



Camden Council

Attachments

Ordinary Council Meeting
14 February 2017

Camden Council
Administration Centre
Oran Park



ORDINARY COUNCIL

ATTACHMENTS - ORDINARY COUNCIL

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ATTACHMENT 1 - RECOMMENDED CONDITIONS

1.0 - General Conditions of Consent

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

- (1) **Engineering Specifications** - The entire development shall be designed and constructed in accordance with Council's Engineering Specifications and the relevant DCP.
- (2) **General Terms of Approval/Requirements of State Authorities** - The general terms of approval/requirements from state authorities shall be complied with prior to, during, and at the completion of the development.

The general terms of approval/requirements are:

1. Letter from the Mine Subsidence Board dated 23 May 2016.
 2. Letter from Sydney Water dated 22 July 2016.
 3. E-mail and attachments from Endeavour Energy dated 7 July 2016.
- (3) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
TP01 Rev G	Plan of Proposed Subdivision Stages 45-46	Geolyse	23 May 2016
MMD-35-354-C-DR-00-45-DA2001 – 2003 (inclusive)	Engineering and related plans	Moot MacDonald	26 May 2016
MMD-35-354-C-DR-00-45-DA2001 – 2903 (inclusive) Rev P1	Engineering and related plans for Stage 45	Mott MacDonald	26 May 2016
MMD-35-354-C-DR-00-46-DA2001 – 2903 (inclusive) Rev P1	Engineering and related plans for Stage 46	Mott MacDonald	26 May 2016
LPDA 16-470 Rev A	Stage 45-46 Street Tree Planting Plan	Conzept	13 May 2016

Document Title	Prepared by	Date
Bush Fire Protection Assessment	Travers Bush	January 2015

This is the report submitted to the held on 25 October 2016

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	Fire & Ecology	
Salinity Investigation and Management Plan, Proposed Residential Subdivision, Stage 45-47 and Stage 61, Spring Farm, Project 34288.23	Douglas Partners	February 2015
Fill Management Protocol, Proposed Residential Subdivision, Stage 45-47 and Stage 61, Spring Farm NSW, Project 34288.27	Douglas Partners	May 2015

- (5) **Shoring and Adequacy of Adjoining Property Works** - If the approved development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the person having the benefit of the consent shall, at the person's own expense:

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

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

A copy of the written consent must be provided to the PCA prior to the excavation commencing.

- (6) **Local Traffic Committee Concurrence** - Installation of or changes to regulatory signage, line marking and devices are subject to the concurrence of Council's Local Traffic Committee on local roads, and the Roads and Maritime Services on State roads.

These concurrences (as required) must be obtained prior to the installation of or any changes to regulatory signage, line-marking and devices.

- (7) **Street Lighting** - Street lighting for the subdivision shall be designed and installed in accordance with relevant Australian Standards and to the satisfaction of the Roads Authority (Council).

- (8) **Noxious Weeds Management** - The applicant must fully and continuously suppress and destroy by appropriate means, any noxious or environmentally invasive weed infestations that occur during or after works. New infestations must be reported to Council.

Pursuant to the *Noxious Weeds Act 1993*, the applicant must at all times ensure that any machinery, vehicles or other equipment entering or leaving the site are clean and free from any noxious weed material.

- (9) **Waste Bin Collection Points** - A waste bin collection point that is clear from the positioning of driveways, tree plantings (or tree canopies), street lighting or other



fixtures must be provided for each approved residential lot. This area is to be 3m long x 0.9m wide and provide a 3.9m clear vertical space to allow for the truck-lifting arm.

- (10) **Street Trees Maintenance and Establishment Period** - For a period of 12 months, commencing from the installation date of the Street Trees and their protective guards, the applicant will be responsible for the successful establishment, maintenance and any repair of all subject street trees and their protective guards.

At the completion of the 12 month maintenance and establishment period all street trees plantings must have signs of healthy and vigorous growth and all protective guards must be in an undamaged, safe and functional condition.

- (11) **Section 149 Certificate** - The Section 149(5) Planning Certificates for the approved lots must be updated advising the proximity of the lots to the M. Collins & Sons Sand and Soil Extraction operation.

2.0 – Prior to Issue of a Construction Certificate

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

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

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

- (2) **Dilapidation Report – Council Property** - A Dilapidation Report prepared by a suitably qualified person, including a photographic survey of existing public roads, kerbs, footpaths, drainage structures, street trees and any other existing public infrastructure within the immediate area of the subject site. Details demonstrating compliance shall be provided to the Certifying Authority prior to issue of a Construction Certificate.
- (3) **Traffic Management Plan** - A Traffic Management Plan (TMP) shall be prepared in accordance with Council's Engineering Specifications and AS 1742.3. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (4) **Stormwater Detention and Water Quality** - An on-site detention system and water quality system shall be provided for the site and designed in accordance with Council's Engineering Specifications.

A detailed on-site detention and water quality report reflecting the Construction Certificate plans shall be provided to the Certifying Authority with the Construction Certificate application.



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- (5) **Soil, Erosion, Sediment and Water Management** - An erosion and sediment control plan shall be prepared in accordance with Council's Engineering Specifications. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (6) **Environmental Management Plan** - An Environmental Management Plan (EMP) prepared in accordance with Council's Engineering Design Specification shall be provided to the Certifying Authority.

The EMP shall address the manner in which site operations are to be conducted and monitored to ensure that adjoining land uses and the natural environment is not unacceptably impacted upon by the proposal.

The EMP shall include but not be necessarily limited to the following measures:

- a) Measures to control noise emissions from the site;
 - b) Measures to suppress odours and dust emissions;
 - c) Soil and sediment control measures;
 - d) Measures to control air emissions that includes odour;
 - e) Measures and procedures for the removal of hazardous materials that includes waste and their disposal;
 - f) Any other recognised environmental impact; and
 - g) Community Consultation.
- (7) **Site Audit Statement** - All remediation works undertaken on the site by Development Consent 147/2015 and the Validation Report shall be reviewed by a NSW EPA Accredited Site Auditor (Site Auditor) as defined under the *Contaminated Land Management Act 1997* at the conclusion of the remediation works.

The Site Auditor shall provide a Site Audit Statement (SAS) in accordance with the contaminated lands planning guidelines, *Contaminated Lands Management Act 1997*, SEPP 55 and Council's Contaminated Lands Policy, confirming the land is suitable for the intended use. The SAS shall be provided to the Consent Authority within 30 days following the completion of the remediation works and submission of the Validation Report.

- (8) **Salinity** - The approved works for the development shall comply with the requirements of the salinity management plan titled *Report on Salinity Investigation and Management Plan, Proposed Residential Subdivision, Stage 45-47 and Stage 61, Spring Farm*, prepared Douglas Partners, Project 34288.23, dated February 2015. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (9) **Pollutants** - Discharge of pollutants is strictly forbidden. Measures to prevent the pollution of waters, air and land shall be incorporated into the development to comply with the requirements of the *Protection of the Environment Operations Act 1997*.

Where there is potential for pollutant discharge, a report by a suitably qualified expert shall be provided to the PCA detailing the pollution mitigation measures incorporated into the building design so that any discharges comply with the requirements of the *Protection of the Environment Operations Act 1997*.



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- (10) **Temporary Water Quality Facility** - Prior to the commencement of works, a temporary water quality facility must be provided to facilitate the construction phase. The facility shall be located within any proposed public road and/or drainage reserve and adequately sized for the catchment area. Detailed engineering plans are to be submitted with the documentation for a Construction Certificate application.
- (11) **Bush Fire Safety Authority** - The site is located within a bush fire prone area. Certification from a suitably qualified bush fire consultant shall be provided to certify that the development complies with:
- a) the NSW Rural Fire Service's Bush Fire Safety Authority for DA 147/2015;
 - b) the bush fire report provided titled "Bush Fire Protection Assessment" dated January 2015 by Travers Bush Fire & Ecology; and
 - c) the NSW Rural Fire Service publication "Planning for Bush Fire Protection 2006."
- (12) **Macarthur Road Median Island** - A median island must be constructed within Macarthur Road adjacent to the intersection of road 25 and Macarthur Road. The median island must limit vehicle movements at this intersection to left in/left only out of road 25. Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application and must be approved by the Local Traffic Committee.
- (13) **Safety Barrier** - A safety barrier must be constructed along the entire length of the north western verge of road 25. The barrier must be a Roads and Maritime Services approved safety barrier system and incorporate a W beam. The barrier must be structurally designed and constructed to achieve compliance with Austroads.
- Certification from a suitably qualified and experienced engineer must be provided to the Certifying Authority with the Construction Certificate application.
- (14) **Acoustic Barrier** - In addition to and behind the safety barrier required by condition 2.0(13) of this development consent, a 3m high lapped and capped timber barrier is to be constructed along the entire length of the north western boundary of road 25. The height of the barrier is to be relative to the finished road level constructed on this boundary. The barrier is to have no gaps by using overlapping palings with no gaps underneath. The fence must have an acoustic performance of a minimum of Rw 30 rating.
- The barrier must be designed and constructed to have a minimum lifespan of 10 years. The barrier must also be finished in an anti-graffiti coating.
- Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.
- (15) **Road 25 North Western Verge Base** - The verge treatment for the base of the north western verge of road 25 must be designed and constructed so as not to require any ongoing maintenance.
- Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application.



- (16) **Road 25 Edge Line Treatment** - The design of road 25 must incorporate an edge line treatment that will establish a 5m wide trafficable carriageway with a 1m offset to the north western verge and safety barrier.

Details demonstrating compliance shall be provided to the Certifying Authority with the Construction Certificate application and must be approved by the Local Traffic Committee.

- (17) **Road 25 Drainage** - The design of road 25 must incorporate suitable stormwater drainage in accordance with Council's engineering specifications.
- (18) **Flood Management Plan** - A Flood Management Plan prepared by a suitable qualified engineer in accordance with Camden Council's Flood Risk Management Policy. Details demonstrating compliance shall be provided to the Certifying Authority

3.0 - Prior to Commencement of Works

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

- (1) **Public Liability Insurance** - The owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc) for the full duration of the proposed works. Evidence of this Policy shall be provided to Council and the Certifying Authority.
- (2) **Notice of PCA Appointment** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 103 of the EP&A Regulation 2000. The notice shall include:
- a description of the work to be carried out;
 - the address of the land on which the work is to be carried out;
 - the registered number and date of issue of the relevant development consent;
 - the name and address of the PCA, and of the person by whom the PCA was appointed;
 - if the PCA is an accredited certifier, his, her or its accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
 - a telephone number on which the PCA may be contacted for business purposes.
- (3) **Notice Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with Clause 104 of the EP&A Regulation 2000. The notice shall include:
- the name and address of the person by whom the notice is being given;
 - a description of the work to be carried out;
 - the address of the land on which the work is to be carried out;
 - the registered number and date of issue of the relevant development consent and construction certificate;



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- e) a statement signed by or on behalf of the PCA to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.
- (4) **Construction Certificate Required** - In accordance with the provisions of Section 81A of the *EP&A Act 1979*, construction or subdivision works approved by this consent shall not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Certifying Authority;
- b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*;
- c) if Council is not the PCA, Council is notified of the appointed PCA at least two (2) days before building work commences;
- d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and
- e) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
- (5) **Sign of PCA and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:
- a) that unauthorised entry to the work site is prohibited;
- b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours; and
- c) the name, address and telephone number of the PCA.
- The sign shall be maintained while the work is being carried out, and shall be removed upon the completion of works.
- (6) **Performance Bond** - Prior to commencement of works a performance bond of 10% of the value of the civil works must be lodged with Camden Council in accordance with Camden Council's Engineering Construction Specifications.
- Note** – An administration fee is payable upon the lodgement of a bond with Council.
- (7) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this development consent.
- Soil erosion and sediment control measures shall be maintained during construction works and shall only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).
- (8) **Protection of Existing Street Trees** - No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) shall be disturbed, relocated, removed or damaged during earthworks, demolition,



excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

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

4.0 - During Works

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

- (1) **Construction Hours** - All work (including delivery of materials) shall be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
- (2) **Traffic Management Plan Implementation** - All construction traffic management procedures and systems identified in the approved Construction Traffic Management Plan shall be introduced and maintained during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (3) **Site Signage** - A sign shall be erected at all entrances to the subdivision site and be maintained until the subdivision has reached 80% occupancy. The sign shall be constructed of durable materials, be a minimum of 1200mm x 900mm, and read as follows:

"WARNING UP TO \$1,500 FINE. It is illegal to allow soil, cement slurry or other building materials to enter, drain or be pumped into the stormwater system. Camden Council (02 4654 7777) – Solution to Pollution."

