per meeting.

Speakers should ensure that their statements, comments and questions comply with the Guidelines.

All speakers are limited to four minutes, with a one minute warning given to speakers prior to the four 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, or make a point of order ruling if a speaker breaches the Guidelines.

RECOMMENDED

That the public addresses be noted.



ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of the Ordinary Council Meeting held 13 December, 2016.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 13 December, 2016, copies of which have been circulated, be confirmed and adopted.



ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE

Consideration of Mayoral Minute (if any).



ORDINARY COUNCIL

ORD01

SUBJECT: STAGED SUBDIVISION TO CREATE 62 RESIDENTIAL LOTS AND ASSOCIATED SITE WORKS - 240 MACARTHUR ROAD, SPRING FARM

FROM: Director Planning & Environmental Services

TRIM #: 16/254270

APPLICATION NO: 2016/607/1

PROPERTY ADDRESS: 240 Macarthur Road, Spring Farm

APPLICANT: Minotaur Project Management Pty Ltd

OWNER: Cornish Group Spring Farm Pty Ltd

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for a residential subdivision at 240 Macarthur Road, Spring Farm.

The DA is referred to Council for determination as there remain unresolved issues raised in two submissions from one property owner.

SUMMARY OF RECOMMENDATION

That Council determine DA/2016/607/1 for a residential subdivision pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions attached to this report.

THE PROPOSAL

DA/2016/607/1 seeks approval for a residential subdivision.

Specifically the proposed development involves:

- Subdivision to create 62 residential lots in two stages. The proposed lots will range in area from 389m² to 636m²; and
- Associated site works including the construction of earthworks, roads, drainage, services and landscaping.

The estimated cost of the proposed development is approximately \$2.15 million.

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

At the Ordinary Council meeting of 22 September, 2015, Council approved DA/2015/147/1 for a residential subdivision on this site and adjacent properties to the north. However, this approval was subject to the deletion of lots proposed directly abutting the quarry boundary (identified as Stage 46 on the previously approved subdivision plan). This deletion was due to concerns about the lots' proximity to the adjacent quarry boundary and the potential environmental impacts upon the future residents of those lots.

The proposed development is a reconfigured version of the residential subdivision previously approved on this site. The reconfiguration involves relocating a public road to abut the quarry boundary (instead of residential lots as previously proposed) and the introduction of a cul-de-sac. **A copy of the residential subdivision previously approved by DA/2015/147/1 is provided as an attachment to this report.**

THE SITE

The site is commonly known as 240 Macarthur Road, Spring Farm and is legally described as Lot 4135 DP 1195599.

The site has a frontage of approximately 88.6m to Macarthur Road, a maximum depth of approximately 272m and an overall area of approximately 4.4ha. The site is currently vacant and is undergoing subdivision construction works associated with DA/2015/147/1 which previously approved a residential subdivision on the site. The site is located in the Spring Farm urban release area.

The surrounding area is characterised by the Spring Farm Quarry which adjoins the site's north western boundary, developed and developing residential subdivisions to the north, Springs Lake to the east and the Nepean River to the south.

Spring Farm Public School, the Camden Bypass and Macarthur Bridge lie to the north. The Spring Farm neighbourhood centre and other developing residential parts of Spring Farm lie to the east. The Wollondilly Shire local government area lies to the south on the opposite side of the Nepean River whilst the residential suburb of Camden South lies to the east across the Nepean River.

The site location map below shows the site in red and the Spring Farm quarry in blue.



HISTORY



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

Date	Development
22 September 2015	Deferred commencement consent granted to DA/2015/147/1 at the Ordinary Council meeting of 22 September 2015 for a residential subdivision on this site and adjacent properties to the north

KEY DEVELOPMENT STATISTICS

The development has been assessed against the relevant planning controls and is generally compliant with the exceptions of the variations noted below. Below is a summary of the key development statistics associated with the DA and any variations.

Camden Local Environmental Plan 2010 (LEP)			
Clause	Requirement	Provided	Compliance
4.1 Minimum Subdivision Lot Size.	Minimum lot size of 300m ² .	Minimum lot size of 389m ² .	Yes.
6.1 Arrangements for Designated State public infrastructure.	Certification from the Department of Planning and Environment (DPE) that satisfactory arrangements have been made for contributions to designated State public infrastructure.	DPE has issued a certificate which certifies satisfactory arrangements have been made for contributions to designated State public infrastructure.	Yes.
6.2 Public Utility Infrastructure.	Public utility infrastructure to service the development.	A standard condition that requires the provision of public utility infrastructure is recommended to address this matter.	Yes.
6.5 Matters to be Specifically Considered for Residential Development at Spring Farm.	Consider the management and mitigation of remnant vegetation and bush corridors, odour impacts from the Spring Farm Advanced Resource Recovery Park and adverse noise and dust impacts from sand mining operations.	The matters relevant to this DA are potential adverse noise and dust impacts from sand mining operations being undertaken at the adjoining quarry site. These matters have been considered in detail as described in the 'Key Issues' section of this report.	Yes.



Camden Development Control Plan 2011 (DCP)			
Control	Requirement	Provided	Compliance
C5.1 Neighbourhood Amenity and Subdivision Design.	Street blocks in a grid formation are to generally be a maximum of 250m long x 70m wide.	The proposed development is generally compliant with this requirement. The block width of the proposed street block fronting Macarthur Road extends to a maximum of approximately 107.2m however this is a result of the adopted DCP road layout. The proposed subdivision will be accessible for motorists and pedestrians and therefore complies with the intent of this control.	No, however minor variation recommended to be supported.
C5.2 Street Network and Design.	The maximum number of dwellings permitted off a cul-de-sac head is 6 and the maximum number of dwellings permitted to be served by a cul-de-sac is 12.	Three lots will be served by the proposed cul-de-sac head with a total of five being served by the entire cul-de-sac	Yes.
C7.1 Spring Farm Introduction.	Consistency with the Spring Farm Masterplan (C18) – see Attachment 4.	The proposed development is generally consistent with the Spring Farm masterplan.	Yes.
C7.1 Residential Density Targets.	Consistency with the Spring Farm Residential Dwelling Density Range (Figure C20) - see Attachment 4. Approximately 53 lots are to be provided on this site.	The proposed development is generally consistent with the DCP's density controls for Spring Farm, the principles of the Spring Farm Masterplan and the DCP.	Yes.
C7.1 Staging of Development.	General consistency with the Spring Farm Staging Plan (Figure C21) - see Attachment 4,	A small portion of the proposed development comprises a part of stage 8A (as shown in the submissions section below) which is	No, however minor variation recommended to be supported.



	noting that staging can be varied where it can be demonstrated that the objectives are addressed.	indicatively the last stage of Spring Farm and is to occur following sand mining rehabilitation works once mining has ceased. Mining activities are still occurring at the Spring Farm Quarry adjoining this site to the north west. The staging variation is supported as it only relates to a small portion of the site and it is considered the objectives of the staging plan, which include protecting the amenity of future residents from the effects of mining, will still be achieved as demonstrated in the technical reports considered as part of the DA. The compatibility of the proposed development with the adjoining quarry is assessed in the 'Key Issues' section of this report.	
C7.2 Neighbourhood and Subdivision Design.	Street blocks are to typically be a maximum of 200m long x 60m wide.	The proposed development is generally compliant with this requirement. The block width of the proposed street block fronting Macarthur Road extends to a maximum of approximately 107.2m however this is a result of the adopted DCP road layout. The proposed subdivision will be accessible for pedestrians and motorists and therefore complies with the intent of this control.	No, however minor variation recommended to be supported.
C7.3 Street Network and Design.	General consistency with the Spring Farm Street Network and Design Map	The proposed development will provide a modified road network that will necessitate modifications to the	No – DCP Variation 1.



	(Figure C22) - see attachment 4.	adopted street network for surrounding properties.	
	Consistency with the Spring Farm road cross sections (Figures C22.6 and C22.10) - see attachment 4.	The proposed development is generally consistent with the Spring Farm road cross sections except for proposed Road No. 25 which is proposed with a reduced interim configuration pending the future residential development of the adjoining quarry site.	No – DCP Variation 2.

ASSESSMENT

Zoning and Permissibility

Zoning:	R1 General Residential.
Permissibility:	The proposed development is defined as ‘earthworks’, ‘roads’ and the subdivision of land by the LEP which are permitted with consent in this zone.

Environmental Planning and Assessment Act 1979 – Section 79(C) Matters for Consideration

State Environmental Planning Policy(s) - S79C(1)(a)(i)	<p>State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007 – Compliant with conditions recommended where necessary.</p> <p>State Environmental Planning Policy (Infrastructure) 2007 – Compliant with conditions recommended where necessary.</p> <p>State Environmental Planning Policy No. 55 – Remediation of Land - Compliant with conditions recommended where necessary.</p> <p>Deemed State Environmental Planning Policy No. 9 – Extractive Industry – Compliant with conditions recommended where necessary.</p> <p>Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River – Compliant with conditions recommended where necessary.</p>
Local Environmental Plan - S79C(1)(a)(i)	Camden Local Environmental Plan 2010 – Compliant with conditions recommended where necessary.
Draft Environmental Planning Instrument(s) - S79C(1)(a)(ii)	None applicable.



Development Control Plan(s) - S79C(1)(a)(iii)	Camden Development Control Plan 2011 – Generally compliant with variations proposed as discussed below.
Planning Agreement(s) - S79C(1)(a)(iiiia)	Spring Farm VPA – Compliant with conditions recommended where necessary.
The Regulations - S79C(1)(a)(iv)	Impose prescribed conditions.
Likely Impacts - S79C(1)(b)	The likely impacts are discussed in the ‘Key Issues’ section of this report.
Site Suitability - S79C(1)(c)	The site is suitable for development and the site attributes are conducive to development.
Submissions - S79C(1)(d)	2 submissions were received which are discussed in the Submissions’ section of this report.
Public Interest - S79C(1)(e)	The proposed development is in the public interest.

Compliance with Plans or Policies

DCP Variation 1 – Variations to the DCP Street Network and Design Map (Figure C22)

DCP Control

The proposed development will provide a modified road layout that differs from the DCP. **A plan demonstrating the DCP street network against the proposed variations is provided as an attachment to this report.**

Variation Request

The applicant has requested that Council support a variation to this DCP control on the basis that:

- The street network has been redesigned to provide an increased setback for the proposed residential lots from the adjoining quarry site; and
- The reconfigured street network will facilitate a better overall road and subdivision layout that takes into account the previously approved residential subdivision on the site and adjacent properties to the north (DA/2015/147/1).

Council Staff Assessment

Council staff have reviewed this variation request and recommend that it be supported for the following reasons:

- The provision of a road to separate the proposed residential lots from the adjoining quarry is a better outcome than for these lots to directly abut the quarry as was originally proposed by the applicant as part of DA/2015/147/1. This increased setback will help to mitigate any potential noise and dust impacts upon future residents.
- The reconfigured street network will provide for a better road and subdivision layout, particularly in regards to subdivision DA/2015/147/1. The reconfigured network will ensure that all lots in the surrounding area have one road frontage adjoining their front boundary rather than some having roads along both their front and rear boundaries if the DCP layout was to be maintained.



- The applicant has provided an indicative street network plan that shows how other DCP roads could be modified based on the proposed variation. Council staff have assessed this plan and note that, whilst it is indicative only and subject to separate DAs and detailed design, the reconfigured road network on other properties is acceptable in principle and will still achieve the access, traffic management and density objectives of the DCP.

DCP Variation 2 – Reduced Road Width for Road 25 (Figure C22.10)

DCP Control

The table below outlines the DCP requirements and the proposed interim road configuration for Road No. 25. It is noted that this will only be a temporary configuration pending the future residential development of the adjoining quarry site. Ultimately this road will be widened to comply with the DCP.

DCP Road Reserve	Proposed Road Reserve	Compliance
14m	10m	No
DCP Carriageway Width	Proposed Carriageway Width	Compliance
7m	6m*	No
DCP Verge Widths	Proposed Verge Widths	Compliance
3m one side, 4m one side	3m one side, 1m one side	No

*The attached conditions require that the trafficable carriageway width be reduced to 5m wide (via an edge line treatment) to allow for a 1m offset between vehicles on the road and a safety barrier within the proposed 1m northwestern verge. The purpose of this is to improve safety for motorists.