The wording shall be a minimum of 120mm high and the remainder a minimum of 60mm high. The warning and fine details shall be in red bold capitals and the remaining words in dark coloured lower case letters on a white background, surrounded by a red border.

- (4) **Soil, Erosion, Sediment and Water Management – Implementation** - All requirements of the erosion and sediment control plan and/or soil and water management plan shall be maintained at all times during the works and any measures required by the plan shall not be removed until the site has been stabilised.
- (5) **Removal of Waste Materials** - Where there is a need to remove any identified materials from the site that contain fill/rubbish/asbestos, the waste material shall be assessed and classified in accordance with the NSW EPA Waste Classification Guidelines (2008) (refer to: www.environment.nsw.gov.au/waste/envguidlns/index.htm)

Once assessed, the materials shall be disposed of to a licensed waste facility suitable for that particular classification of waste. Copies of tipping dockets shall be retained and supplied to Council upon request.



- (6) **Noise During Work** - All work shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

All work shall comply with the requirement of the NSW Industrial Noise Policy and the Environment Protection Authority's Environmental Noise Manual.

- (7) **Fill Assessment Reporting Requirements** - A fill assessment report prepared as a requirement of the approved fill management plan titled *Fill Management Protocol, Proposed Residential Subdivision, Stage 45-47 and Stage 61, Spring Farm NSW*, prepared Douglas Partners, Project 34288.27, dated May 2015."

- (8) **Location of Stockpiles** - Stockpiles of soil shall not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials shall be suitably covered to prevent dust and odour nuisance.

- (9) **Disposal of Stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant EPA and ANZECC standards for water quality discharge.

- (10) **Offensive Noise, Dust, Odour and Vibration** - All work shall not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the property boundary.

- (11) **Erosion and Sedimentation Control** - Soil erosion and sedimentation controls are required to be installed and maintained for the duration of the works. The controls must be undertaken in accordance with version 4 of the Soils and Construction – Managing Urban Stormwater manual (Blue Book).

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

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

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

- (13) **Site Management Plan** - The following practices are to be implemented during construction:

- a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off site;



- b) builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner;
 - c) waste shall not be burnt or buried on site, nor shall wind blown rubbish be allowed to leave the site. All waste shall be disposed of at an approved waste disposal facility;
 - d) a waste control container shall be located on the site;
 - e) all building materials, plant, equipment and waste control containers shall be placed on the building site. Building materials, plant and equipment (including water closets), shall not to be placed on public property (footpaths, roadways, public reserves, etc);
 - f) toilet facilities shall be provided at, or in the vicinity of, the work site at the rate of 1 toilet for every 20 persons or part thereof employed at the site. Each toilet shall:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) have an on-site effluent disposal system approved under the *Local Government Act 1993*; or
 - iii) be a temporary chemical closet approved under the *Local Government Act 1993*.
- (14) **Additional Approvals Required** - Where any works are proposed in the public road reservation, the following applications shall be made to Council, as applicable:
- a) For installation or replacement of private stormwater drainage lines or utility services, including water supply, sewerage, gas, electricity, etc, an application shall be made for a Road Opening Permit and an approval under Section 138 of the *Roads Act 1993*;
 - b) For construction / reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application shall be made for a Roadworks Permit under Section 138 of the *Roads Act 1993*.
- Note:** Private stormwater drainage is the pipeline(s) that provide the direct connection between the development site and Council's stormwater drainage system, or street kerb and gutter.
- (15) **Delivery Register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Council officers on request and be provided to the Council at the completion of the development.
- (16) **Fill Importation** - The importation of fill material must be undertaken in accordance of the report titled "*Fill Management Protocol, Proposed Residential Subdivision, Stage 45-47 and Stage 61, Spring Farm NSW*, prepared Douglas Partners, Project 34288.27, dated May 2015."



5.0 - Prior to Issue of a Subdivision Certificate

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

- (1) **Requirement for a Subdivision Certificate** - The application for subdivision certificate(s) shall be made in accordance with the requirements of Clause 157 of the Environmental Planning & Assessment Regulation 2000.
- (2) **Show Easements/ Restrictions on the Plan of Subdivision** - The developer shall acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.
- (3) **Burdened Lots To Be Identified** - Any lots subsequently identified during construction of the subdivision as requiring restrictions shall also be suitably burdened.
- (4) **Subdivision Certificate** - The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete, unless otherwise approved in writing by the PCA.
- (5) **Fill Plan** - A fill plan shall be provided to the PCA prior to the issue of any Subdivision certificate. The plan must:
 - a) Show lot boundaries;
 - b) Show road/drainage/public reserves;
 - c) Show street names;
 - d) Show final fill contours and boundaries; and
 - e) Show depth in filling in maximum 0.5m Increments

It is to be provided electronically in Portable Document Format (.PDF) at 150dpi with a maximum individual file size not exceeding 2 megabytes and provide both on compact disk and an A1 paper plan.

- (6) **Incomplete Works** - Prior to the issue of the Subdivision Certificate the applicant is to lodge a bond with Camden Council for the construction of incomplete works, including concrete footpath and/or pedestrian/cycle shared way, in accordance with Camden Council's current Engineering Construction Specifications.

Note – An administration fee is payable upon the lodgement of a bond with Council.

- (7) **Surveyor's Report** - Prior to the issue of the Subdivision Certificate a certificate from a registered surveyor must be provided to the PCA, certifying that all drainage lines have been laid within their proposed easements. Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.
- (8) **Value of Works** - Itemised data and value of civil works shall be provided to Council for inclusion in Council's Asset Management System in accordance with Council's Engineering Specifications.



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- (9) **Electricity Notice of Arrangement** - A Notice of Arrangement for the provision of distribution of electricity from Endeavour Energy must be submitted to the Principal Certifying Authority (Council). The arrangement must include the provision of street lighting in accordance with the electrical design approved by Council.
- (10) **Soil Classification** - A soil classification report prepared by a suitably qualified person in accordance with AS 2870 'Residential Slabs and Footings', detailing the general classification of soil type generally found within the subdivision, shall be provided to the PCA. A classification shall be provided for each lot within the subdivision. The soil classification report shall also be provided to Council.
- (11) **Services** - Certificates and/or relevant documents shall be obtained from the following service providers and provided to the PCA:
- a) Energy supplier – Evidence demonstrating that satisfactory arrangements have been made with the energy supplier to service the proposed development;
 - b) Telecommunications – Evidence demonstrating that satisfactory arrangements have been made with a telecommunications carrier to service the proposed development; and
 - c) Water supplier – Evidence demonstrating that satisfactory arrangements have been made with a water supply provider to service the proposed development.
- (12) **Works As Executed Plan** - Works As Executed Plans shall be prepared and provided in accordance with Council's Engineering Specifications.
- Digital data must be in AutoCAD .dwg or .dxf format, and the data projection coordinate must be in (GDA94.MGA zone 56).
- (13) **Works As Executed Plan (Remediation)** - A works as executed plan that identifies the areas requiring remediation and the extent of the works undertaken (that includes any encapsulation work) must be prepared by a registered surveyor and be submitted to the Consent Authority (Council) with the final Site Validation Report. The plan must include lot boundaries. Digital data must be in AutoCAD .dwg or .dxf format and the data projection coordinate must be in GDA94.MGA zone 56.
- (14) **Section 88B Instrument** - The applicant shall prepare a Section 88B Instrument for approval by the PCA which incorporates the following easements, positive covenants and restrictions to user where necessary, including:
- a) Easement for services;
 - b) Easement to drain water;
 - c) Easement for support and maintenance;
 - d) Restriction as to user on all lots that states that all proposed construction works that includes earthworks, imported fill, landscaping, buildings, and associated infrastructure proposed to be constructed on the land must be carried out or

This is the report submitted to the held on 25 October 2016

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constructed in accordance with the management strategies as contained the report titled *Report on Salinity Investigation and Management Plan, Proposed Residential Subdivision, Stage 45-47 and Stage 61, Spring Farm*, prepared Douglas Partners, Project 34288.23, dated February 2015;

- e) Restriction as to user on lots 4549, 4548, 4527, 4526, 4507, 4506, 4505, 4504 and 4503 that states that all windows and doors facing the adjoining quarry must have 6.38mm laminated glass with acoustic seals to achieve a Rw 30 rating; and
 - f) Restriction as to user on lots 4549, 4548, 4527, 4526, 4507, 4506, 4505, 4504 and 4503 that states that building facades facing the adjoining quarry may require windows to be kept closed (but not necessarily sealed) to meet internal noise criteria. As a result, the provision of alternative ventilation (possibly mechanical provided there is a fresh air intake) that meets the requirements of the Building Code of Australia (BCA) will need to be provided to habitable rooms on these facades to ensure fresh airflow inside the dwellings when windows are closed. Consultation with a mechanical engineer to ensure that BCA and AS1668 are achieved may be required. Compliance with the above ventilation requirement is to be demonstrated for each dwelling application on the affected lots.
- (15) **VPA** - The proposed development shall be carried out in accordance with the Voluntary Planning Agreement executed between Council, Cornish Group No. One Pty Limited, Cornish Group Spring Farm Pty Limited & Cornish Group No. Three Pty Limited dated 9 March 2015.

Contributions – The following monetary contributions must be indexed to the Consumer Price Index and paid prior to issue of the Subdivision Certificate:

\$435 per additional lot, **total \$26,970 for Administration.**

- (16) **Provision of Permanent Water Quality Facilities** - A permanent water quality facility must be provided for all associated lots in accordance with the Stormwater Management Report approved with DA 147/2015 (Mott MacDonald, January 2015) or as otherwise determined satisfactory by Council.
- (17) **Development Consent 147/2015** - All of the works approved by Development Consent 147/2015 for this site, and the remediation works detailed in the remediation action plan titled *Remediation Action Plan, Proposed Residential Development, Stage 45-47 and 61, Spring Farm NSW* prepared Douglas Partners, Project 34288.23, dated February 2015, including all required reporting, must be fully completed.
- (18) **Acoustic Barrier Completion** - The acoustic barrier required by condition 2.0(14) of this development consent must be fully completed.
- (19) **Defects and Liability Bond** - The applicant is to lodge a defects and liability bond in the form of an unconditional bank guarantee or cash bond, being 10% of the value of the civil works, with Council.

The bond covers any defects and liabilities of the public infrastructure.