Road No. 25 is highlighted in the plan below.



Variation Request

The applicant has requested that Council support a variation to this DCP control on the basis that:

- The reduced road width results from a temporary road configuration which will eventually be extended into its ultimate form upon the urban development of the adjoining quarry site.

Council Staff Assessment

Council staff have reviewed this variation request and recommend that it be supported for the following reasons:



-
- It is acknowledged that the reduced road width results from a temporary, interim configuration that will be extended upon the urban development of the adjoining quarry site.
 - A 5m carriageway will provide sufficient space for two way traffic movement and some parking opportunities. This is acceptable as one side of the road (the quarry side) has no lots fronting the road and the proposed subdivision side will have lots orientated towards the subdivision's internal streets for much of its length.

Consequently it is recommended that Council support these proposed variations to the DCP.

Key Issues

The key issues associated with the DA are:

Environmental Impacts Upon the Proposed Development from the Adjoining Spring Farm Quarry

As this site directly adjoins the south eastern boundary of the Spring Farm Quarry, noise and air quality are potential environmental impacts upon the proposed development.

Spring Farm Quarry Approval History

The quarry currently operates under Council Development Consent 1993/252/1 (approved on 1 May 1995) and State Significant DA 75/256 (approved in 1988 and subsequently modified in 1998, 2009 and 2012).

The 1993 Council development consent approved sand and soil extraction, stockpiling, sand washing, soil blending, land rehabilitation and associated site works directly adjacent to the subject site at 214 Macarthur Road, Spring Farm.

The 1988 State Significant DA and associated modifications approved further soil and sand quarrying activities at 172 and 186 Macarthur Road further to the north west of the site. The quarry is subject to an Environment Protection Authority (EPA) licence which regulates its activities.

A site plan of the quarry submitted as part of the 2012 modification to the State Significant DA is provided below.



The State Significant DA and modifications allow for the quarry to operate until 30 June, 2019. The quarry operates from 7am-5pm Monday to Friday and 8am-1pm on Saturdays. No activities are undertaken on Sundays or public holidays.

Site Subdivision DA History

At the Ordinary Council meeting of 22 September, 2015, Council approved DA/2015/147/1 for a residential subdivision on this site and adjacent properties to the north. However this approval was subject to the deletion of lots proposed directly abutting the quarry boundary (identified as Stage 46 on the previously approved subdivision plan). This deletion was due to concerns about the lots' proximity to the adjacent quarry boundary and the potential environmental impacts upon the future residents of those lots.

The subject DA proposes a reconfigured subdivision layout which instead provides a road adjoining the quarry. The road will provide a 10m separation between the proposed lots and the quarry boundary which, when combined with standard front setbacks for future dwellings, will help to mitigate any potential noise and air quality impacts.

Noise Impacts

The applicant has submitted an acoustic report in support of the DA. The report indicates that there will be no adverse noise impacts upon the proposed lots and suggests that windows in future dwellings facing the quarry may be kept closed to improve noise attenuation.

One of the submissions lodged in objection to the DA provided a different acoustic report from a different acoustic consultant. This acoustic report indicates a higher noise



level emanating from the quarry and ultimately recommends a number of modifications to the development should it be approved. These modifications include requiring dwellings within the approved subdivision to be single storey residential lots to be set back 50m from the quarry boundary, construction of a 3m high acoustic barrier along the quarry boundary and purchasers to be advised that the quarry is in operation and that they will potentially be affected by noise.

The applicant's noise expert and the objector's noise expert have differing opinions on the level of noise emanating from the quarry and resultant measures needed to mitigate this potential impact. As a result, Council sought to have acoustic assessments provided by both parties peer reviewed with consideration given to both the methodology used and the mitigation measures necessary. The independent peer review considered both reports and also the noise criteria specified in the quarry's EPA licence.

The peer review indicates that the noise levels permitted from the quarry are likely to be higher than that suggested by both the applicant's and the objector's consultant. The peer review suggests that the measures suggested by the applicant's consultant are not sufficient but considers those suggested by the objector's consultant to be onerous.

The peer review suggests a 3m high acoustic barrier be constructed along the quarry boundary, mechanical ventilation and thicker glazing for future dwellings close to the quarry boundary and that purchasers be made aware of the quarry's existence. The peer review does not suggest the additional mitigation measures recommended by the objector's acoustic report (single storey dwelling construction and a 50m setback)

Council staff have considered both acoustic reports and the independent peer review. The suggestions in the peer review represent a conservative, but reasonable, approach to noise mitigation for the future lots close to the quarry boundary and will achieve external noise levels of 55dB(A) LAeq (9 hour) and internal noise levels of 35 dB(A) LAeq (15 minutes). These noise levels are consistent with Council's Environmental Noise Policy and are considered reasonable. The recommendations in the peer review are also based on a consideration of the approximate amount of noise the quarry is allowed to make under its EPA licence and are designed to maintain that allowance following development of the subdivision.

The attached conditions therefore recommend the construction of a 3m high lapped and capped timber acoustic barrier along the quarry boundary and mechanical ventilation and thicker glazing for dwellings closer to the quarry. The barrier will remain in place until the quarry ceases operations. It is also recommended that notations be added to the Section 149 Planning Certificates for the proposed lots to advise future purchasers of the quarry's operations.

Air Quality Impacts

The applicant has submitted an air quality assessment in support of the DA. The report reviews existing documentation in relation to the quarry operations, including previous air modelling and the quarry's environmental protection licence. In addition, local air quality data from the Macarthur monitoring station was considered. The report demonstrates that air quality impacts upon the proposed development will not exceed the applicable annual criteria. There are some existing short term, infrequent exceedances of the criteria in the Macarthur region however this is due to existing background levels and not specifically from the quarry.



Council staff have reviewed the report and agree with its findings. It is noted that the 3m high acoustic barrier will help to further mitigate any potential dust impacts.

Council staff contacted the EPA to discuss the above issues and were advised that the quarry is well run and that there are not any known air quality impacts from the quarry upon the surrounding area.

Motorist, Cyclist and Pedestrian Safety

The applicant has submitted a traffic report in support of the DA. The report concludes that there will be no significant impact on the Spring Farm road network. Council staff have reviewed the report and are satisfied that there will be no significant conflict between traffic/pedestrians associated with the proposed development and heavy vehicles using Macarthur Road. In addition, alternative connections are available to significant roads such as Springs and Richardson Roads for all existing and future motorists, cyclists and pedestrians.

Submissions

The DA was publicly exhibited for 14 days in accordance with the DCP. The exhibition period was from 29 June to 12 July 2016. Two submissions were received from one property owner (both objecting to the proposed development).

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

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

1. *The proposed site will not have any barriers or landscape treatment to mitigate impacts from the quarry.*

Officer comment:

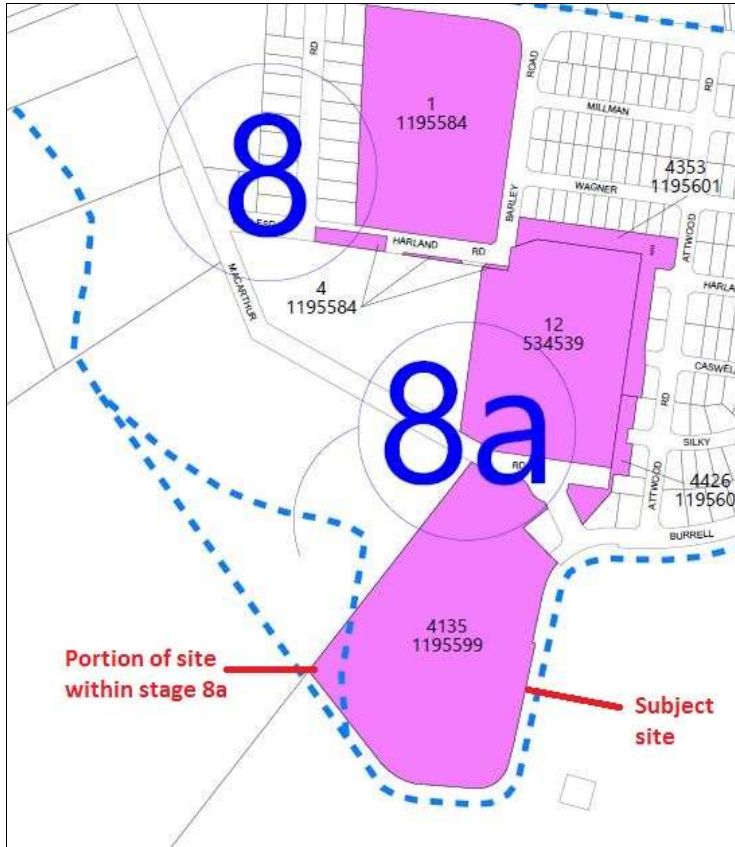
A condition is recommended that requires the applicant to construct a 3m high barrier along the north western side of Road No. 25. This barrier will help mitigate any potential dust and noise impacts from the adjoining quarry.

2. *The staging and residential development of land in Spring Farm has exceeded all reasonable land release projects held in 2009 and the current proposal of abutting residential land release was not contemplated.*

Officer comment:

The DCP provides a staging plan that indicates how development should be staged to ensure the provision of adequate infrastructure and protection from mining, industrial and waste disposal activities.

A small portion of the proposed development comprises a part of Stage 8A which is indicatively the last stage of Spring Farm. This is illustrated below.



Stage 8a is to occur following sand mining rehabilitation works once mining has ceased. However, the approval of the proposed development prior to the cessation of the adjoining quarry is supported. The potential environmental impacts of the quarry upon future residents have been assessed and, subject to the attached conditions requiring the construction of a 3m high acoustic barrier and acoustic treatment for future dwellings, are not considered to be unreasonable.

Based on the above, the proposed development is considered compatible with the adjoining quarry.

3. *The noise and air quality reports submitted with the DA have several flawed assumptions and shortcomings. Council is recommended to obtain independent expert advice in respect of these reports.*

Officer comment:

Council has received two acoustic reports (one from the applicant, one from the submitter) with different recommendations. Consequently Council staff engaged an independent acoustic consultant to undertake an independent peer review of the methodology and recommendations of both reports.

The independent peer review considered both reports and has made alternative suggestions to mitigate noise impacts from the quarry. These alternative suggestions are supported and will achieve consistency with Council's Environmental Noise Policy.

4. *The quarry complying with its licence conditions does not result in the achievement of acceptable residential amenity for the proposed development.*



Officer comment:

Compliance with the quarry's Environmental Protection Licence conditions, in conjunction with the recommended 3m high acoustic barrier along the quarry boundary and the recommended acoustic treatments for future dwellings, will ensure an acceptable level of residential amenity is achieved for future residents of the proposed development.

5. *Clause 6.5 of the LEP which requires consideration of adverse noise and dust impacts from sand mining to be mitigated. Any mitigation should be undertaken by the applicant.*

Officer comment:

Clause 6.5 of the LEP has been considered as detailed in this report. Mitigation to protect against adverse noise impacts from the quarry is recommended with the construction of the 3m high acoustic barrier to be completed by the applicant. It is agreed that mitigation of impacts from the adjoining quarry is the responsibility of the applicant.

6. *Residential development adjacent to the quarry should not be approved following a merit assessment of the DA, considering Clause 6.5 of the LEP and taking into account the submitters acoustic report.*

Officer comment:

Council staff have undertaken a merit assessment of the DA and considered an independent peer review of two acoustic reports submitted in support of and objecting to the proposed development. Approval of the proposed development is recommended and it is considered that, subject to the attached conditions, there will be no unreasonable adverse impacts upon future residents.

7. *If the DA is approved the recommendations of the submitters acoustic report must be complied with. This should include registering a restriction on the title of the lots advising of the quarry operations and that there will be limitations in future dwelling development. A notation should also be placed on 149 Planning Certificates advising future purchasers of the quarry's operations.*

Officer comment:

The independent peer review of the submitter's acoustic report that Council staff commissioned indicates that some of recommendations of that report are onerous. Alternative mitigation measures that do not include only single storey dwelling construction and a 50m setback have been suggested by the peer review. Council staff have considered these measures and deem them to be acceptable as they represent a conservative approach to the potential noise impacts from the quarry and will achieve consistency with Council's Environmental Noise Policy.