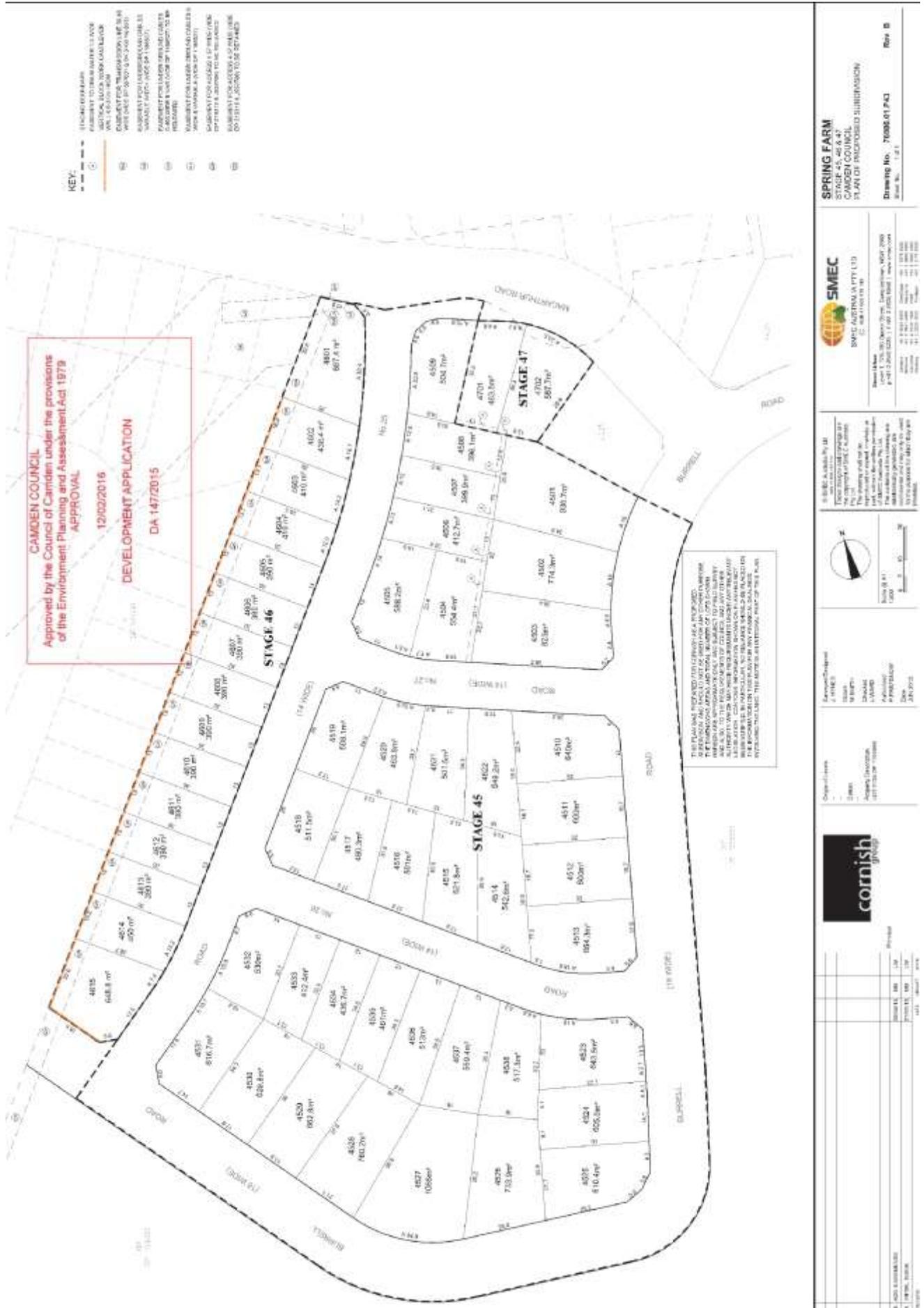
Note – An administration fee is payable upon the lodgement of a bond with Council.

This is the report submitted to the held on 25 October 2016

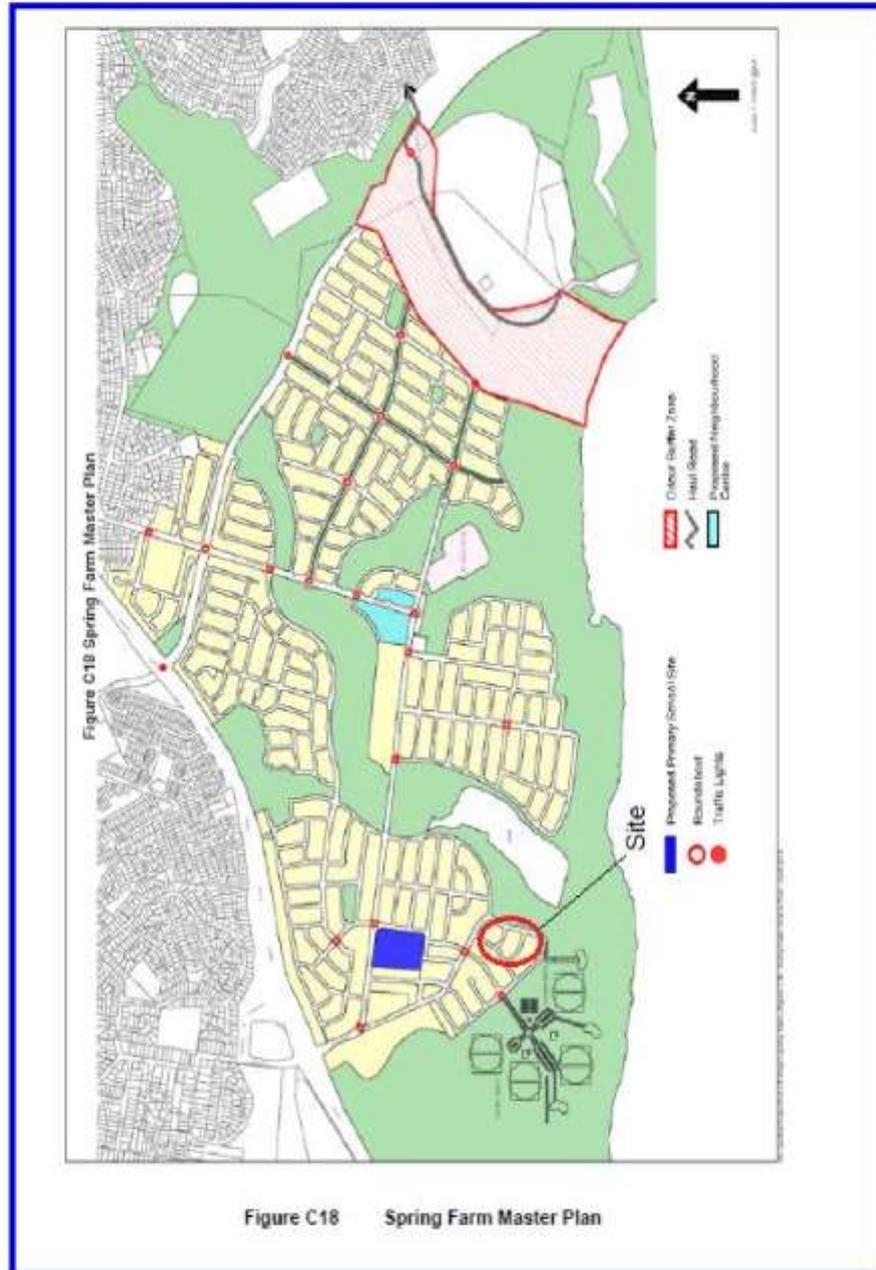
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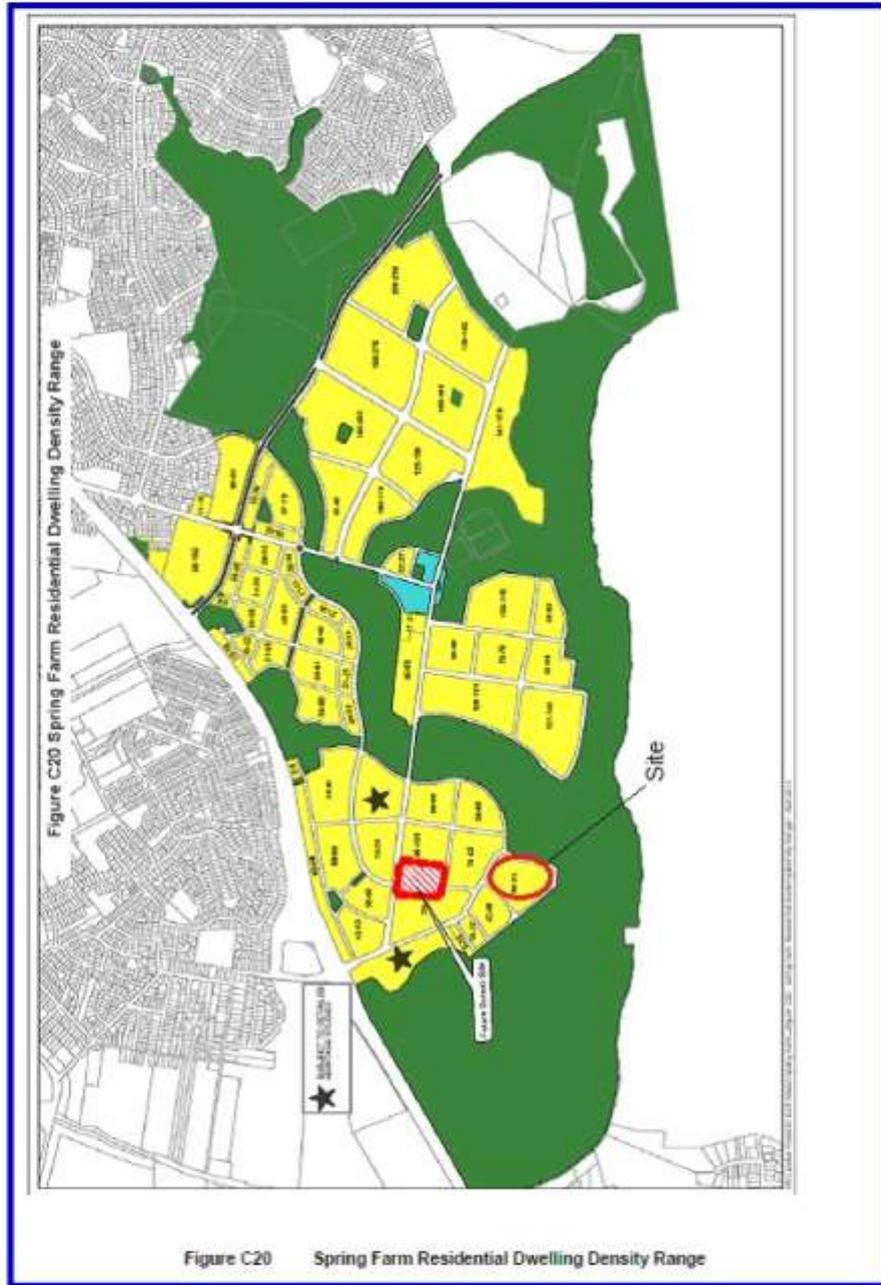
Attachment 3