The attached conditions recommend appropriate Section 88B restrictions for the proposed lots closest to the adjoining quarry that requires them to have mechanical ventilation and thicker glazing. It is also recommended that notations be added to the Section 149 Planning Certificates for the proposed lots to advise future purchasers of the quarry's operations. These measures are deemed acceptable to communicate the quarry's existence to future purchasers and notify them of the restrictions for future dwelling construction.

-
8. *Draft conditions relating to acoustic treatments for the proposed development and future dwellings are provided by the submitter should the DA be approved.*

Officer comment:

Council staff have reviewed the submitter's draft conditions and, as described throughout this report, agree with some of the recommendations. These recommendations have been appropriately incorporated into the attached conditions where relevant.

9. *As an alternative, the creation of proposed lots 4503-4507, 4525-4528 and 4547-4549 should be deferred until the quarry has ceased operations or their creation refused.*

The potential environmental impacts of the quarry upon the proposed development have been assessed. Subject to the attached conditions, those environmental impacts will be appropriately mitigated and so the deferment or refusal of the creation of the above lots is not required.

10. *Concerns regarding the compatibility of heavy vehicle traffic and resident vehicle, cyclist and pedestrian movements.*

Officer comment:

The proximity of this site to the adjoining quarry and its associated heavy vehicle movements is noted. Council staff are satisfied there will be no significant conflict between traffic/pedestrians associated with the proposed development and heavy vehicles using Macarthur Road. In addition, alternative connections are available to significant roads such as Springs and Richardson Roads for all existing and future motorists, cyclists and pedestrians.

11. *The proposed development is unacceptable with regards to its interface and with the adjoining quarry and the provision of unreasonable amenity for future residents.*

Officer comment:

Council staff have reviewed the submitted noise and air quality reports and obtained an independent peer review of the acoustic reports. Subject to the alternative acoustic recommendations, it is considered that an acceptable level of residential amenity will be provided to future residents.

FINANCIAL IMPLICATIONS

The recommended 3m high acoustic barrier will be located within the 1m wide northwestern verge adjoining the quarry. This verge will be dedicated to Council as road reserve and consequently the barrier will be Council's responsibility to maintain.

This maintenance is considered acceptable as the attached conditions require the fence to be designed and constructed to have a 10 year lifespan and be finished in an anti-graffiti coating. It is noted that the fence will be removed upon the cessation and redevelopment of the adjoining quarry.



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/2016/607/1 is recommended for approval subject to the conditions attached to this report.

RECOMMENDED

That Council approve DA/2016/607/1 for a residential subdivision at 240 Macarthur Road, Spring Farm, subject to the attached conditions.

ATTACHMENTS

1. Proposed Subdivision Plan
2. Recommended Conditions
3. Previously Approved Subdivision Plan
4. DCP Figures
5. Applicants Indicative Street Network Plan
6. Objector's Acoustic Report
7. Applicants Acoustic Report
8. Independent Peer Review of Acoustic Reports
9. Public Exhibition and Submissions Map for Council Report - *Supporting Document*
10. Submissions - *Supporting Document*



ORDINARY COUNCIL

ORD02

SUBJECT: TORRENS TITLE SUBDIVISION OF ONE RESIDENTIAL LOT INTO TWO RESIDENTIAL LOTS - 22 ARALUEN PLACE, CAMDEN SOUTH

FROM: Director Planning & Environmental Services

TRIM #: 17/2165

APPLICATION NO: DA 1459/2015
PROPERTY ADDRESS: 22 Araluen Place, Camden South
APPLICANT: Mr Warren Eggins
OWNER: Mr Warren Eggins

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for Torrens title subdivision of one residential lot into two residential lots at 22 Araluen Place, Camden South.

The DA is referred to Council for determination at the request of Councillor Campbell, Councillor A Cagney and Councillor C Cagney in accordance with Council's schedule of delegations.

There remain unresolved issues received from the public in five individual submissions from four property addresses and one submission comprising 49 signatures. There are also proposed variations to the Camden Local Environmental Plan 2010 (LEP) and the Camden Development Control Plan 2011 (DCP).

SUMMARY OF RECOMMENDATION

That Council determine DA 1459/2015 for Torrens title subdivision of one residential lot into two residential lots at 22 Araluen Place, Camden South pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by way of refusal for reasons attached to this report.

THE PROPOSAL

DA 1459/2015 seeks approval for the Torrens title subdivision of one existing 4,401m² residential lot to create two residential lots, being:

- proposed battleaxe lot 361 (3,330m²); and
- proposed lot 362 (1,071m²)

The existing dwelling is proposed to remain on proposed lot 361.

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



THE SITE

The site is commonly known as 22 Araluen Place, Camden South and is legally described as Lot 36 DP 31361. The site is 4,401m² and has a 16.4m frontage as referenced in the DP for Araluen Place.

The site is located within an established residential area within Camden South, and is adjacent to two residential lots to the east and south and public recreation land comprising general open space to the north and northwest.

The Nepean River is located approximately 450m to the northeast, with The Old Hume Highway located approximately 530m to the west.

The site is located at the end of a cul-de-sac and is not benefited by any rights of way over adjoining properties. The intersection of Araluen Place and Macarthur Avenue is affected by the 1% Annual Exceedance Probability (AEP) flood with all of Araluen Place affected by the Probable Maximum Flood (PMF) event (see maps below).

1% AEP is the equivalent to a 1 in 100 chance of a flood of that size (or larger) occurring in any one year. The PMF is the largest flood that could conceivably occur at a particular location.

The site comprises a single storey dwelling and established vegetation, including endangered River-flat Eucalypt Forest.



Figure 1 – Aerial image of subject site and surrounds



Figure 2 – Extent of 1% AEP flooding



Figure 3 – Extent of PMF AEP flooding



LOCALITY HISTORY

The subdivision which created Araluen Place and the subject site was registered in 1960 (Lot 35 DP 31361).

DA 22/2003 for a three lot subdivision at 24 Araluen Place, Camden South (adjoining the subject site) was refused at the Ordinary Council Meeting on 10 November 2003 for the following reasons:

1. The proposed subdivision did not have a safe flood free access out of Araluen Place; and
2. Additional dwellings within Araluen Place would be a burden on emergency services in times of flood.

A copy of the report is provided as an attachment to this report.

Prior to 2003, the most recent subdivisions in Araluen Place were:

- 10, 12, 14 and 16 Araluen Place, Camden South, registered on 28 February 1969; and
- 8, 8A and 8B Araluen Place, Camden South, were registered on 8 May 1975.

ASSESSMENT

Zoning and Permissibility

Zoning:	R2 Low Density Residential.
Permissibility:	The subdivision of land is permitted with consent in the R2 zone.

Environmental Planning and Assessment Act 1979 – Section 79(C) Matters for Consideration

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

Camden Local Environmental Plan 2010 (LEP)

The proposed development is not consistent with the aims of the LEP:

1.2 Aims of Plan

(2) (d) to minimise the impact on existing and future communities of natural hazards such as bush fires and flooding

Comment: The impact on future communities due to flooding will be increased as reliable, safe, flood-free access is not available. This aim is not satisfied by this proposal. See **Compliance with Plans or Policies Section** below for a detailed flooding assessment.



KEY DEVELOPMENT STATISTICS

The development has been assessed against the relevant planning controls. Below is a summary of the key development statistics

Camden Local Environmental Plan 2010 (LEP)			
Control	Requirement	Provided	Compliance
4.1 Minimum lot size	Minimum lot size 600m ²	Minimum lot size of 1,071m ²	Yes.
7.1 Flood Planning	<p>Minimise the flood risk to life and property associated with the use of land.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(c) incorporates appropriate measures to</p>	<p>The majority of the site is affected by the 1% AEP flood. The proposed development will result in an increased risk to life and property. The extent of the flood hazard and the impact it has on the land and occupants during a flood event is unacceptable as reliable, safe flood free access will be unavailable. See Compliance with Plans or Policies Section for the detailed flood assessment.</p> <p>The development is unable to be designed to satisfy the flood hazard affectation of the land; any increase in density will result in an increase to the risk of life from flood as legal egress from the property is unachievable.</p> <p>A detailed assessment of the application from a flood perspective has been undertaken in the Compliance with Plans or Policies</p>	<p>No – LEP Variation 1.</p> <p>No – LEP Variation 1.</p>



Camden Local Environmental Plan 2010 (LEP)			
Control	Requirement	Provided	Compliance
	manage risk to life from flood.	Section of this report.	
Camden Development Control Plan 2011 (DCP)			
Control	Requirement	Provided	Compliance
B1.11 Flood Hazard Management	Development on flood prone land must comply with Council's Engineering Specifications and Flood Risk Management Policy for development which is located within and affected by flood prone land.	The development is proposed on flood prone land and does not comply with Council's Flood Risk Management Policy.	No – DCP Variation 1.
D2.1 Primary Residential Controls	Notwithstanding numerical setback requirements, all setbacks are to be consistent with the average setbacks of the nearest 2 dwelling houses having the same frontage.	The building envelope plan provided with the application is non-compliant with the average front setback control.	No – DCP Variation 2.
C4.2 Subdivision in Established Residential Areas	Minimum width of 15m (at building line).	Lots 361 and 362 have a lot width of greater than 15m at the building line.	Yes.
	Minimum depth of 27m.	Lots 361 and 362 have a lot depth of greater than 27m.	Yes.

Compliance with Plans or Policies

LEP Variation 1 and DCP Variation 1 – Flood Planning and Hazard Management

LEP Control

The flood planning objectives (Clause 7.1) of the LEP are to:

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*

(c) to avoid significant adverse impacts on flood behaviour and the environment.

The LEP requires that development consent is not granted unless it can be demonstrated that, amongst other things, the development:

(a) is compatible with the flood hazard of the land, and

(c) incorporates appropriate measures to manage risk to life from flood, and

DCP Control

The DCP (Section B1.11) requires flood affected development to comply with Council's Flood Risk Management Policy (Flood Policy).

The flood mapping shows that:

- The subject site is partially affected by the 1% AEP flood and will be inundated during a PMF event; and
- During a 1% AEP flood, Araluen Place will be isolated by flood water at the intersection of Macarthur Avenue, with the depth of water being approximately 1m, this depth prevents the safe movement of vehicles.

The proposed development does not comply with Section 2.3 of the Flood Policy as reliable safe flood free access for floods up to and including a PMF event is not and cannot be provided.

The proposed development does not comply with Section 6.3 of the Flood Policy as compliance with the development guideline matrix has not been demonstrated.

A copy of the Development Guideline Matrix is attached to this report.

Variation Request

The applicant has requested a variation to the flood planning controls on the following grounds:

- The predicted warning time is more accurate than it was historically with over 12 hours flood warning time available.
- An officer of the State Emergency Services (SES) confirmed the 0.9m depth of water at the intersection during a 1% AEP flood will not be of long duration and the SES has vehicles capable of negotiating the water to evacuate residents.
- Proposed Lot 362 can accommodate a dwelling that will be above the flood line. A flood blocking the intersection is not grounds in itself for rejection.
- In a PMF flood event, much of the Camden LGA will be inundated and flood free access is not available for much of these areas.
- Council originally provided a flood free access/egress area located on high ground at the intersection, with no fences or gates permitted. Safe pedestrian access is available above the 1% AEP flood through adjoining properties adjacent to the flooded portion of Araluen Place.



-
- The proposed subdivision is for only one additional lot, which is less than the refused three lot residential subdivision.
 - Flood water at the intersection is not moving water and poses no danger.
 - The parent subdivision approved the subject lot, including all other lots in Araluen Place with no concern raised about the 1% AEP flood. At the time it was considered the water was not from the Nepean River but back water from an overflowing creek.
 - Council has not informed purchasers of the flooding impacts.

A copy of the Applicant's various justifications have been provided with the Business Paper supporting documents.

Council Staff Assessment

Council staff have reviewed the variation to the flood planning controls and recommend that it not be supported for the following reasons:

- The subject site is partially affected by the 1% AEP flood with the site being inundated during a PMF event.