DCP Figure C18 – Spring Farm Master Plan



DCP Figure C20 – Spring Farm Residential Dwelling Density Range



DCP Figure C21 – Spring Farm Staging Plan

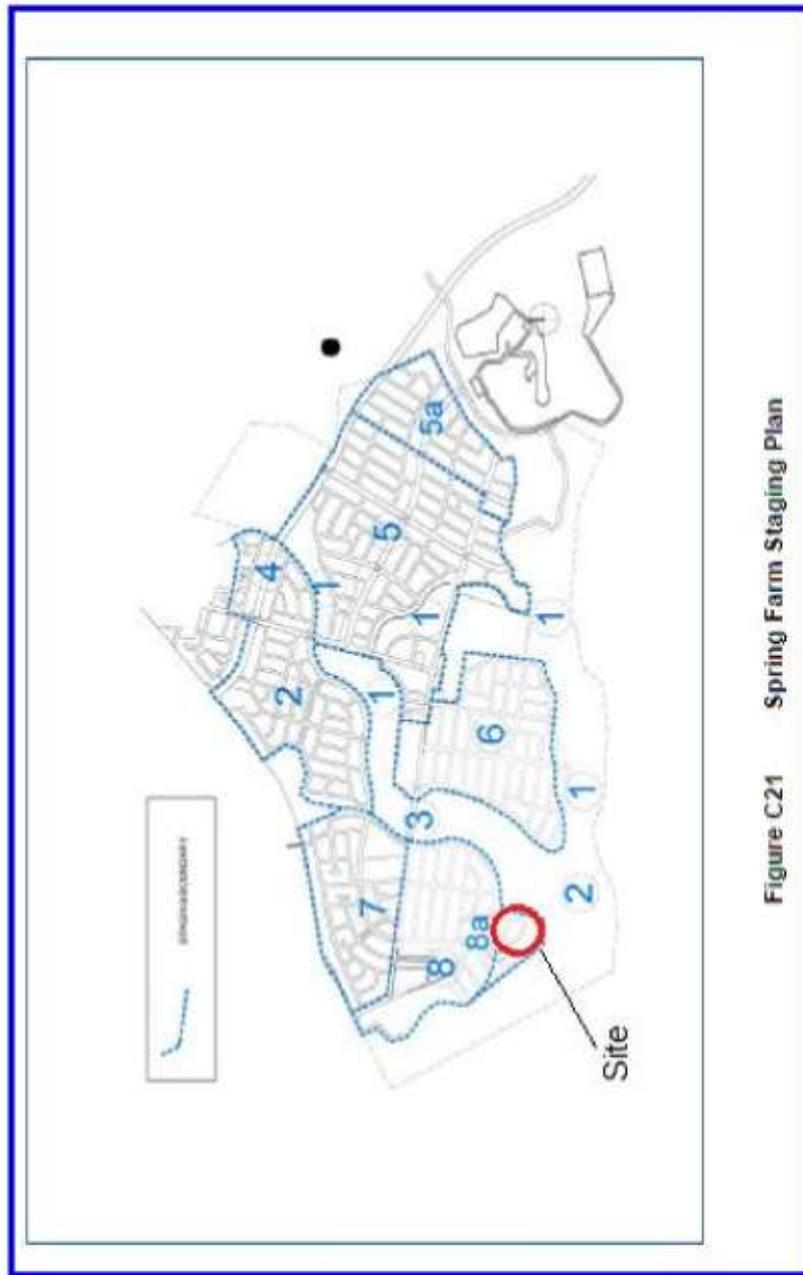
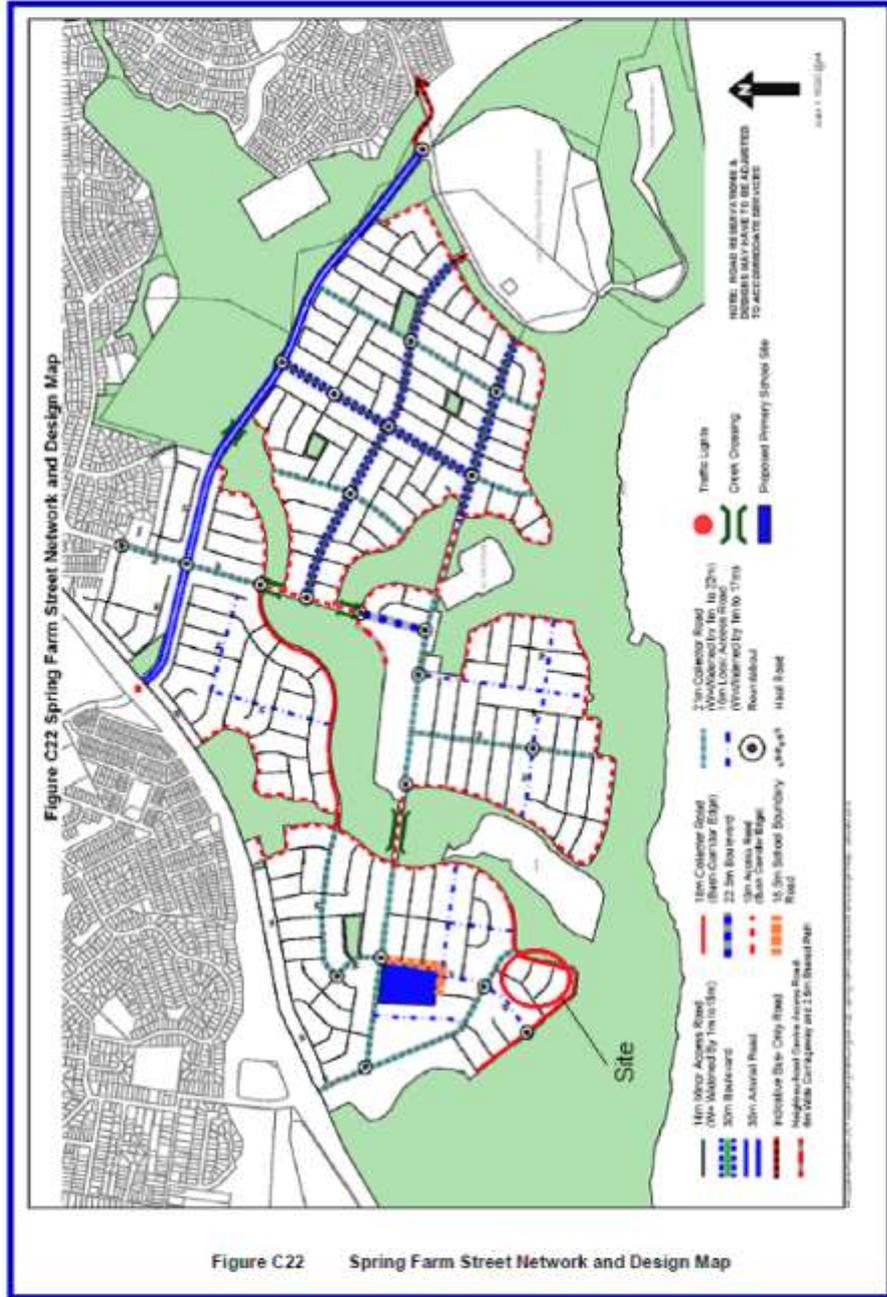
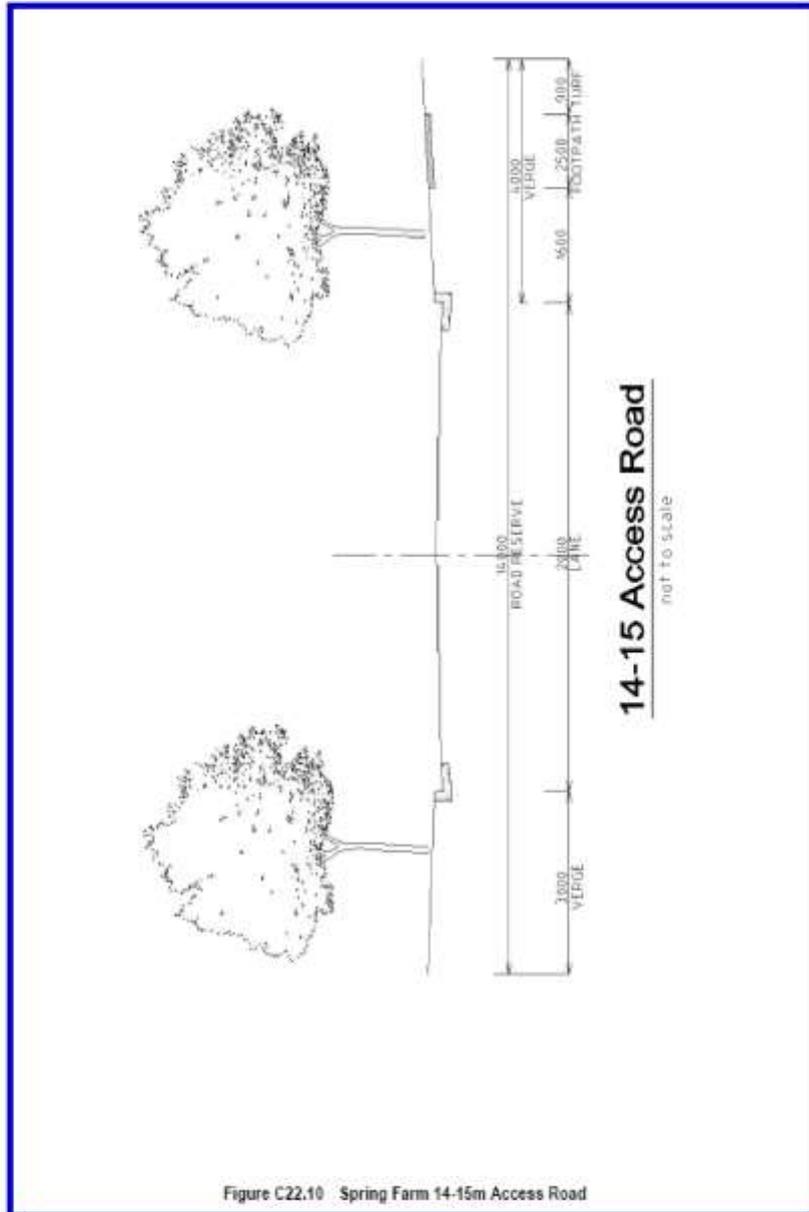


Figure C21 Spring Farm Staging Plan

DCP Figure C22 – Spring Farm Street Network and Design Map



DCP Figure C22.10 – Spring Farm 14-15m Access Road





COLLINS SAND QUARRY, SPRING FARM
ASSESSMENT OF NOISE IMPACT UPON PROPOSED ADJACENT
RESIDENTIAL DEVELOPMENT

REPORT NO. 06179-R
VERSION B

OCTOBER 2016

PREPARED FOR

PIKES & VEREKERS LAWYERS
50 KING STREET
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COLLINS SAND QUARRY, SPRING FARM
ASSESSMENT OF NOISE IMPACT UPON PROPOSED ADJACENT RESIDENTIAL DEVELOPMENT

REPORT NO. 06179-R VERSION B

DOCUMENT CONTROL

Version	Status	Date	Prepared By	Reviewed By
A	Draft	20 October 2016	Barry Murray	Rob Bullen
B	Final	25 October 2016	Barry Murray	-

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ACOUSTICS AND AIR

COLLINS SAND QUARRY, SPRING FARM
ASSESSMENT OF NOISE IMPACT UPON PROPOSED ADJACENT RESIDENTIAL DEVELOPMENT

REPORT NO. 06179-R VERSION B

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GLOSSARY OF ACOUSTIC TERMS

Most environments are affected by environmental noise which continuously varies, largely as a result of road traffic. To describe the overall noise environment, a number of noise descriptors have been developed and these involve statistical and other analysis of the varying noise over sampling periods, typically taken as 15 minutes. These descriptors, which are demonstrated in the graph below, are here defined.

Maximum Noise Level (L_{Amax}) – The maximum noise level over a sample period is the maximum level, measured on fast response, during the sample period.

L_{A1} – The L_{A1} level is the noise level which is exceeded for 1% of the sample period. During the sample period, the noise level is below the L_{A1} level for 99% of the time.

L_{A10} – The L_{A10} level is the noise level which is exceeded for 10% of the sample period. During the sample period, the noise level is below the L_{A10} level for 90% of the time. The L_{A10} is a common noise descriptor for environmental noise and road traffic noise.

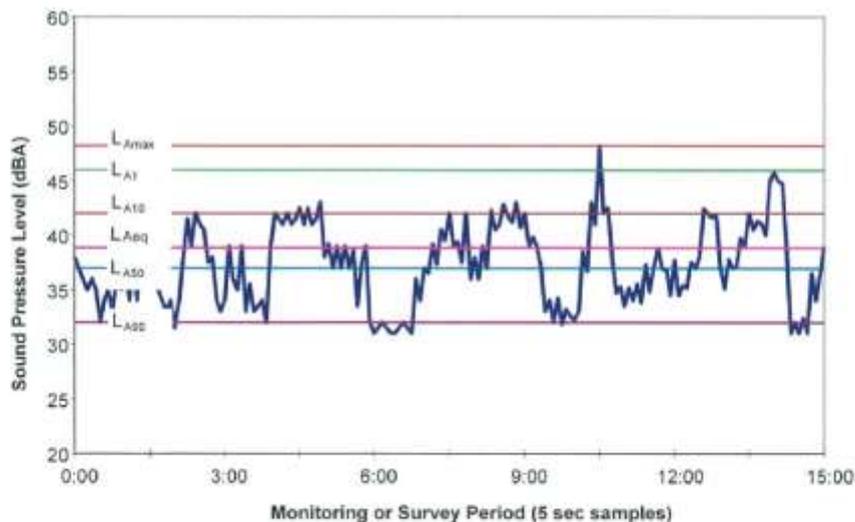
L_{A90} – The L_{A90} level is the noise level which is exceeded for 90% of the sample period. During the sample period, the noise level is below the L_{A90} level for 10% of the time. This measure is commonly referred to as the background noise level.

L_{Aeq} – The equivalent continuous sound level (L_{Aeq}) is the energy average of the varying noise over the sample period and is equivalent to the level of a constant noise which contains the same energy as the varying noise environment. This measure is also a common measure of environmental noise and road traffic noise.

ABL – The Assessment Background Level is the single figure background level representing each assessment period (daytime, evening and night time) for each day. It is determined by calculating the 10th percentile (lowest 10th percent) background level (L_{A90}) for each period.

RBL – The Rating Background Level for each period is the median value of the ABL values for the period over all of the days measured. There is therefore an RBL value for each period – daytime, evening and night time.

Typical Graph of Sound Pressure Level vs Time



1 INTRODUCTION

M Collins & Sons (Contractors) Pty Ltd has been operating a sand quarry at Spring Farm for over a decade. It is now proposed that residential development take place directly adjacent to the quarry and this report addresses the implications in regard to noise impact as a result of the residential development.

An acoustic report has been prepared by Renzo Tonin & Associates (*Spring Farm Riverside – Stages 45 and 46 – Acoustic Assessment*, Renzo Tonin & Associates, 3 June 2016) in support of the application for the residential development. In the course of the current noise assessment, this report ("the Tonin report") has been reviewed.

Figure 1-1 shows the area of the quarry operation and the location of the adjacent residential development that has been proposed. The development abuts the eastern boundary of the quarry operations.

Figure 1-1 Plan showing Collins Sand Quarry and proposed residential development



2 REVIEW OF TONIN REPORT

The Tonin report addresses the impact of noise upon future residences and this report has been reviewed.

2.1 Noise Criteria

The Tonin report refers to two noise criteria which have been used to assess the potential impact of quarry noise upon future residents:

- The Environment Protection Licence for the quarry which sets a limit of $L_{A10,15min}$, 55dBA at the residential boundary; and
- The noise criterion as determined in accordance with the *Industrial Noise Policy (INP)*. The Tonin report identifies the *INP* criterion as an $L_{Aeq,period}$ of 55dBA for daytime operations.

The quarry operator has an obligation to comply with the Environment Protection Licence noise limit.

In regard to the application of the *INP* in setting a second noise criterion, the *INP* in fact sets out two criteria, known as the "intrusiveness" and the "amenity" criteria. The intrusiveness criterion depends on the existing background noise level, while the amenity criterion does not. The Tonin report refers to Section 2.2.5 of the *INP* which indicates that, where land use changes, new developments increase activities and therefore increase background noise levels. In such cases the *INP* recommends that the "acceptable" amenity noise criterion be used for assessment rather than the intrusiveness criterion. The Tonin report therefore sets the *INP* criterion according to the acceptable criterion; that is, 55dBA L_{Aeq} for the daytime period 7am-6pm.

Whilst there may be merit in adopting the approach recommended by the *INP* for the long-term, the approach is not considered appropriate for the short-term, say at least 5 years, when the residential development in the whole area is still progressing. It is well documented and accepted that in the absence of particular characteristics that may enhance annoyance, noise will be noticeable, and hence annoying at least for some residents, when the industrial noise level exceeds the background noise level by approximately 5 dBA. For this reason, the *INP* recommends the use of both an intrusiveness noise criterion and an amenity noise criterion for most situations. In the case of the encroachment of residential development upon the operating quarry, annoyance is still likely to occur when the quarry noise exceeds the background noise level by more than 5dBA. This means that it is necessary to consider the intrusiveness criterion as well as the amenity criterion when assessing the effect of the quarry noise on future residents nearby, particularly in the short-term.

The method adopted in the Tonin report to set the noise criterion for the new residential development (in accordance with the *INP*) is not considered appropriate if the objective is to avoid noise annoyance. The intrusiveness criterion of Rating Background Level (RBL) +5dB should also be adopted as a noise criterion, and as described below this criterion is more stringent than the amenity criterion adopted in the Tonin report. This issue is addressed further in Section 3 below.

2.2 Tonin Quarry Noise Measurements

The Tonin report indicates that a spot check of quarry noise was carried out at one location near the interface between the quarry and the proposed residential development. An $L_{Aeq,15min}$ noise level of 45dBA was measured. This level is regarded as low for the boundary of the sand quarry. Although the Tonin report indicates what equipment was operating during the measurements, it appears that no attempt was made to ascertain whether the operation which was measured was the noisiest operation which occurs at the quarry. Further, the Tonin report indicates that three bulldozers were operating and one truck movement occurred at the quarry, but the quarry does not use bulldozers and hence this appears to be an incorrect description of the equipment observed.

As discussed below in Section 3, it appears that the measurements carried out and reported in the Tonin report were not carried out during the noisier operations which occur at the quarry.

2.3 Tonin Noise Predictions

In order to assess the noise levels likely to emanate from the quarry when operations occur close to proposed residences, the Tonin report discusses noise predictions carried out based on some relatively generic assumptions. It was assumed that the equipment observed and discussed in Section 2.2 above would operate approximately 20m from the interface between the quarry and the residential development.

The sound power level of L_{Aeq} 100dBA adopted by Tonin for the quarry operations appears to be a low level. Quarry equipment, such as front end loaders and screens, normally generate sound power levels in excess of 110dBA. If the adopted level allows for the intermittency of the equipment operation, then it may be a reasonable level for the type of equipment identified during the measurements. However, note that consideration of intermittency is relevant mostly for comparison with the amenity criterion, which is based on an L_{Aeq} noise level for the period 7am-6pm. The intrusiveness criterion is based on an L_{Aeq} noise level recorded over 15 minutes.

The predicted levels are presented in Table 4 of the Tonin report. This table shows the levels at the ground floor of residences and also at the first floor. The difference between the ground floor predictions and the first floor predictions appears to indicate that no allowance has been made for the raised ground level proposed prior to the residential development being carried out. From the raised ground, most of the quarry operation would be clearly visible from ground level, despite the bund constructed just inside the quarry boundary.

Further, Table 4 of the Tonin report indicates the lots at which the quarry noise levels were predicted and it is noted that these lots are not the closest lots to the quarry.

It is concluded that the first floor results reported by Tonin should be adopted and approximately 5dBA should be added to adjust the predicted levels to apply to the nearest residential lots. The predicted level at both ground and first floor would therefore be approximately $L_{Aeq,15min}$ 62dBA.

2.4 Overall Review of Tonin Report

In summary, the following comments are made regarding the Tonin report:

- The *INP* noise criterion adopted for assessment of the impact of quarry noise upon the proposed residential development is not the appropriate criterion for the short-term, and under-estimates the noise impact (see Section 3 below);
- The measurement of quarry noise carried out and reported in the Tonin report gives results which appear not to be for the noisiest operations which occur at the quarry; and
- The results of noise level predictions shown in the Tonin report are too low because they are not carried out to the nearest residential lots and because they do not take into account the raised ground level proposed at the residential development site.

3 INDEPENDENT NOISE ASSESSMENT CARRIED OUT BY WILKINSON MURRAY

This section discusses the assessment of noise carried out by Wilkinson Murray, relying to some degree upon information provided in the Tonin report.

3.1 Future Quarry Operations

Quarry operations vary from day to day depending upon a range of circumstances. The main processing plant is permanently located approximately 250m from the quarry/future residential interface. At this location, a front end loader often operates to feed the plant and to load trucks for delivery of processed sand.

In addition to this, sand is also stockpiled closer to the quarry/future residential interface with processing occurring in this area. A semi-permanent processing plant is currently located approximately 50m in from the quarry boundary near the south-western corner of the proposed residential development. This location is shown in Figure 1-1. In addition, a mobile screen is currently located approximately 150m from the western edge of the proposed residential development. Both of these operate with the assistance of a front end loader.

All processing and screening operations occur below the original ground level.

There is an earth bund of height approximately 2m along the eastern boundary of the quarry adjacent to the proposed residential development. This bund extends from near Macarthur Road south at least two thirds of the way along the quarry/proposed residential interface.

As a result of noise complaints from a resident located more distant than the proposed residential development some years ago, treatment has been applied to the screen at the main processing plant and containers have been stacked adjacent to the plant to provide noise shielding to the east.

Some time in the future, it will be necessary to rehabilitate the quarry land adjacent to the proposed residential development. Rehabilitation is likely to take the form of delivery of material to the site by truck, spreading of the material using a dozer and compaction of the ground using a compactor. These operations would occur up to within a few meters of the quarry/proposed residential interface.

3.2 Background Noise Levels

To determine the intrusiveness noise criterion, there is a need to know background noise levels in the area. Background noise levels were measured at the boundary of the quarry near the centre of the quarry/proposed residential interface. An environmental noise logger was located on the bund (see Figure 3-1) and was allowed to operate from Monday 17 October to Wednesday 19 October 2016. This was the maximum time available for background noise measurements. During the measurements, the quarry operated normally commencing operation at 7.00am, suspending operation for lunch just after midday and ceasing operation at or before 5.00pm.

The noise monitoring equipment used for these measurements consisted of an environmental noise logger set to A-weighted, fast response, continuously monitoring over 15-minute sampling periods. This equipment is capable of remotely monitoring and storing noise level descriptors for later detailed analysis. The equipment calibration was checked before and after the survey and no significant drift was noted.

The logger determines L_{A1} , L_{A10} , L_{A90} and L_{Aeq} levels of the ambient noise. L_{A1} , L_{A10} and L_{A90} are the levels exceeded for 1%, 10% and 90% of the sample time respectively (see Glossary of Acoustic Terms for definitions). The L_{A1} is indicative of maximum noise levels due to individual noise events, such as the occasional pass-by of a heavy vehicle. This is used for the assessment of sleep disturbance. The L_{A90} level is normally taken as the background noise level during the relevant period.

The results of the measurements are shown in graphical form in Appendix A and the relevant background (L_{A90}) levels are shown in Table 3-1. This table shows the L_{A90} levels measured at times when it appeared from Appendix A that the quarry was not operational or was very quiet.

Table 3-1 Measured Background Noise Levels

Date	Time	L_{A90}
Mon, 17 October	Lunch 12pm	43dBA
	4pm	38dBA
	Estimated ABL*	38dBA
Tue, 18 October	6-7am	47dBA
	9-11.30am	45dBA
	5-6pm	44dBA
	Estimated ABL*	44dBA
Wed, 19 October	6-7am	40dBA
	Estimated ABL*	40dBA

* An estimate of daily background noise level, used to determine the RBL

From the information presented in Table 3-1, it is estimated that the RBL during quarry operational hours is approximately 40dBA. Given the limited measurement time and the fact that quarry operational noise affected the measurement results much of the time, this level is considered approximate.