Section 2.3 and 6.3 of the Flood Policy requires the applicant to demonstrate reliable safe flood access can be maintained. The development must ensure egress can be achieved when the depth of floodwater over vehicular access routes (roads and legal right of ways) can facilitate safe and stable movement of vehicles and safe and stable movement of people in floods up to and including the PMF event.

Araluen Place is a cul-de-sac with the only legal means into and out of this street being via Macarthur Avenue in Camden South.

During a 1% AEP flood, Araluen Place will be isolated by flood water at the intersection of Macarthur Avenue by a depth of water of approximately 1m, which prevents the safe movement of vehicles.

During a PMF event, flood water is expected to be in excess of 5m deep across all of Araluen Place and travelling at approximately 1.2m/s; at this speed and depth of water, access cannot be negotiated by people or vehicles.

Flood free access out of Araluen Place via private land cannot be considered as flood free access must be via a public road or legal right of carriageway in accordance with section 2.3 of Council's Flood Risk Management Policy.

The applicant was requested to demonstrate an acceptable legal egress, however was unable to provide an appropriate flood evacuation strategy.

The proposed development intensifies the residential use of the land. This intensification puts future residents at risk during a flood event. There will be an inability to safely egress from the site via Araluen Place during a flood which is unacceptable from a life safety perspective and places additional pressure on emergency services.

- The State Government's Floodplain Development Manual (2001) introduced specific requirements to consider, in part, the full range of flood events up to and

including the probable maximum flood (PMF) to recognise existing, future and continuing flood risk on a strategic rather than on an ad hoc individual proposal basis, and to address flood readiness, response and recovery planning in conjunction with SES.

Council formally adopted a comprehensive Flood Risk Management Policy in 2006, which is currently being reviewed as part of the preparation of Floodplain Risk Management Plans for Upper South Creek and Nepean River catchments.

Approval of this DA would set an undesirable precedent for similar development sites within the Camden LGA, whereby a safe means of egress during a 1% AEP flood and PMF event is not available. This would collectively result in a significant increased risk to life and public safety as a result of flooding and pressure on emergency services.

- Accurate flood data modelling was not provided by the applicant to establish the effective warning time before reliable safe flood access becomes unavailable.
- Council referred this proposal to the SES for comment. The SES advised they do not provide comment on individual DAs, and advised in correspondence dated 16 March 2016 that “*development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.*”
- A Section 149 (2) Certificate issued for the property at 22 Araluen would identify to purchasers that the land as flood affected.

DCP Variation 2 – Building Envelope Setback

Control

Setbacks are to be consistent with the average setbacks of the nearest two dwelling houses having the same frontage.

The average front setback of the nearest two dwellings (existing dwelling on site and the dwelling on 20 Araluen Place) is 20m. The proposed front setback of the building envelope is 8.9m.

Variation Request

Based on the constraints of the allotment relating to the River-flat Eucalypt Forest located on site, the applicant provided a building envelope plan for proposed Lot 362 which demonstrated a dwelling can be accommodated without the need to remove significant vegetation. This plan also highlighted the future development will have a front setback of 8.9m which is non-compliant with the front setback required by the DCP.

Council Staff Assessment

The non-compliance would result in an undesirable precedent in this locality as it would be inconsistent with the streetscape character.



Submissions

The DA was publicly exhibited for 14 days in accordance with the DCP. The exhibition period was from 22 January, 2016 to 4 February, 2016. Five individual submissions from four property addresses and a submission comprising 49 signatures were received objecting to the proposed development.

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

1. *The proposed subdivision will set an undesirable precedent for further subdivision in Araluen Place that will increase risk due to flooding.*

Officer Comment:

The development is considered to result in an undesirable precedent given the increased risk to life safety and property as a result of flooding.

2. The entrance to Araluen Place is cut off during a flood, limiting safe access for residents.

Officer Comment:

It is acknowledged the site and the intersection of Araluen Place and Macarthur Avenue will be affected by flooding, preventing egress in the event of a flood.

3. Access for emergency services will be compromised due to flooding.

Officer Comment:

The site and access to Araluen Place via Macarthur Avenue will not enable flood free access for a vehicle given the depth of water will be approximately 1m during a 1% AEP flood and 5m during the PMF. This therefore limits the ability to evacuate occupants in the event of a flood and is inconsistent with Council's Flood Plain Risk Management Plan. The burden placed on emergency services is considered unacceptable.

4. DA 22/2003 (adjacent to the subject site at 24 Araluen Place) was refused at Council due to there being no safe flood free access during a 1% AEP flood and an unreasonable burden placed on emergency vehicles for additional dwellings during a flood.

Officer Comment:

This has been noted in the assessment of the subjection development application.

External referral to the NSW State Emergency Service (SES)

The SES advised in correspondence dated 16 March, 2016 it is unable to provide comment on individual development applications; however they provided design principles to consider in the assessment of an application, which include:

- Risk assessment should consider the full range of flooding, including events up to the Probable Maximum Flood (PMF) and not focus only on the 1% AEP flood.

-
- Evacuation must not require people to drive or walk through flood water.
 - Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.
 - The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.

A copy of the SES referral response is provided with the Business Paper supporting documents.

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 1459/2015 is recommended for refusal for the reasons attached to this report.

RECOMMENDED

That Council refuse DA 1459/2015 for the reasons attached to this report.

ATTACHMENTS

1. Reasons for refusal
2. Development Guideline Matrix
3. Proposed Plan
4. Report, Minutes and Determination
5. Public Exhibition and Submissions Map - *Supporting Document*
6. Submissions and Petition - *Supporting Document*
7. SES Referral Response - *Supporting Document*
8. Applicant's Justification - *Supporting Document*



ORDINARY COUNCIL

ORD03

SUBJECT: USE OF AN EXISTING FARM BUILDING AS A DEPOT - 238 COBBITTY ROAD, COBBITTY

FROM: Director Planning & Environmental Services

TRIM #: 17/18424

APPLICATION NO: DA 867/2016

PROPERTY ADDRESS: 238 Cobbitty Road, Cobbitty

APPLICANT: Mr Jeremy Swan

OWNER: Cobbitty Road Developments Pty Ltd

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination for the use of an existing farm building as a depot associated with a construction company at 238 Cobbitty Road, Cobbitty.

The DA is referred to Council for determination as there remain unresolved issues raised in twelve submissions from the public.

SUMMARY OF RECOMMENDATION

That Council determine DA 867/2016 for the use of an existing farm building as a depot associated with a construction company pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the attached conditions.

THE PROPOSAL

DA 867/2016 seeks approval for the use of an existing farm building as a depot associated with a construction company.

Specifically the proposed development involves:

- Use of an existing 420m² farm building as a depot for the storage of building materials, machinery and plant; and
- Installation of three-tier pallet racking along the inside edges of the building for the storage of building materials with the centre of the depot used for the loading and unloading of building materials and the storage of machinery and plant.

Building materials, plant and machinery are proposed to be stored within the depot when they are not being used off-site by the construction company.

Items proposed to be stored include:

- Building materials including fittings and fixtures, mobile scaffolding, residential building stock and general building supplies (e.g. bricks, tiles, panels and tools); and



- Machinery and plant associated with construction including two bobcats, one digger, 1 forklift and 1 truck.

Proposed hours of operation are 9:00am to 5:00pm Monday to Friday, with a maximum of four vehicle movements (vehicle size not exceeding a medium rigid vehicle) per week associated with the depot. For the purposes of this DA, if a vehicle enters and leaves the site, this is considered 2 vehicle movements. This does not include the movement of vehicles associated with the dwelling and vehicles to service the approved agricultural shed not associated with this application.

No physical works are proposed outside of the existing farm building. The only works proposed relate to the installation of internal pallet racking for storage of building materials.

A maximum of four staff will be present on site to manage loading and unloading of building materials, plant and machinery; no full time onsite staff are proposed.

The operator of the construction company resides in the dwelling on the site.

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

DA HISTORY

DA History	
DA 123/2004	Demolition of existing dwelling, construction of new dwelling and an in-ground pool – Approved 28 November 2006.
DA 1096/2011	Agricultural storage shed and water tank – Approved 22 September 2011.
DA 19/2014	Removal of 8 trees and pruning of 40 trees – Refused by Council 2 July 2014.
DA 1439/2015	Demolition of existing dwelling and construction of a new single storey dwelling and swimming pool – Approved 3 December 2015.
CDC 1457/2015	Alteration/additions to existing shed/outbuilding – Approved by a Private Certifier 3 November 2015.

As outlined above there are two farm buildings constructed on the site. The proposed depot is seeking to use the existing eastern farm building approved via CDC 1457/2015, which has an area of 420m².

The adjacent western farm building has an area of 420m² and was approved via DA 1096/2011 as an ‘agricultural storage shed’. Its use for agricultural storage is not proposed to change as part of this DA.

THE SITE

The site is commonly known as 238 Cobbitty Road, Cobbitty and is legally described as Lot 203 DP 812265.

The site is a large battleaxe lot accessed via an access handle from Cobbitty Road located to the north. The site has a 25m frontage to Cobbitty Road and a site area of



12.87 hectares. The site slopes from the street to the rear where it intersects with the Nepean River. The site presently contains access roads, scattered vegetation, turning areas, a dwelling, a detached outbuilding and two agricultural sheds, one being the subject of this proposal to convert the agricultural storage shed to a depot.

The surrounding area is characterised by dwellings and agricultural land uses. Land fronting Cobbitty Road comprises established dwellings as part of the R5 Large Lot Residential zone.

The adjacent property to the west (194 Cobbitty Road) shares 650m of the western side boundary and is known as Kathleen Haven Orchard where persimmon fruit is grown and packed, and which includes a bottling plant for mineral water extraction.

The adjacent property to the east (274 Cobbitty Road) shares 660m of the eastern side boundary and comprises thick vegetation where there is no existing approved land use.

The remaining 11 properties that share boundaries with the site comprise established dwellings.

The Nepean River adjoins the site to the south.



KEY DEVELOPMENT STATISTICS

The development has been assessed against the relevant planning controls and is compliant. Below is a summary of the key development statistics associated with the DA.



Clause	Requirement	Provided	Compliance
4.3 Height of Buildings	9.5m	6.4m	Yes.
5.9 & 5.9AA Trees or Vegetation	Preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.	No vegetation proposed to be removed.	Yes.

Camden Development Control Plan 2011 (DCP)			
Control	Requirement	Provided	Compliance
B1.10 Bushfire Risk Management	Development in bushfire prone areas to be in accordance with "Planning for Bushfire Protection" by the NSW RFS.	The site is mapped as bushfire prone. The proposed depot is located outside of the asset protection zone established by a recently approved dwelling on the subject site to the east of the proposed depot. The proposed depot is therefore not inconsistent with "Planning for Bushfire Protection".	Yes.
B1.12 Contaminated Land Management	The development must be assessed to determine whether the land is contaminated.	The proposed depot is not a sensitive land use and will occupy an existing farm building. The site is therefore considered 'fit for purpose'.	Yes.
B1.6 Acoustic Amenity	Noise from development must be assessed in accordance with Council's Environmental Noise Policy to determine whether an acoustic assessment is required. Excessive noise must be mitigated. The amenity of nearby residents not to be unreasonably decreased.	The proposed depot, given its operation hours of 9am to 5pm and a maximum of 4 vehicle movements per week, is not considered to adversely impact the acoustic amenity of nearby residents. Refer to detailed assessment in the 'Key Issues' section of this report.	Yes.



ASSESSMENT

Zoning and Permissibility

Zoning:	RU1 – Primary Production and R5 Large Lot Residential (being the site access).
Permissibility:	A depot is permitted with consent in the RU1 zone. Permissibility for use of the existing private road to service the depot through the R5 zone is established in the “Key Issues” section of this report.