There appears to be no reason why this background level will increase over the next five years if the proposed residential development proceeds.

3.3 Quarry Noise Measurements

Attended noise measurements were carried out at three locations at the quarry/proposed residential interface on Monday, 17 October 2016. The measurement locations shown in Figure 3-1 were as follows:

- M1 – at the boundary near the centre of the quarry/proposed residential interface. The measurement position was on top of the bund and approximately 180m from the mobile plant;
- M2 – near the south-western corner of the proposed residential development at the quarry boundary. There is no bund at this location. This measurement location is approximately 50m from the semi-permanent processing plant; and
- M3 – near the northern corner of the proposed residential development site on top of the existing bund just inside the quarry boundary. This location is in the vicinity of the semi-permanent processing plant and noise from the main processing plant was also audible.

Figure 3-1 Noise Measurement Locations



Table 3-2 gives the results of the noise measurements. During these measurements, although some construction work was underway on the far side of the proposed residential development site, noise from construction was not audible above the quarry noise.

Table 3-2 Results of Quarry Noise Measurements

Location	Time	L _{Aeq,15min}	L _{A10,15min}	Comment
M1	10.40-10.55am	59.5dBA	61.5dBA	Mobile plant and front end loader audible
M2	11.05-11.20am	70dBA	71dBA	Semi-permanent plant and front end loader audible
M3	11.25-11.40am	57.5dBA	60dBA	Mobile plant with front end loader and main plant audible

Since the noise measurements were carried out just inside the quarry boundary, it should be noted that the nearest future residential boundary would be approximately 10m further from the quarry operations. Given that the ground will be raised at the development site, there will be no noise shielding between the quarry operation and the residential lots near locations M2 and M3. However, the existing bund near location M1 will break the line of sight between the mobile screening plant and the nearest future residential development and the amount of shielding has been estimated as approximately 5dBA. On this basis, Table 3-3 now shows the levels to be expected at the nearest residential boundaries near the measurement locations.

Table 3-3 Quarry Noise Levels Expected at the Nearest Residential Boundaries near the Measurement Locations

Location	$L_{Aeq,15min}$	$L_{A10,15min}$
M1	54.5dBA	56.5dBA
M2	70dBA	71dBA
M3	57.5dBA	60dBA

3.4 Assessment of Quarry Noise

The noise impact associated with the quarry is best assessed using the intrusiveness criterion taken from the *JNP* as discussed above. Based on the measured RBL of 40dBA, the intrusiveness criterion becomes $L_{Aeq,15min}$ 45dBA.

Referring to Table 3-3, it can be seen that the criterion will be exceeded at the nearest residential development close to all three measurement locations. The greatest exceedance is expected to be approximately 25dBA near measurement location M2; that is, towards the south-western end of the proposed residential development. Noise levels up to 25dB above the noise criterion are very significant and are likely to result in significant annoyance, at least for some residents in that area.

Note that the $L_{A10,15min}$ noise levels would exceed the quarry's current license condition for noise at a residential boundary by up to 16 dBA.

3.5 Assessment of Future Rehabilitation Noise

The prediction of noise levels shown in the Tonin report would reasonably represent noise levels from future rehabilitation. The assumptions made are generally consistent with the use of a dozer and compactor on site and delivery of materials by trucks.

Table 3-4 shows a summary of the assessment of rehabilitation noise at the nearest residential lots.

Table 3-4 Assessment of Future Rehabilitation Noise at the Nearest Residential Lots

Predicted $L_{Aeq,15min}$	Noise Criterion	Exceedance of Criterion
62dBA	45dBA	17dB

This table demonstrates that noise from rehabilitation of the near parts of the quarry is likely to cause significant annoyance at the proposed residential development, providing it proceeds.

4 CONCLUSION & MITIGATION OF QUARRY NOISE

If the proposed residential development is approved and proceeds, it is not considered practicable to meet the 45dBA noise criterion adopted, at least at all times during operation and rehabilitation. Approval of the residential development is likely to result in significant noise impact within that development.

If the residential development is approved, then the noise impact upon that development can be minimised with the following mitigation measures:

- All residential development within the proposed development area be a maximum of one storey. (This assumes the 3m high bund or wall is constructed);
- A 3m high wall be constructed along the full extent of the north-western boundary of the development site, near where the road is proposed. The wall construction must be well sealed and must provide a weighted sound reduction index (R_w) of at least 30dB, using such material as timber planks at least 30mm thick or concrete or light weight concrete panels. This wall may be removed when the quarry operation ceases;
- Residential construction be set back 50m from the north-western boundary of the proposed development area; and
- All purchasers of residential property be informed by some mechanism that the property is close to an operating sand quarry and therefore potentially affected by noise from the quarry

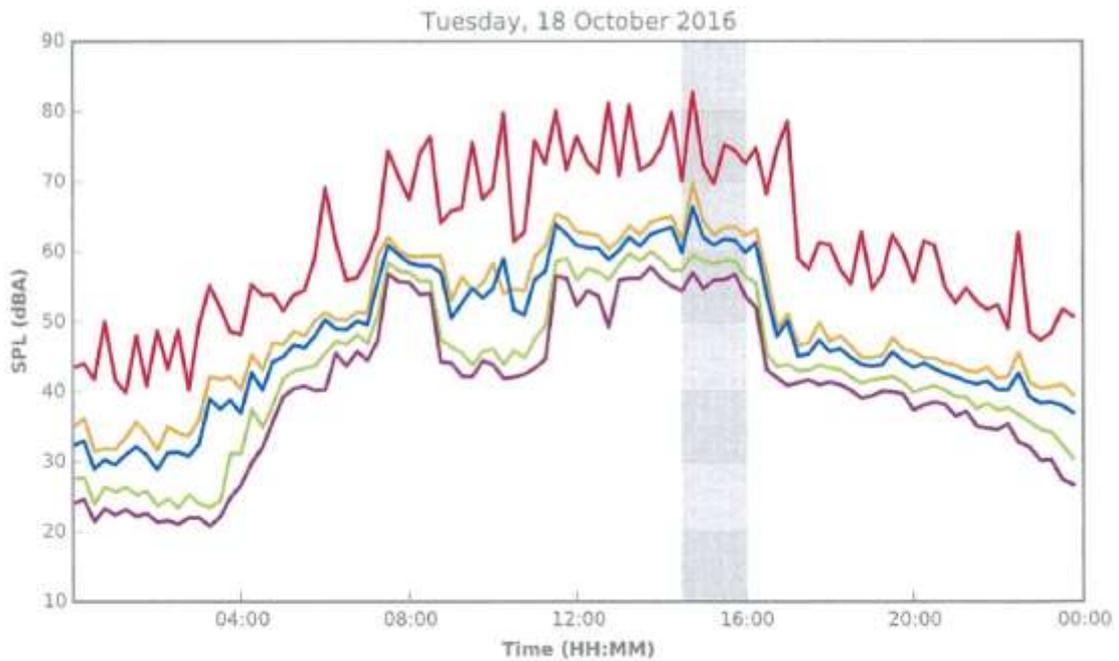
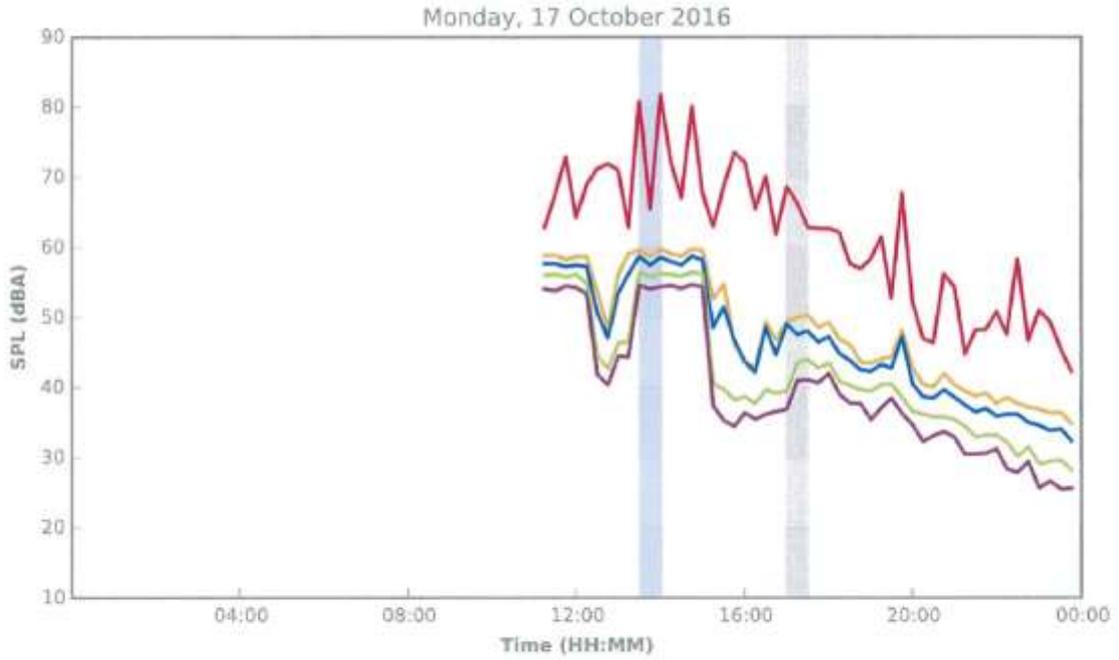
As an alternative to the recommended 50m setback, all occupied spaces (except bathrooms and toilets) with windows facing north-west in residences within 50m of the north-western boundary could be air conditioned using ducted air conditioning systems and the north-west facing windows would need be fixed inoperable. In this case, quarry noise levels above the noise criterion of 45dBA will occur from time to time outside of the proposed residences in the 50m buffer during the life of the quarry and the rehabilitation of nearby quarry areas. Inside levels will likely prove acceptable, because the windows on the north-western side will be kept closed.



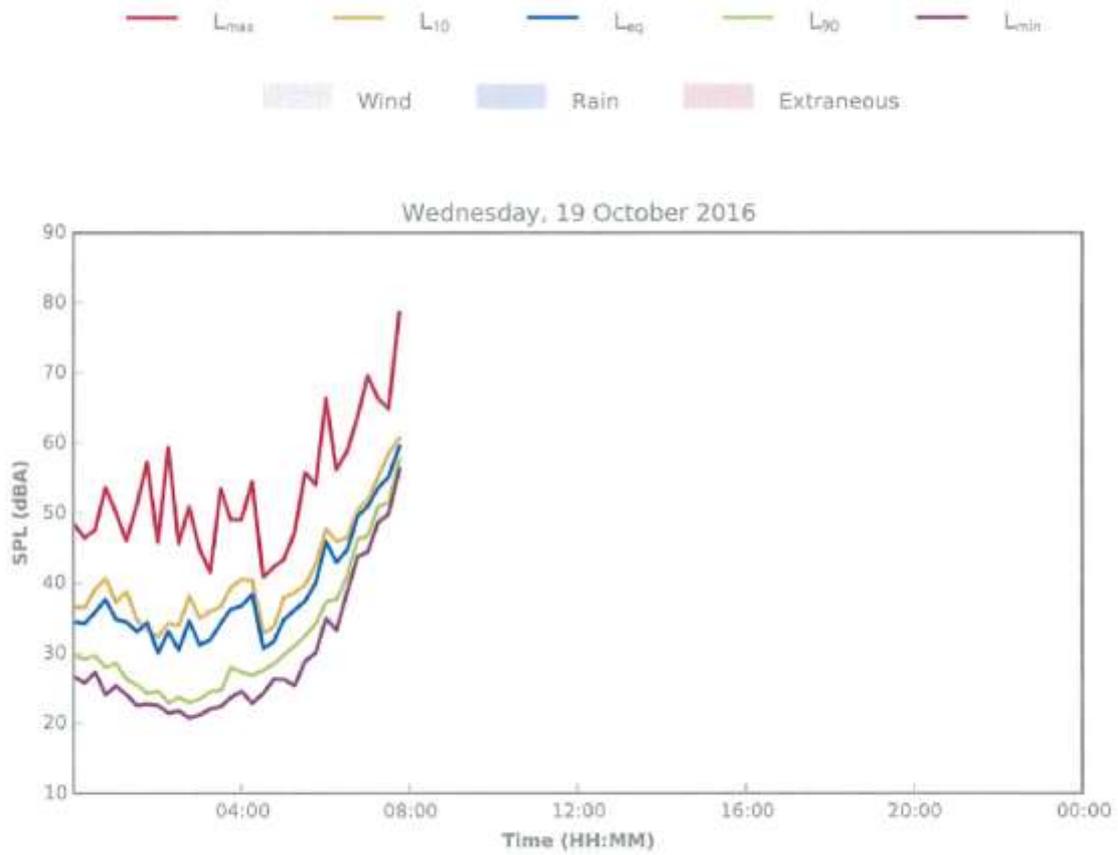
APPENDIX A
NOISE MEASUREMENT RESULTS



Spring Farm Camden Council, New South Wales



Spring Farm Camden Council, New South Wales





Acoustics
 Vibration
 Structural Dynamics

SPRING FARM RIVERSIDE - STAGES 45 & 46

Acoustic Assessment

3 June 2016

Cornish Group Spring Farm

TB705-62F02 (r2) Acoustic Assessment



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03.06.2016	Re-issued w/ a minor change		2	DS		DS

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In preparing this report, we have relied upon, and presumed accurate, any information (or confirmation of the absence thereof) provided by the Client and/or from other sources. Except as otherwise stated in the report, we have not attempted to verify the accuracy or completeness of any such information. If the information is subsequently determined to be false, inaccurate or incomplete then it is possible that our observations and conclusions as expressed in this report may change.

We have derived data in this report from information sourced from the Client (if any) and/or available in the public domain at the time or times outlined in this report. The passage of time, manifestation of latent conditions or impacts of future events may require further examination and re-evaluation of the data, findings, observations and conclusions expressed in this report.

We have prepared this report in accordance with the usual care and thoroughness of the consulting profession, for the sole purpose described above and by reference to applicable standards, guidelines, procedures and practices at the date of issue of this report. For the reasons outlined above, however, no other warranty or guarantee, whether expressed or implied, is made as to the data, observations and findings expressed in this report, to the extent permitted by law.

The information contained herein is for the purpose of acoustics only. No claims are made and no liability is accepted in respect of design and construction issues falling outside of the specialist field of acoustics engineering including and not limited to structural integrity, fire rating, architectural buildability and fit-for-purpose, waterproofing and the like. Supplementary professional advice should be sought in respect of these issues.

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1 Introduction

Renzo Tonin & Associates was engaged to prepare an acoustic assessment of the redesigned residential subdivision of Stages 45 and 46 at Spring Farm Riverside.

A previous application (147/2015) for residential subdivision of the land was made to Camden Council, and while this is supported by an acoustic assessment report [ref: TB705-56F01 (r2) Acoustic Assessment], residential lots immediately adjacent to the quarry were refused (previously identified as Stage 46). The refusal was based on non-specific concerns relating to both noise and dust from the adjacent quarry. Accordingly, the proposed residential subdivision has been redesigned so as to provide a greater buffer between proposed residential development and the adjacent quarry. This report has been prepared in accordance with the acoustic requirements of the NSW Industrial Noise Policy ('INP') and with reference to the quarry's Environment Protection License No. 4093.

The work documented in this report was carried out in accordance with the Renzo Tonin & Associates Quality Assurance System, which is based on Australian Standard / NZS ISO 9001. APPENDIX A contains a glossary of acoustic terms used in this report.

2 Site and proposal description

2.1 Subject site

The proposed subdivision is located at the eastern end of the Macarthur Road, Spring Farm. Stages 45 and 46 are located to the south of Macarthur Rd. Residential lots contained within the other stages of subdivision are located to the east and north of the proposed stages. Sand mining operations at the quarry are located to the west, adjacent to the proposed subdivision. Figure 1 presents the proposed subdivision and quarry site.

Figure 1: Site location



2.2 Sand mining operations

It is understood from the quarry's Environment Protection License No. 4093 that the hours of operation are between 7:00am and 5:00pm Monday to Friday, 7:00am and 1:00pm Saturday, and at no time on Sundays and Public Holidays. Note is made that construction activities within the other subdivision sites are conducted during the same hours that the quarry operates.

2.3 Project description

The proposed subdivision is to contain a total of 62 residential lots, allocated as follows:

- Stage 45 is to contain 60 residential lots, and
- Stage 46 is to contain 2 residential lots.

Figure 2 presents the individual stages of the proposed subdivision.

Figure 2: Subdivision plan



ORD01

Attachment 7

3 Noise criteria

The applicable noise criteria were previously established in the *Acoustic Assessment Report* [ref: TB705-56F01 (r2) Acoustic Assessment].

3.1 Quarry's environmental protection license.

A review of the quarry's Environment Protection License No. 4093 revealed the following information relating to noise emission from the existing quarry:

L3 Noise limits

L3.1 Noise from the premises but not exceed an LA10 (15 minute) noise emission criterion of 55 dB(A) except as expressly provided by the licence.

L3.2 Noise from the premises is to be measured or computed any point within one metre of the boundary of any residential premises or other noise sensitive areas (such as schools, hospitals) in the vicinity of the premises to determine compliance with condition L3.1 5dB(A) must be added if the noise is tonal or impulsive in character.

3.2 INP - residential encroachment of industrial sites

The NSW Industrial Noise Policy (INP) sets criteria to protect noise amenity for residential receivers. The basis for its policy relies on two components:

- Controlling intrusive noise impacts in the short term for residences, and
- Maintaining noise level amenity for particular land uses for residences and other land uses.

Noise intrusiveness ensures that industrial noise does not exceed the existing background noise level by an excessive margin. This is commonly referred to as the 'background plus 5' criterion, that is, that the noise level from the new industrial development should not exceed the existing background noise level (measured in the absence of that development) by more than 5dB(A).

Noise amenity ensures that industrial noise levels do not increase without limit, for if a number of industrial noise sources are permitted to increase the background noise level by 5dB(A), in turn there would be a point where the ultimate noise level is unacceptable. A limit on the ultimate acceptable noise level is therefore included in the INP as a way of ensuring that cumulative noise impact from industrial growth is curtailed. This limit is referred to as the amenity goal. The appropriate limit in any circumstance relates to the land use category, for example, there are different limits for rural, suburban and urban areas.

Regarding changes of land use, such as residential subdivisions encroaching upon pre-existing industrial development the concept of there being a background noise level absent of industrial noise is likely to be non-existent. Residents would therefore come to an area with prevalent industrial noise and the question therefore becomes whether or not that industrial noise is an acceptable noise for the land use category contemplated by the subdivision instrument. This issue is discussed in the INP:

Land uses can change—sometimes dramatically—with an increase in industrial activities, construction of new freeways, or the development of new residential suburbs. A consequence of this is that the land-use designation of an area may change. Changes in designation occur as a result of urban type residential subdivisions in a village or rural area with few residences, or the encroachment of industrial developments near residential areas and vice versa.

In such cases, the primary decision by planning authorities to cause or allow the development would take account of the many consequent implications. As developments introduce increased activities, they also increase environmental noise levels. Therefore, previously low ambient noise levels will not be maintained, and assessments of noise sources for control purposes should be made against the acceptable noise level relevant to the modified land use.

In the circumstances of the subject development, the encroachment of residential development near an industrial development is contemplated in the INP as one in which the previously low ambient noise levels will not be maintained and therefore assessment of the acceptability of the development should be made against the acceptable noise level relevant to the modified land use.

Table 2.1 of the INP sets appropriate noise amenity limits for residential premises for different land uses for day, evening and night-time periods as replicated in Table 1.

Table 1: Recommended L_{Aeq} noise levels from industrial noise sources

Type of receiver	Indicative noise amenity area	Time of day	Recommended L_{eq} Noise Level, dB(A) for day, evening or night period	
			Acceptable	Recommended maximum
Residence	Rural	Day	50	55
		Evening	45	50
		Night	40	45
	Suburban	Day	55	60
		Evening	45	50
		Night	40	45
	Urban	Day	60	65
		Evening	50	55
		Night	45	50
Urban/industrial interface – for existing situations only	Day	65	70	
	Evening	55	60	
	Night	50	55	

Type of receiver	Indicative noise amenity area	Time of day	Recommended L_{eq} Noise Level, dB(A) for day, evening or night period	
			Acceptable	Recommended maximum

Notes:

- The recommended acceptable noise levels refer only to noise from industrial sources.
- Rural—means an area with an acoustical environment that is dominated by natural sounds, having little or no road traffic.
- Suburban—means an area that has local traffic with characteristically intermittent traffic flows or with some limited commerce or industry.
- Urban—means an area with an acoustical environment that is dominated by 'urban hum' or industrial source noise or has through traffic with characteristically heavy and continuous traffic flows during peak periods or is near commercial districts or industrial districts or has any combination of the above, where 'urban hum' means the aggregate sound of many unidentifiable, mostly traffic-related sound sources.
- Day: the period 7:00am to 6:00pm Monday to Saturday, or 8:00am to 6:00pm on Sundays and public holidays
- Evening: the period from 6:00pm to 10:00pm
- Night: the remaining periods

3.2.1 Adoption of Acceptable or Recommended Maximum noise levels

The acceptability or otherwise of approving residential development on the subject land in close proximity to an existing industrial should have regard to whether or not the existing industrial noise levels comply within the range of the Acceptable and Recommended Maximum noise levels indicated in Table 1 above.

As stated in the Section 2.2 of the INP:

Meeting the acceptable noise levels in [Table 1] will protect against noise impacts such as speech interference, community annoyance and, to some extent, sleep disturbance. These levels represent current best practice for assessing industrial noise sources, based on research and a review of assessment practices used overseas and within Australia.

[Table 1] also includes recommended maximum noise levels for different land uses. These recommended maximum values provide guidance on an upper limit to the level of noise from industry. In all cases it is expected that all feasible and reasonable mitigation measures would be applied before the recommended maximum noise levels are referenced.

In some instances it may not be possible to achieve even the recommended maximum noise level, even after all feasible and reasonable noise mitigation has been applied. Such cases are expected to have a large adverse noise impact. Where a proposed development exceeds the recommended maximum noise levels in [Table 1], substantial benefits in other areas, including a high degree of social worth, would need to be demonstrated.

It is therefore acceptable for ambient industrial noise levels on the site to extend to the *Recommended Maximum* noise level provided that all feasible and reasonable mitigation measures have been applied. Initial assessment is made against the Acceptable levels.

3.2.2 Noise amenity area determination

The classification of the site in terms of the 'Indicative Noise Amenity Area' categories used in Table 1 also needs to be established. The appropriate classification would normally follow the proposed zoning for the land and character of the surrounding environment, excluding consideration of the 'existing industrial interface' classification.

The classification should also consider the predominant manner of development and the prevailing noise climate. Guidance is provided in the INP as follows:

The primary means for identifying the type of receiver is how the receiver area is zoned in the relevant planning instrument. The standard terminology used in planning instruments is usually limited to rural, rural/residential and residential in respect of areas where dwellings would normally be located. These terms do not differentiate suburban and urban residential uses, and this is discussed in the next point.