Environmental Planning and Assessment Act 1979 – Section 79(C) Matters for Consideration

State Environmental Planning Policy(s) - S79C(1)(a)(i).	State Environmental Planning Policy No. 55 – Remediation of Land – Compliant with conditions recommended where necessary. Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River – Compliant with conditions recommended where necessary.
Local Environmental Plan - S79C(1)(a)(i).	Camden LEP 2010 – Compliant with conditions recommended where necessary.
Draft Environmental Planning Instrument(s) - S79C(1)(a)(ii).	None applicable.
Development Control Plan(s) - S79C(1)(a)(iii).	Camden Development Control Plan 2011 – Compliant with conditions recommended where necessary.
Planning Agreement(s) - S79C(1)(a)(iiiia).	None.
The Regulations - S79C(1)(a)(iv).	Impose prescribed conditions.
Likely Impacts - S79C(1)(b).	The likely impacts of the proposed change of use are discussed in the ‘Key Issues’ section of this report.
Site Suitability - S79C(1)(c).	The site is suitable for development and the site attributes are conducive to development.
Submissions - S79C(1)(d).	Twelve (12) submissions were received, which are discussed in detail in the ‘Submissions’ section of this report.
Public Interest - S79C(1)(e).	The development is considered to be in the public interest.

Key Issues

Defining of Land Use

The proposed development is seeking to use an existing 420m² farm building as a depot for the storage of building materials, machinery and plant which satisfies the LEP definition of a depot outlined below. No manufacturing, sale or hire of items is proposed.

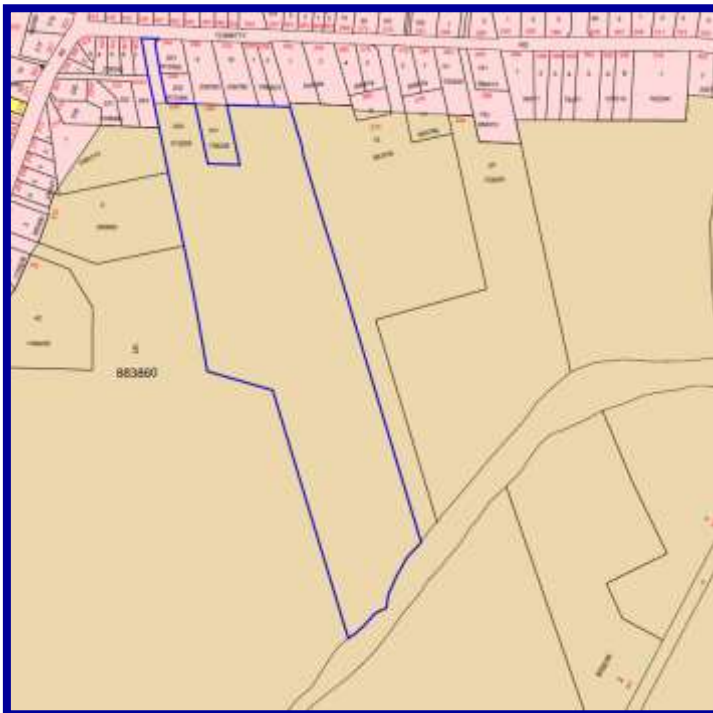
Depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

Permissibility

The existing farm building is located on land zoned RU1 – Primary Production. The proposed development is defined as a ‘depot’ by the Camden LEP, which is a permissible land use in the RU1 zone. The portion of the site zoned RU1 is approximately 12.7ha.

A 1900m² access handle extending from the Cobbitty Road frontage is zoned R5 Large Lot Residential; this area contains the only access to the site. A depot is prohibited within the R5 zoned land. No works are proposed within the R5 zoned land as part of this DA.

Below is a zoning map showing the R5 and RU1 land.



Camden LEP zoning (RU1 = brown, R5 = pink)

The access handle provides access to the existing farm buildings and the dwelling on the subject property together with three other dwellings via a right-of-way benefiting lots 101, 201 and 202. The existing access is characterised as a ‘road’ as defined by the Camden LEP.

The Camden LEP defines a ‘road’ as follows:

“road means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.”

A private road is defined within the Dictionary of the Roads Act 1993 as follows:

“private road means any road that is not a public road.”



A road is permissible within both the R5 and RU1 zones.

Acoustic Impacts

Provided the use operates in accordance with the DA and recommended conditions of consent, the acoustic impacts on the surrounding land uses are considered low.

The nearest residential dwelling is approximately 60m to the northwest of the proposed depot, with several dwellings adjacent to the existing site access.

As proposed, the use is not considered to impact on the acoustic amenity of the area, given the proposed hours of operation are 9:00am to 5:00pm Monday to Friday only, which is outside of sensitive residential times. In addition to controlling the hours of operation, the vehicles accessing the site will be limited to a maximum of four movements per week.

Land Use Conflicts

Surrounding land uses are a combination of residential and agricultural land.

The proposed depot will not adversely impact surrounding residential uses given the acoustic impacts will be minimised as a result of limiting the operating hours, a restriction on the number of vehicle movements together with the size of trucks permitted each week. In addition, all products, material and machinery will be required to be stored within the depot building, resulting in the loading and unloading being undertaken internally. These matters have all been reinforced in the recommended conditions of consent.

The functioning of the depot will not result in an adverse impact on to the horticultural land use adjoining as the use will not result in activities that produce hazardous waste, excessive noise or dust. A condition of consent has been imposed to reinforce this.

The management of noxious weeds on the site will be enforced via conditions of consent.

Use of the Site

Complaints relating to the use of the site as a depot have been received by Council. The investigation of the site by Council officers resulted in the requirement to prepare and submit an application for use as a depot. On lodgment of the application, it was formally notified and has generated a number of submissions objecting to the proposal (see detailed discussion below of the submission received).

As a result of concerns raised in the submissions, it is recommended that the DA be approved for an 18 month trial period, to enable Council officers to monitor compliance of the depot use with the conditions of consent and to ensure there is no adverse amenity impact on the locality.

Prior to the expiry of this trial period, the applicant will be required to lodge an application to remove the condition relating to the trial period. As part of this assessment, Council will need to have regard to how the depot functions and if the consent is being complied with.

Submissions

The DA was publicly notified for 14 days in accordance with the DCP. The exhibition period was from 23 August 2016 to 5 September 2016. Representations were made during this time requesting a one week extension to provide a response; this was granted until 12 September 2016. Fourteen submissions were received from 10 property addresses all objecting to the proposed development.

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

1. *The proposed land use is not defined as a 'depot', but is best defined as a 'storage premises', 'transport depot', 'warehouse or distribution centre', or Industrial Activity', which are prohibited in the RU1 zone.*

Officer Comment:

The proposed use satisfies the depot definition as referenced in the LEP and is a permissible land use within the RU1 zone which is outlined in the 'Key Issues' section of this report.

2. *The proposed development cannot be defined as a 'depot as the definition excludes a 'farm building', of which the original shed was approved via DA 1096/2011. A depot must be ancillary to the land use on the same parcel of land.*

Officer Comment:

A change of use is being sought from an existing farm building to a depot. The use is consistent with the depot definition as referenced in the LEP and is a permissible land use in the RU1 zone.

Permissibility has been established in the 'Key Issues' section of this report.

3. *A depot is prohibited in the R5 zone and access to the depot building must occur through the R5 zone.*

Officer Comment:

The Camden LEP defines the existing access within the R5 land as a 'road'. A road is permissible land use within the R5 and RU1 zones with consent. The depot is proposed wholly within the RU1 land and is a permissible use in the zone. No physical external work is proposed.

4. *The proposed development will result in land use conflicts between the adjoining R5 zone and nearby SP2 zone.*

Officer Comment:

Storage of building materials, plant and machinery will occur within the building, limiting visual and acoustic impacts to adjoining residential and rural land uses.

The acoustic impacts have been assessed. Provided the use operates in accordance with the DA and recommended conditions, the impacts are not considered to be unacceptable given the operating hours are limited (9am and 5pm Monday to Friday) and vehicle movements are restricted to a maximum of four vehicles per week with vehicles being no larger than a medium rigid vehicle.



The SP2 Infrastructure zone is located approximately 200m to the northwest and is owned by Sydney University. The site comprises various agriculture and aquiculture research facilities. As proposed, the depot will not conflict with the SP2 zone given the depot will be contained within an existing building and will not result in adverse impact with adjacent land as previously discussed. Conditions have been imposed to reinforce the operation of the depot with respect to hours, vehicle movement and the size of trucks to access the site.

5. *The proposal is not in accordance with the objectives of the RU1 zone in that it does not support the primary production purpose of the zone; the proposed use will fragment resource lands, will result in conflict between zones and will impact the rural character due to transportation of building materials.*

Officer Comment:

The application is seeking to use an existing farm building as a depot, which is a permissible land use within the RU1 zone. The depot will store materials, plant and machinery wholly within the existing building with the current access arrangements remaining unaltered.

The depot is not considered to adversely impact the primary production use of the RU1 zoned land with the use not encroaching onto nor fragmenting the agricultural use of the land.

This use is not considered to be inconsistent with the objectives of the zone as the depot is a permissible use; the proposal is not seeking to construct any additional built form therefore not impacting the allotment with respect to the rural land being available for primary production.

6. *The Camden DCP requires all outbuildings to be ancillary to an approved use of the land on which it is situated. The proposed use of the outbuilding is unrelated to the agricultural use of the land.*

Officer Comment:

There are presently two farm buildings on the site, which are constructed side by side. This DA seeks to change the use of one of the buildings from a farm building to a depot, which is a permissible land use in the RU1 zone.

A farm building remains on site for agricultural storage as its use is not proposed to change as part of this DA. The agricultural use of the land is maintained being for grazing and the keeping of livestock.

7. *The Camden DCP requires the maximum floor area for a rural outbuilding not used for agriculture to not exceed 100m²; the existing farm building is larger than this.*

Officer Comment:

The construction of a rural outbuilding is not proposed. This application seeks approval to change the use of an approved agricultural storage shed to a depot and the existing structure is not defined as an outbuilding by the LEP. The proposal is consistent with the LEP definition of a depot and is permissible with consent in the RU1 zone.

-
8. *A Waste Management Plan for the ongoing management of waste has not been provided. Waste collection will result in additional vehicular movements and acoustic impacts.*

Officer Comment:

The applicant has indicated waste generation will be minimal given the proposed use is only for the storage of building materials, plant and machinery. A Waste Management Plan is required to be prepared for the ongoing use as part of recommended conditions of consent. Any vehicle movements for waste collection associated with the depot must not exceed the maximum four vehicle movements per week.

9. *A Bushfire Protection and Attack assessment report has not been provided.*

Officer Comment:

A bushfire report was not considered necessary. Council officers consider the proposal to be acceptable given the building is located outside of the asset protection zone. There are no external changes sought and as a result no additional report was considered necessary.

10. *The existing farm building was approved for agricultural storage. As the land is rural, the farm building should remain for agricultural purposes only.*

Officer Comment:

The subject farm building was approved for agricultural storage via Complying Development Certificate 1457/2015. This DA seeks to change this use to a depot. The development proposed is consistent with the 'depot' definition in the LEP which is permitted with consent in the RU1 zone.

11. *Highly productive agricultural land is rare and should be protected. Industrial/commercial development is not appropriate.*

Officer Comment:

The proposed depot will not result in the reduction of highly productive agricultural land. The building to be used as the depot currently exists. No external works are proposed to the building or its access arrangements and as a result there is no adverse impact on agricultural land.

12. *An undesirable precedent will be set for future development.*

Officer Comment:

Any application lodged seeking development or use of land permitted with consent in the RU1 zone will be assessed on its merits in accordance with the relevant environmental planning instruments and Council policies.

13. *The proposed depot is not necessary on the rural property given the construction of a warehouse in Smeaton Grange for Admark Constructions Pty Ltd.*



Officer Comment:

A person's off-site business interests is not a matter for consideration in Section 79C of the *Environmental Planning and Assessment Act 1979* with respect to this proposal.

14. *The existing illegal business operations on the premises have impacted the rural characteristics/lifestyle for existing residential dwellings.*

Officer Comment:

This DA seeks consent to use a farm building as a depot. Consideration has been given as to how the use will function and the potential impacts on adjoining and surrounding development. In order to control these impacts conditions have been recommended limiting the hours of operation to between 9am and 5pm Monday to Friday. In addition, only four vehicle movements per week (including waste removal) are permitted by a vehicle no greater than a medium rigid vehicle.

15. *Waste material originating from Camden Council was moved into the flood plain without DA approval; this has not been addressed within the SoEE.*

Officer Comment:

Any fill previously imported onto the site is not a relevant matter for consideration in the assessment of this DA.

Council's records indicate that fill was placed on the site in the 1970s and 1980s, which was capped. The fill contained general building waste such as bricks, timber and concrete. This DA is not seeking external works to the building or changes in land levels thereby not impacting the foundation material of the site.

16. *The original DA approved the agricultural storage shed with minor cut and fill for the construction of the building. However, no cut took place but rather, large volumes of fill was imported, which is not in accordance with the LEP which seeks to minimise fill. A DA for this fill was never lodged.*

Officer Comment:

This application is for the use of a farm building as a depot, which is a permissible land use within the RU1 zone. No external works are proposed to the building or to the access arrangements of the site. The only works proposed relate to the installation of racking to the internal perimeter of the existing building to facilitate the storage of building materials.

The private certifier who approved the Complying Development Certificate for the subject farm building had regard to any cut and fill associated with the construction of the farm building.

17. *During construction of the original agricultural farm building, a natural watercourse between the site and an adjoining property was removed; there was no action from Council.*

Officer Comment:

The existing farm building was approved via Complying Development Certificate 1457/2015.

A watercourse is currently located approximately 100m to the east of the existing farm building and will not be impacted by this DA, which is seeking to change the use of a farm building to a depot where the existing access to the site remains unaltered.

18. *The existing farm building has been erected under an invalid Complying Development Certificate, which approved additions to an existing farm building on land zoned R5; no approval exists for additions to an existing farm building on land zoned RU1. Council should ensure the farm building complies with the State Environmental Planning Policy (Exempt and Complying Development) 2008 prior to assessment of the DA for a change of use of the building.*

Officer Comment:

The existing farm building was approved via Complying Development Certificate 1457/2015 by a private certifier. The building is considered to be lawful.

19. *If approved, the proposed development will devalue surrounding properties.*

Officer Comment:

The value of surrounding properties is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*.

20. *Privacy impacts to surrounding properties due to vehicles accessing the site and workers on site.*

Officer Comment:

No more than four vehicle movements are permitted per week (including waste removal) by a vehicle no larger than a medium rigid vehicle, with no more than four people on site at any one time.

The movements of vehicles associated with the dwelling and vehicles to service the approved agricultural shed not associated with this application are in addition to the vehicle movements associated with the depot. Privacy impacts associated with the use are considered to be minimal. The loading and unloading of building materials, plant and machinery associated with the depot will be conditioned to occur within the building, which will assist in mitigating privacy and acoustic impacts.

The above criterion has been reinforced by conditions of development consent.

21. *Dust impacts from trucks accessing the site.*

Officer Comment:

No more than four vehicle movements per week (including waste) by a vehicle that does not exceed a medium rigid vehicle are permitted to access the site as part of the depot, which limit the dust created by the development. This has been reinforced via conditions of consent.

22. *Visual impacts due to the storage of building materials and waste around the existing farm building.*



Officer Comment:

No materials, machinery or plant will be permitted to be stored outside of the depot. Conditions are recommended in this regard.

23. *The adjoining intensive horticultural land use will be affected by the proposed development and will require land quarantining, reducing the amount of usable rural land.*

Officer Comment:

The proposed depot will not impact adjoining land uses given the storage of materials, machinery and plant is only to occur within the existing building and no offensive activities that produce hazardous waste, excessive noise or dust are proposed.

There are no external works proposed to the building or the site access to facilitate the use therefore the proposal will not impact the adjacent horticultural land.

24. *The spread of noxious and environmental weeds has not been addressed. Increased traffic from construction sites increases risk for weed infestation, which may severely damage surrounding agricultural production.*

Officer Comment:

A standard condition is provided to ensure noxious weeds are controlled on-site.

25. *The proposed development will increase truck movements along Cobbitty Road, which is already inundated by trucks. Camden Council should undertake an acoustic assessment for Cobbitty Road to understand the impacts upon residential development. The increased truck movements will further degrade Cobbitty Road.*

Officer Comment:

Any registered vehicle is permitted to use a public road. The local road network is considered appropriate to service permitted uses in the respective zones. Any road maintenance will continue to be carried out by Council where required.

26. *Safety concerns for residents associated with the access to the depot. The SoEE states only $\frac{3}{4}$ tonne trucks will access the depot, however this is unlikely. The trucks currently access the site at high speed and no speed limit is provided.*

Officer Comment:

The applicant is seeking consent for a change in use from a farm building to a depot. The use proposes four vehicle movements per week (including waste removal) by a vehicle no larger than a medium rigid vehicle. The truck is considered to be acceptable from a traffic engineering perspective.

27. *The existing right-of-way is becoming increasingly dilapidated, which in turn increases acoustic impacts from heavy vehicles.*

Officer comment:

The use of the right of way for the purposes of a depot is not significant. The use proposes four vehicle movements per week (including waste removal) by a vehicle no



larger than a medium rigid vehicle. Notwithstanding, the maintenance of the right-of-way is the responsibility of the burdened lot, which is Lot 203 (the subject site). This is a civil matter between the burdened and benefitted lots with respect to the maintenance of the access road.

28. *Hazardous goods may have been illegally stored in the past, and may be stored under the guise of the 'depot' use into the future.*

Officer comment:

The storage of hazardous goods is not proposed. A standard condition is recommended to ensure that if hazardous goods are to be stored they are stored in accordance with NSW Work Cover Authority requirements.

29. *The total number of truck movements (four per week) is unclear. Does a vehicle entering, and then existing result in one movement?*

Officer comment:

If one vehicle enters and leaves the site associated with the depot this will be counted as two vehicle movements. Waste collection vehicles will also be included in this count. A condition of consent has been included permitting a maximum of four vehicle movements per week (including waste removal) by a vehicle with a size of no greater than a medium rigid vehicle. For the purposes of this DA, if a vehicle enters and leaves the site, this is considered 2 vehicle movements.

The movement of residential vehicles and vehicles to service the approved agricultural shed not associated with this application are in addition to the movements of vehicles associated with the depot use.

30. *Use and functioning of the access road*

The access road is a private road and has reciprocal rights of access for other properties. Matters relating to the functioning and maintenance of this road are a civil matter.

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 867/2016 is recommended for approval on an 18 month trial period basis subject to the conditions attached to this report.



RECOMMENDED

That Council approve DA 867/2016 for the use of an existing farm building as a depot associated with a construction company at 238 Cobbitty Road, Cobbitty, subject to the conditions attached.

ATTACHMENTS

1. Recommended Conditions
2. Proposed Plan
3. Objections to Proposed Development Application
4. Floor Plan - *Supporting Document*
5. Public Exhibition and Submissions Map - *Supporting Document*
6. Submissions - *Supporting Document*

ORDINARY COUNCIL

ORD04

SUBJECT: DRAFT SUBMISSION TO PUBLIC EXHIBITION OF PROPOSAL TO AMEND THE HERITAGE CURTILAGE OF GLEDSDOOD HOMESTEAD, 900 CAMDEN VALLEY WAY, CATHERINE FIELD

FROM: Director Planning & Environmental Services

TRIM #: 16/372997

PURPOSE OF REPORT

The purpose of this report is to inform Council of the exhibition by the NSW Heritage Division of the proposed reduction of the heritage curtilage for the Gledswood Homestead, and to seek Council's endorsement of a draft submission to the Heritage Division on the matter. The draft submission is provided as **Attachment 1 to this report**.

BACKGROUND

The Gledswood Homestead (circa 1830) was listed on the state heritage register in December, 2006. The state heritage listing includes the homestead, associated outbuildings and the landscaped setting. Located at 900 Camden Valley Way, Catherine Field, the current state heritage listing includes lots 1201, 1202 and 1203 of DP1187381 as shown in **Figure 1**.



Figure 1 – Location Map – Gledswood Homestead

In 2011, as part of the rezoning of the El Caballo Blanco/Gledswood precinct, the land owners engaged heritage specialists Godden Mackay Logan to prepare a Conservation



Management Plan (CMP). The CMP investigated the significance of the homestead, historic outbuildings and surrounding land.

The adopted CMP recommended an appropriate heritage curtilage as well as controls for low scale residential development for the parts of the land with lower heritage significance. The controls recommended in the CMP are included in the Camden LEP 2010 and Camden DCP 2011.

Under the Camden LEP 2010, the site contains three zonings including RE2 Private Recreation, SP3 Tourist and R1 General Residential. The zoning map is shown in **Figure 2**.

The majority of the land zoned R1 General Residential has a maximum height limit of 9.5m however an L-Shaped area in the western portion of Lot 1203 has a maximum height limit of 7m (the L shaped area and height restrictions are shown in **Figure 3**). This area is identified by the CMP as having development potential subject to a reduced height limit.



Figure 2 – Camden LEP 2010 – Zoning Map



Figure 3 - Camden LEP 2010 – height map

In 2012, a heritage agreement was entered into between the NSW Minister for Heritage and the land owner. The heritage agreement facilitates the conservation and future management of the property and allows for development of the less significant areas and a reduction of the state heritage register curtilage. This is consistent with the CMP.

In November, 2016, the Heritage Division notified Council of the proposed amendment to the heritage curtilage of the Gledswood Homestead. Submissions closed on 31 January, 2017, however an extension was granted to allow Council to formally consider the matter.

MAIN REPORT

The proposed amendment involves a reduction in the heritage curtilage from three lots to two. This will effectively remove the heritage listing from the southern lot, Lot 1203 (as shown in **Figure 4**).

This is a reduction in curtilage size from 45.4ha to 34.1ha (a reduction of 11.3ha).



Figure 4 – Existing curtilage and proposed reduced curtilage

What are the Implications?

Removal of Lot 1203 from the heritage curtilage will simplify the approval process for residential development on Lot 1203.

If Lot 1203 remains within the heritage curtilage, future DAs will be assessed as integrated development and referred to the Office of Environment and Heritage (OEH) for terms of approval. If Lot 1203 is removed from the heritage curtilage, future DAs will not require referral to OEH.

In addition, applications not within the heritage curtilage can be considered as complying development under the State Environmental Planning Policy (Exempt and Complying Codes) 2008 (known as the Codes SEPP).

Officer Comment

The CMP recommends a reduction in the heritage curtilage, as currently proposed subject to appropriate conservation and development controls, as summarised in **Figure 5**.

This allows residential development to the west and south of the homestead. The development to the south can have a maximum height of 9.5m and must be screened by a landscape buffer zone within the homestead lot (Lot 1202).

The controls in the Camden LEP 2010 and Camden DCP 2011 are consistent with the CMP and protect the heritage significance of Gledswood while allowing appropriate limited development in the areas identified for residential development up to 9.5m in

height. The landscaped screening within the curtilage will also provide a screening to any additional development allowed under the Codes SEPP.

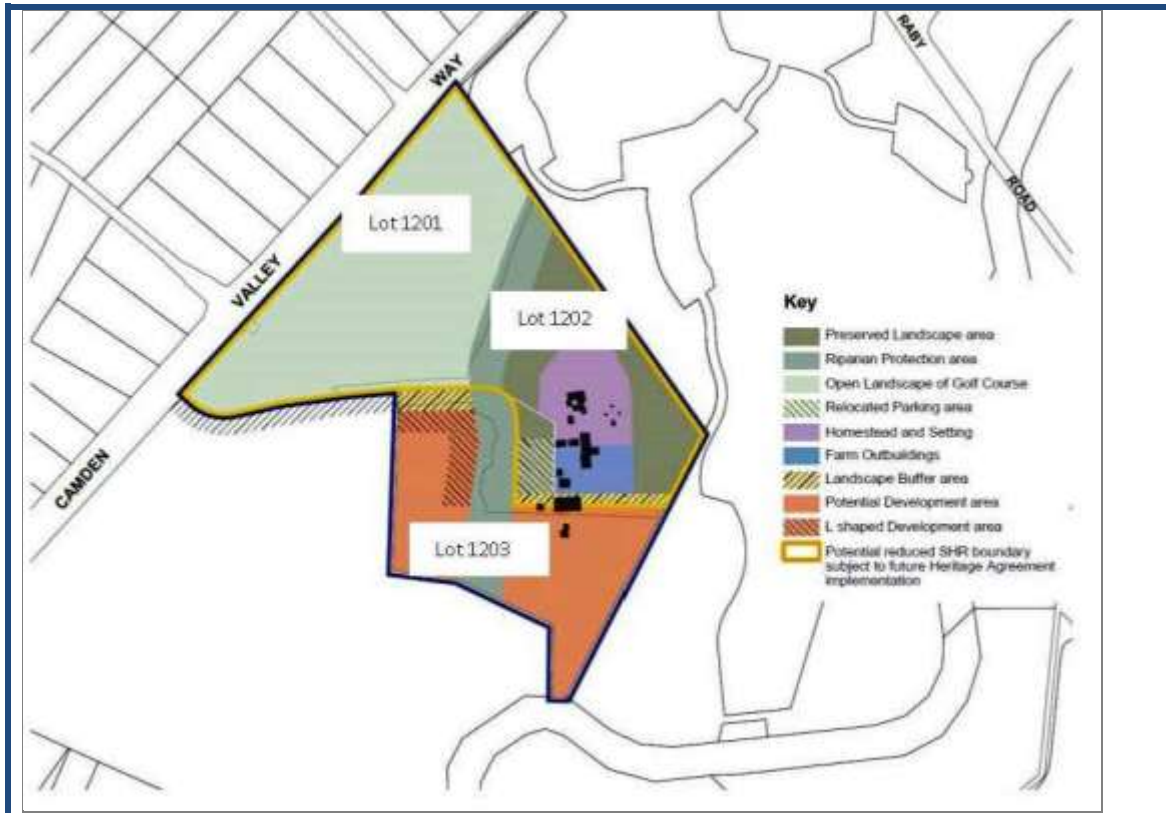


Figure 5 – Plan of appropriate conservation and development controls in the CMP

L shaped development area (7m Height)

The most sensitive area of Lot 1203 (the lot proposed to be removed from the curtilage) is an L-shaped area to the west of the homestead (as shown shaded in **Figure 5**). In accordance with the controls in the Camden LEP 2010 and Camden DCP 2011, development in this area is required to be single storey with a maximum height of 7m and with recessive roof colours to protect heritage views.

Officer Comment

Council officers are concerned that the removal of the heritage curtilage from this area will allow complying development under the Codes SEPP.

Under the Codes SEPP, development up to 8.5m in height is permissible, and there is no requirement to use specific materials and colours as identified in the CMP. It is therefore recommended that this L-shaped area in lot 1203 be retained within the heritage curtilage. The recommended curtilage is shown in **Figure 6**.

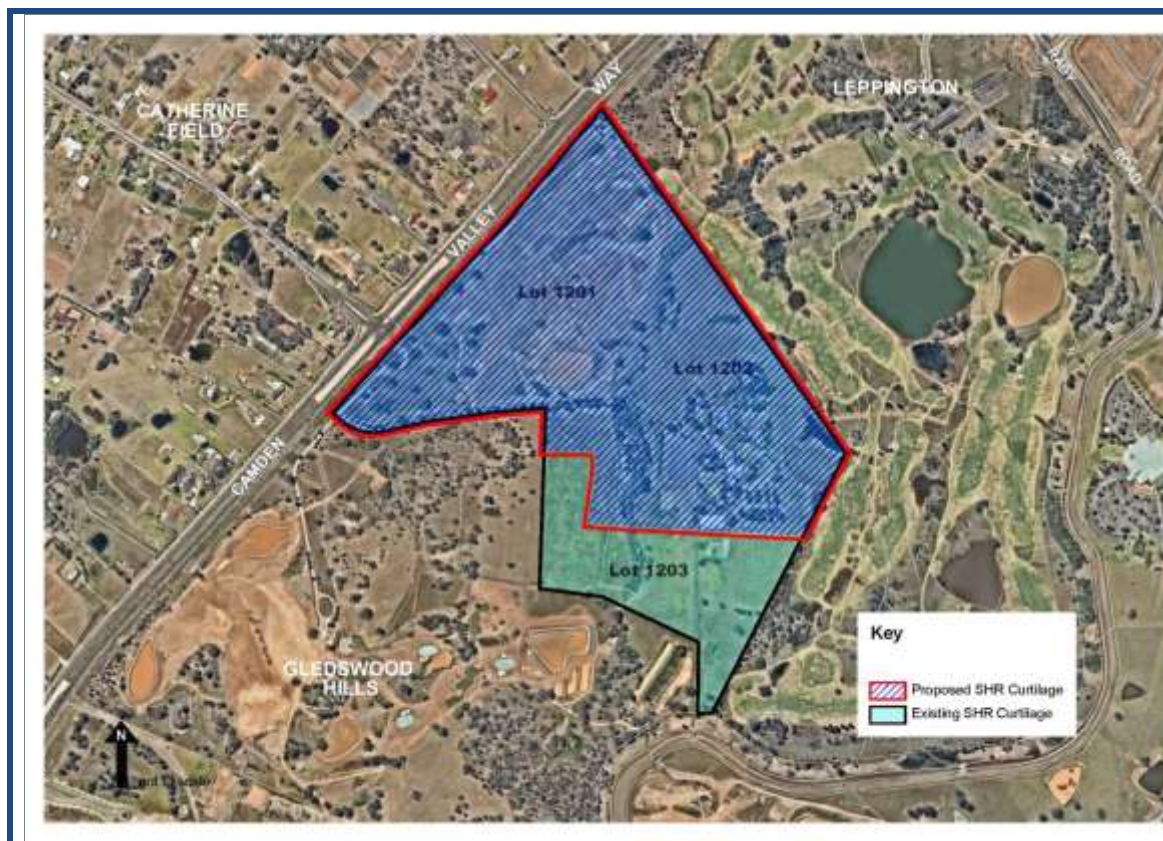


Figure 6 – Plan of increased curtilage recommended by Council, including the sensitive L-shaped area

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

Council has been notified by the NSW Heritage Division of a proposal to reduce the heritage curtilage applying to the Gledswood Homestead by reducing the curtilage from three lots to two lots. The proposed amendment is in accordance with the adopted CMP which was undertaken in 2011 as part of the rezoning of the El Caballo Blanco/Gledswood precinct.

Council officers have reviewed the proposal and recommend that Council make a submission to the Heritage Division seeking an amendment to the proposal such that a portion of Lot 1203 (L-shaped area) be retained within the heritage curtilage. This area is required to have development restrictions including a maximum height limit of 7m, single storey and recessive roof colours.

Under the current planning legislation, development on land outside the curtilage could be approved as complying development. Assessment against the controls within the Codes SEPP would not achieve the heritage outcomes identified in the CMP for this portion of the site.

Council officers support the remainder of the proposed amendment as it is consistent with the CMP and existing planning controls.



RECOMMENDED

That Council endorse the draft submission to the NSW Heritage Division.

ATTACHMENTS

1. UPDATED DRAFT Submission to Heritage Council Review Curtilage Gledswood Homestead 7 Feb 2017



ORDINARY COUNCIL

ORD05

SUBJECT: DELEGATIONS TO THE MAYOR - CHRISTMAS NEW YEAR PERIOD
FROM: Director Customer & Corporate Services
TRIM #: 17/2579

PURPOSE OF REPORT

This report informs Council about the exercise of the delegation to the Mayor or Deputy Mayor (in the absence of the Mayor) over the Christmas/New Year period.

BACKGROUND

So that urgent matters could be attended to during the Council recess over the Christmas/New Year period, the Council, at its meeting of 22 November 2016, delegated to the Mayor and Deputy Mayor (in the absence of the Mayor) the ability to approve Development Applications and cases of necessity during the period 14 December 2016 to 14 February 2017 as provided under sections 226 and 377 of the *Local Government Act 1993*.

A condition of the delegation was that Council be informed of any use of the delegation in a report to the 14 February 2017 Council meeting.

MAIN REPORT

There were no matters requiring the Mayor or the Deputy Mayor (in the absence of the Mayor) to exercise the delegation.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

CONCLUSION

There were no uses of the delegation.

RECOMMENDED

That Council note the information in this report.



ORDINARY COUNCIL

ORD06**SUBJECT: CODE OF CONDUCT/STATEMENT OF BUSINESS ETHICS****FROM: Director Customer & Corporate Services****TRIM #: 17/21042**

PURPOSE OF REPORT

This report requests Council to approve a draft Code of Conduct (**attached** to this report) reflecting amendments to the *Local Government Act 1993* (the Act).

This report also requests Council to adopt a draft Statement of Business Ethics (**attached** to this report), which supports the Code of Conduct.

BACKGROUND

The Act requires Council to review the Code of Conduct within 12 months of an ordinary election.

As a separate, but closely connected item, the NSW Office of Local Government (OLG) and the Independent Commission Against Corruption (ICAC) have recommended that councils develop a Statement of Business Ethics in order to enhance the ethical standards of the Model Code of Conduct and to promote better practice in dealing with business. After considering an audit report on Council's tendering practices, the Business Assurance and Risk Committee noted the recommendation that a statement of business ethics be implemented.

MAIN REPORT

Code of Conduct

The Act was amended on 13 November 2015 to deal more directly with Councillor misconduct and poor performance. The OLG then issued a revised 'Model Code of Conduct for Local Councils in NSW' (Model Code) incorporating the new requirements of the Act, and requires all councils to update their Codes of Conduct to reflect the new Model Code. A number of amendments to the Act did not require amendment of the Model Code.

Council's existing Code of Conduct complies with the Model Code, except as discussed below, and we are now utilising the normal review period to update the Code of Conduct. The changes have been tracked in the attachment for Councillors' convenience.



Changes to the Act

Disqualification for misconduct

Under the amendments to the Act, Councillors who have previously been suspended on two or more occasions will be automatically disqualified from holding office in a Council for five years if they are suspended on a further occasion.

It is necessary to amend the Code of Conduct to reflect this change as it is referred to in the Model Code. The wording has been added to clause 2.4 on page 6 of the draft Code of Conduct.

Pecuniary interests change

Under the amendments to the Act, Councillors will no longer be permitted to participate in the consideration of the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area (such as a Local Environmental Plan) in which they have pecuniary interests (s 451 of the Act) unless:

- The only interests affected by the changes are the interests a 'person' has in their principal place of residence; and
- Councillors have made a special disclosure of the affected interests (refer to Sch 3A of the *Local Government (General) Regulation 2005*).

The definition of a 'person' includes a Councillor but also any interest the Councillor has through their spouse, de facto partner, relative, partner or employer (refer to s 443 of the Act).

This aspect of s 451 is not dealt with directly in the Model Code and so it not strictly necessary to amend the Code of Conduct. However, for the benefit of Councillors, an explanatory footnote has been added to clause 7.7 in the pecuniary interests section on page 13 of the draft Code of Conduct and the 'special disclosure' form from Sch 3A has been added as an attachment.

Non-pecuniary interests change

To complement the change to s451 of the Act for pecuniary interests (set out above), the Model Code includes a similar provision to deal with non-pecuniary interests.

Whether there is a non-pecuniary interest is determined under the Code of Conduct (refer to clause 7.10 onwards), however the 'principal place of residence' exception applies in the same way as for pecuniary interests.

It is necessary to amend the Code of Conduct to comply with this change to the Model Code. The wording has been added to clause 7.30 on page 16 of the **attached** draft Code of Conduct. The 'special disclosure' required for pecuniary interests is not required for non-pecuniary interests.

Additionally, minor grammatical and editorial improvements have been made to the Code of Conduct.

Amendments to the Code of Conduct are not required to be placed on public exhibition.



Statement of Business Ethics

The standards in the draft Statement of Business Ethics are based on Council's Code of Conduct.

Council's purchasing procedures and the Code of Conduct regulate similar matters, however a Statement of Business Ethics is intended to consolidate conduct considerations and declare Council's position to potential suppliers and the public, and so promote better practice about business transactions.

The standards in the draft Statement of Business Ethics are governed by the following four key principles:

- (i) Objectivity;
- (ii) Fairness;
- (iii) Openness;
- (iv) Value for money.

To implement an adopted Statement of Business Ethics, a series of communication and awareness strategies will be undertaken.

FINANCIAL IMPLICATIONS

There is no financial implication to Council in relation to the Code of Conduct or Statement of Business Ethics.

CONCLUSION

The recommended changes to the Code of Conduct are based on amendments to the *Local Government Act 1993* and revision of the Model Code.

The draft Statement of Business Ethics assists to ensure that Council, the businesses with which it is associated, and the community act in a transparent, ethical and accountable manner.

RECOMMENDED

That Council:

- i. **adopt the draft Code of Conduct; and**
- ii. **adopt the draft Statement of Business Ethics.**

ATTACHMENTS

- 1. draft Code of Conduct 2017
- 2. draft Statement of Business Ethics



ORDINARY COUNCIL

ORD07

SUBJECT: PECUNIARY INTEREST RETURNS
FROM: Director Customer & Corporate Services
TRIM #: 17/31854

PURPOSE OF REPORT

This report requests Council to note the tabling of pecuniary interest returns by incoming Councillors and that all Councillors have lodged their returns.

BACKGROUND

Pursuant to s 449 of the *Local Government Act 1993* (the Act), a Councillor must complete and lodge a pecuniary interest return with the General Manager. Under s 450A of the Act, the returns must be tabled at a meeting of Council.

MAIN REPORT

Returning Councillors have lodged pecuniary interest returns for the period 1 July 2015 to 30 June 2016. These were tabled at Council's Ordinary meeting of 11 October 2016.

Incoming Councillors have lodged their first pecuniary interest returns. The returns are tabled with this report.

CONCLUSION

All Councillors have lodged their pecuniary interest returns.

RECOMMENDED

That Council note the information contained in this report.



ORDINARY COUNCIL

ORD08

SUBJECT: BACK TO BUSINESS WEEK FUNDING
FROM: Director Customer & Corporate Services
TRIM #: 17/21681

PURPOSE OF REPORT

This report seeks Council's approval to accept grant funding for a Back to Business Week event.

BACKGROUND

Council has been successful in obtaining a Department of Industry, Skills and Regional Development grant of \$5,000 for a Back to Business Week event to be held during the week of 26 February - 4 March 2017.

Back to Business Week is a new NSW Government initiative that celebrates small to medium businesses and promotes and supports the critical role they play in local communities. A series of Back to Business Week events will be held across NSW on a range of topics to help start, grow or innovate local business.

MAIN REPORT

Supporting local business

Council presently coordinates and partners in a range of workshops and events for the local business community throughout the year, with Council's Business Month Program initiated, as part of the Small Business Friendly Council's Program, being held every September.

In considering the Back to Business Week event, officers had regard to the guidelines for the grant submission provided by the Department of Industry, Skills and Regional Development and Council's Economic Development Strategy, which is built around maximising and seizing opportunities from growth while supporting and encouraging local business to grow and prosper.

Proposed event

Council is working in partnership with the South Western Sydney Business Enterprise Centre (SWSBEC) to deliver a free Back to Business Week event that will target the local business community and provide an opportunity for business education, information sharing and networking. A number of local business owners have agreed to speak on important topics such as finance, social media, human resources and information technology.

SWSBEC is a not-for-profit organisation, located in Smeaton Grange, and was established to assist new and existing business ventures in the Liverpool and Macarthur regions. It provides a business advisory service, facilities, educational seminars as well as other events and services. Council has worked in partnership with SWSBEC on a number of key initiatives during last three years, including the Retail



Seminar Series, Industry Forums, Small Biz Bus visits and Camden Council's Business Month Program.

FINANCIAL IMPLICATIONS

On execution of the funding agreement, Council will receive \$5,000 (GST exclusive) to be used for venue hire, catering, guest speakers and advertising. Other costs including promotion and staff resources will be met within existing budgets.

CONCLUSION

This project provides an additional opportunity to support local small to medium businesses by hosting a business event including business education, information sharing and networking. It is proposed to deliver this event in partnership with SWSBEC.

Therefore it is recommended that Council accept the grant and write to The Honourable John Barilaro MP, Deputy Premier, Minister for Regional New South Wales, Minister for Skills and Minister for Small Business, and the State Member for Camden, Chris Patterson, thanking them for their support.

RECOMMENDED

That Council:

- i. accept the funding of \$5,000 from the Department of Industry, Skills and Regional Development; and**
- ii. write to The Honourable John Barilaro MP, Deputy Premier, Minister for Regional New South Wales, Minister for Skills and Minister for Small Business, and the State Member for Camden, Chris Patterson, thanking them for their support.**



ORDINARY COUNCIL

ORD09

SUBJECT: INVESTMENT MONIES - NOVEMBER 2016
FROM: Director Customer & Corporate Services
TRIM #: 17/21095

PURPOSE OF REPORT

In accordance with Part 9, Division 5, Section 212 of the Local Government (General) Regulation 2005, a list of investments held by Council as at 30 November 2016 is provided.

MAIN REPORT

The weighted average return on all investments was 3.24% p.a. for the month of November 2016. The industry benchmark for this period was 1.77% (Ausbond Bank Bill Index).

It is certified that all investments have been made in accordance with Section 625 of the *Local Government Act 1993*, the relevant regulations and Council's Investment Policy.

The Responsible Accounting Officer is the Manager Finance & Corporate Planning.

Council's Investment Report is an attachment to this report.

RECOMMENDED

That Council:

- i. note that the Responsible Accounting Officer has certified that all investments held by Council have been made in accordance with the *Local Government Act*, Regulations, and Council's Investment Policy; and**
- ii. note the list of investments for November 2016; and**
- iii. note the weighted average interest rate return of 3.24% p.a. for the month of November 2016.**

ATTACHMENTS

1. Investment Report - November 2016



ORDINARY COUNCIL

ORD10

SUBJECT: INVESTMENT MONIES - DECEMBER 2016
FROM: Director Customer & Corporate Services
TRIM #: 17/22409

PURPOSE OF REPORT

In accordance with Part 9, Division 5, Section 212 of the Local Government (General) Regulation 2005, a list of investments held by Council as at 31 December 2016 is provided.

MAIN REPORT

The weighted average return on all investments was 3.26% p.a. for the month of December 2016. The industry benchmark for this period was 1.72% (Ausbond Bank Bill Index).

It is certified that all investments have been made in accordance with Section 625 of the *Local Government Act 1993*, the relevant regulations and Council's Investment Policy.

The Responsible Accounting Officer is the Manager Finance & Corporate Planning.

Council's Investment Report is an **attachment to this report**.

RECOMMENDED

That Council:

- i. **note that the Responsible Accounting Officer has certified that all investments held by Council have been made in accordance with the *Local Government Act*, Regulations, and Council's Investment Policy; and**
- ii. **note the list of investments for December 2016; and**
- iii. **note the weighted average interest rate return of 3.26% p.a. for the month of December 2016.**

ATTACHMENTS

1. Investment Report - December 2016



ORDINARY COUNCIL

ORD11

SUBJECT: MINUTES TO THE 16 NOVEMBER 2016 BUSINESS ASSURANCE AND RISK COMMITTEE MEETING

FROM: General Manager

TRIM #: 17/18944

PURPOSE OF REPORT

The purpose of this report is to provide Council with the minutes of the 16 November 2016 Business Assurance and Risk Committee meeting.

BACKGROUND

Council endorsed the implementation of a Business Assurance and Risk Management framework in June 2014 and as part this framework, a Business Assurance and Risk Committee was established.

The objective of the Business Assurance and Risk Committee is to provide independent assurance and assistance to Camden Council on risk management, control, governance and external accountability responsibilities.

The Business Assurance and Risk Committee membership includes both independent external members and Councillors. The Committee is required to meet a minimum of four times per year.

Council resolved to adopt the Committee's current Business Assurance and Risk Committee Charter on 13 October 2015. The Charter includes a requirement to report to Council the minutes of the Business Assurance and Risk Committee meetings for noting.

MAIN REPORT

The Business Assurance and Risk Committee met on 16 November 2016. The agenda discussed at the meeting included consideration of the following:

- Presentation – Voluntary Planning Agreements
- Civic Centre Operations Internal Audit Report
- Inventory Management Internal Audit Report
- Audit Report Recommendations – Implementation Status Update – October 2016
- Internal Audit Plan Status Update
- External Audit Update
- Enterprise Risk Management System
- Governance Information Report – November 2016
- Business Assurance and Risk Committee and Internal Audit Annual Report
- Changes to Audit and Risk Committees – Local Government Amendment Act

The minutes for the Business Assurance and Risk Committee meeting of 16 November 2016 are attached.

FINANCIAL IMPLICATIONS



There are no financial implications arising from this report.

CONCLUSION

The Business Assurance and Risk Committee play an important role in supporting the governance framework of Council. Reporting the minutes from Committee meetings keeps Council informed of the outcomes from those meetings and are submitted for information.

RECOMMENDED

That Council note the Minutes to the Business Assurance and Risk Committee meeting of 16 November 2016.

ATTACHMENTS

1. Minutes to the 16 November 2016 Business Assurance and Risk Committee meeting



ORDINARY COUNCIL

ORD12

SUBJECT: APPOINTMENT OF INDEPENDENT MEMBERS TO BUSINESS ASSURANCE AND RISK COMMITTEE

FROM: General Manager

TRIM #: 17/19145

PURPOSE OF REPORT

The purpose of this report is to recommend the reappointment of the two independent external members to the Business Assurance and Risk Committee in accordance with the Business Assurance and Risk Committee Charter.

BACKGROUND

On 13 May, 2014 Council resolved to establish a Business Assurance and Risk Committee.

Council's Business Assurance and Risk Committee Charter outlines the roles and responsibilities of the Committee and provides the structure of the Committee which is to consist of the following voting members:

- two Councillors
- three independent members (not employed or elected representatives of the Council)
- Chairperson to be one of the independent members

On 10 February, 2015 Council resolved to appoint Mr John Gordon (Independent Chairperson) and Mr Bruce Hanrahan as external Business Assurance and Risk Committee members for the remainder of the Council term.

In accordance with the revised Business Assurance and Risk Committee Charter adopted on 13 October, 2015, independent external members are appointed for a period of up to four years which under the Charter expires six months after the Council election.

At the meeting of 27 September, 2016, Councillor Fedeli and Councillor Sidgreaves were appointed as Councillor representatives on the Business Assurance & Risk Committee.

MAIN REPORT

In accordance with Council's Business Assurance and Risk Committee Charter, the independent external member positions on the Committee are declared vacant six months after the Council election and new members are to be sought for another term. Under the Charter, appointees may be reappointed by Council through this process.

The current members of the Business Assurance and Risk Committee, Mr John Gordon (Chairperson) and Mr Bruce Hanrahan, were originally appointed on 10 February, 2015 and have made significant progress in establishing and operating the



Business Assurance and Risk Committee successfully and in accordance with the Office of Local Government Internal Audit Guidelines and best practice.

Mr Gordon and Mr Hanrahan have both indicated their interest in continuing their roles on the Committee. The combination of financial, audit and legal expertise from the two members are considered a good mix of skills for the Business Assurance and Risk Committee. It is therefore recommended that Mr Gordon and Mr Hanrahan be re-appointed to the Committee.

Mr Gordon has also been invaluable as the Committee Chairperson and it is considered appropriate to reappoint Mr Gordon as Chairperson to the Business Assurance and Risk Committee as he has the most extensive experience in similar roles.

At the 10 February, 2015 Council meeting it was resolved to appoint only two candidates and seek further expressions of interest for a third member with a report to be brought back to Council. It is now considered the appropriate time for Council to seek expressions of interest for a third member to the Committee. This process is to commence shortly with a recommendation to be reported to a future Council Meeting.

FINANCIAL IMPLICATIONS

The fees for the independent external members of the Business Assurance and Risk Committee are provided for in Council's budget.

CONCLUSION

Appointment of independent external members to Council's Business Assurance and Risk Committee is required under the Committee's Charter. The reappointment of the existing members to the Business Assurance and Risk Committee will ensure continued improvement of Council's governance framework. The recommended reappointments have a high level of expertise in varying disciplines which will be of significant value to Council.

RECOMMENDED

That Council:

- i. resolve to reappoint Mr John Gordon as Independent Chairperson of the Business Assurance and Risk Committee for four years in accordance with the Business Assurance and Risk Committee Charter; and**
- ii. resolve to reappoint Mr Bruce Hanrahan as independent member of the Business Assurance and Risk Committee for four years in accordance with the Business Assurance and Risk Committee Charter; and**
- iii. resolve to write to Mr John Gordon and Mr Bruce Hanrahan to thank them for their guidance with the implementation and operation of Council's Business Assurance and Risk Committee and for their continued support and commitment to the Committee.**