In deciding whether a receiver area should be allocated to the suburban or urban categories, it may be necessary to examine the predominant manner of development in the area and the prevailing noise climate. The definitions of suburban and urban provide guidance on this. For example, small communities such as villages or towns are likely to be closer in noise climate to a suburban category. Urban receivers are usually those located in densely populated areas where multi-dwelling developments such as townhouses, units, flats and apartments are the norm. Areas near noise generators (for example, roads, railways and industry) would normally be considered to be urban-receiver type for the purpose of the amenity criteria. The rural category is more representative of more isolated single dwellings on large lots (for example, 2 hectares). The population density for an area may provide a guide as to which of the residential receiver categories apply.

...

Other features of a locality that should also be considered include:

- *predominant land use, including the proportion of the different land uses within the potentially noise-affected zone*
- *strategic planning objectives or plans to rezone (for example, as included in REPs, SEPs, Urban Development Program)*
- *proximity of land-use to neighbouring industries and busy roads*
- *any permanent existing shielding provided by natural topography or otherwise between existing noise sources and sensitive receivers*
- *existing ambient noise levels in the area.*

While the site in its current form may be deemed 'rural', the future residential land uses are expected to be either 'suburban' or 'urban'. For this assessment, the more conservative suburban category has been assumed.

As previously stated, these criteria apply to industrial noise only. Consideration must however be given to the modifying factors outlined in the INP for annoying characteristics such as prominent tonal components, impulsiveness, intermittency, irregularity or dominant low-frequency content. The 'noise' to be assessed for the purpose of determining these characteristics is the total ambient noise level including both industrial and other sources.

3.3 Comparison of INP and EPL

While the quarry's EPL and the NSW EPA amenity criteria are both 55dB(A), the EPL refers to an $L_{A10(15\text{minute})}$ assessment compared with the INP's $L_{Aeq(\text{daytime})}$ period. Generally, the measured L_{A10} would be higher than the L_{Aeq} for industrial operations and therefore the EPL represents a more stringent noise criterion for the quarry operations.

Furthermore, given that the proposed subdivision is within existing residential zoned land, the subdivision does not necessarily represent an encroachment of the quarry site. However, as a precautionary measure, this aspect has been considered by reference to provisions in the NSW EPA INP, which stipulates that an assessment location would be no greater than 30m from a residential premise. If this were the case, new residents of Stage 46 would be in closer proximity to the quarry site.

It is otherwise considered that the current EPL for the quarry, with assessment against an $L_{A10(15\text{minute})}$ 55dBat the boundary of 240 Macarthur Road would ensure compliance with the INP suburban amenity criteria.

3.4 Internal noise levels

As a guide, internal noise levels 10dB(A) below external levels are recommended on the basis of openable windows being opened sufficiently to provide adequate ventilation. It is noted that a 10dB(A) reduction from outside to inside is common and typical noise reduction via an open window.

4 Source noise level

Various noise measurements were undertaken for the previous subdivision application. The relevant sections with regard to the redesigned residential subdivision have been reproduced below for assessment.

4.1 Measurement location

To assess the industrial noise impact from the adjacent quarry on the proposed residential subdivision, a short-term noise measurement was conducted on 27 November 2014. Table 2 and Figure 3 present details of the measurement locations.

Table 2: Noise monitoring location

Location ID	Address/Location	Description
Short-term noise measurement		
S3	Eastern boundary of quarry	Sound level meter located approximately 2m from the eastern boundary of the quarry and approximately 280m from the Macarthur Rd curb. Microphone was positioned 1.5m above the ground in the free-field.

Notes: The equipment used for the short-term noise measurements was a Brüel & Kjaer Type 2250 precision sound level analyser and an NTi Audio Type XL2 precision sound level analyser. Both instruments are a Class 1 instrument having accuracy suitable for field and laboratory use. The instrument was calibrated prior and subsequent to measurements using a Brüel & Kjaer Type 4231 calibrator. No significant drift in calibration was observed. All instrumentation complies with AS IEC 61672.1:2004 'Electroacoustics - Sound Level Meters' and carries current NATA certification (or if less than 2 years old, manufacturers certification).

Figure 3: Noise monitoring location



4.2 Attended noise measurement results

Attended noise measurements were undertaken to measure the noise level contribution from the quarry activities. Table 3 presents the results of the measurements.

Table 3 Short-term noise monitoring results, dB

Location / Time	Measured noise level, dB(A)			Comments on measured noise levels
	L _{A(9)}	L _{A(5)}	L _{A(10)}	
27.11.2014				
S3 - Eastern boundary of quarry 11:05 to 11:20	45	43	46	The measured L _{A(9)} , L _{A(5)} and L _{A(10)} noise level was determined by noise emission from the quarry. Construction noise from the other subdivision sites was barely audible during lulls in quarry activity.

The short-term measurement undertaken at Location S3 is determined to be more representative of operational noise levels from the quarry. The following observations were made during the measurement:

- The majority of quarry activities undertaken during the measurement were approximately 160m away from the measurement location,

RENZO TOMIN & ASSOCIATES

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- Visible equipment operating during the measurement was limited to 3 x bulldozers, 1 x truck movement on the western boundary of the quarry and a conveyor belt, and
- None of the equipment operating was determined to be tonal or impulsive in character or otherwise requiring modifying factors to be added in accordance with the NSW INP.

The information above was used to determine the expected cumulative source sound power level of $L_{Aeq}(1.5\text{minute})$ 100dB and $L_{A10}(1.5\text{minute})$ 101dB from the quarry activities observed during the measurement, which was used as the basis for this assessment.

5 Noise predictions

5.1 Methodology

Noise predictions were carried out in accordance with ISO9613-2:1996 as implemented by CadnaA computer modelling program. The noise level predictions take into account the losses due to the distance, ground type between source and receiver and acoustic shielding due to the ground topography.

It is conservatively assumed that the quarry activities may occur as close as 20m from the edge of the existing batter on the quarry side.

Figure 4: Site satellite imagery



5.2 Predicted noise levels

Table 4 presents the predicted noise emission level when all of the source noise emission occurred directly in front of one lot.

Table 4: Predicted noise levels

Lot	Floor level	Quarry activity (worst-case scenario)		Noise criteria
		Predicted noise level, L _{Aeq} (15minute)	Predicted noise level, L _{A10} (15minute)	
4501, 4524, 4525, 4544, 4554, 4555, 4556, 4557 and 4558	Ground	53	54	55
	First	57	58	55

5.3 Discussion

Based on the calculated source noise levels, the predicted noise levels revealed compliance with the noise criteria on ground level; however, an exceedance of up to 3dB(A) is predicted on the upper levels if 2-storey dwellings are built on the lots.

It is noted however that with a standard building construction, compliance with the internal noise levels of 45dB(A) with windows closed is readily achievable. Since the window closed requirement is only needed on the facade directly facing the quarry site, alternative ventilation is not deemed to be necessary as doors/windows on other sides of the dwelling can be kept open if required.

On this basis, the acoustic amenity for the proposed subdivision area should be acceptable when assessed in accordance with the NSW EPA INP.

6 Conclusion

Renzo Tonin & Associates has completed an acoustic assessment of the redesigned residential subdivision of Stages 45 and 46 at Spring Farm Riverside. The assessment addresses the industrial noise impact from the quarry (M Collins & Sons) onto the residential subdivision.

The relevant criteria were previously established in the *Acoustic Assessment Report* [ref: TB705-56F01 (r2) *Acoustic Assessment*]. A cumulative source sound power level of the quarry activities was established from attended measurements. Noise predictions based on the proposed subdivision revealed compliance with the noise criteria on the ground floor of the nearest most potentially affected receivers. If a second storey is proposed on any of the residential lots, the equivalent internal noise criteria can be readily achieved with a standard building construction and closed window/s.

Given the findings of the assessment, and current license conditions under which the quarry operates, no noise mitigation measure is required for the proposed residential subdivision.

APPENDIX A Glossary of terminology

The following is a brief description of the technical terms used to describe noise to assist in understanding the technical issues presented.

Adverse weather	Weather effects that enhance noise (that is, wind and temperature inversions) that occur at a site for a significant period of time (that is, wind occurring more than 30% of the time in any assessment period in any season and/or temperature inversions occurring more than 30% of the nights in winter).
Ambient noise	The all-encompassing noise associated within a given environment at a given time, usually composed of sound from all sources near and far.
Assessment period	The period in a day over which assessments are made.
Assessment point	A point at which noise measurements are taken or estimated. A point at which noise measurements are taken or estimated.
Background noise	Background noise is the term used to describe the underlying level of noise present in the ambient noise, measured in the absence of the noise under investigation, when extraneous noise is removed. It is described as the average of the minimum noise levels measured on a sound level meter and is measured statistically as the A-weighted noise level exceeded for ninety percent of a sample period. This is represented as the L90 noise level (see below).
Decibel [dB]	The units that sound is measured in. The following are examples of the decibel readings of every day sounds: 0dB The faintest sound we can hear 30dB A quiet library or in a quiet location in the country 45dB Typical office space. Ambience in the city at night 60dB CBD mall at lunch time 70dB The sound of a car passing on the street 80dB Loud music played at home 90dB The sound of a truck passing on the street 100dB The sound of a rock band 115dB Limit of sound permitted in industry 120dB Deafening
dB(A)	A-weighted decibels. The ear is not as effective in hearing low frequency sounds as it is hearing high frequency sounds. That is, low frequency sounds of the same dB level are not heard as loud as high frequency sounds. The sound level meter replicates the human response of the ear by using an electronic filter which is called the "A" filter. A sound level measured with this filter switched on is denoted as dB(A). Practically all noise is measured using the A filter.
Frequency	Frequency is synonymous to pitch. Sounds have a pitch which is peculiar to the nature of the sound generator. For example, the sound of a tiny bell has a high pitch and the sound of a bass drum has a low pitch. Frequency or pitch can be measured on a scale in units of Hertz or Hz.
Impulsive noise	Having a high peak of short duration or a sequence of such peaks. A sequence of impulses in rapid succession is termed repetitive impulsive noise.
Intermittent noise	The level suddenly drops to that of the background noise several times during the period of observation. The time during which the noise remains at levels different from that of the ambient is one second or more.
L _{Max}	The maximum sound pressure level measured over a given period.
L _{Min}	The minimum sound pressure level measured over a given period.
L ₁	The sound pressure level that is exceeded for 1% of the time for which the given sound is measured.
L ₁₀	The sound pressure level that is exceeded for 10% of the time for which the given sound is measured.

L ₉₀	The level of noise exceeded for 90% of the time. The bottom 10% of the sample is the L ₉₀ noise level expressed in units of dB(A).
L _{eq}	The "equivalent noise level" is the summation of noise events and integrated over a selected period of time.
Reflection	Sound wave changed in direction of propagation due to a solid object obscuring its path.
SEL	Sound Exposure Level (SEL) is the constant sound level which, if maintained for a period of 1 second would have the same acoustic energy as the measured noise event. SEL noise measurements are useful as they can be converted to obtain L _{eq} sound levels over any period of time and can be used for predicting noise at various locations.
Sound	A fluctuation of air pressure which is propagated as a wave through air.
Sound absorption	The ability of a material to absorb sound energy through its conversion into thermal energy.
Sound level meter	An instrument consisting of a microphone, amplifier and indicating device, having a declared performance and designed to measure sound pressure levels.
Sound pressure level	The level of noise, usually expressed in decibels, as measured by a standard sound level meter with a microphone.
Sound power level	Ten times the logarithm to the base 10 of the ratio of the sound power of the source to the reference sound power.
Tonal noise	Containing a prominent frequency and characterised by a definite pitch.





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APPENDIX A GLOSSARY OF TERMINOLOGY

1.0 INTRODUCTION

The purpose of this report is to summarise the findings of a review, carried out by me, of two acoustic reports that were prepared in relation to an application for a residential subdivision to be located at Spring Farm NSW. I am retained by Camden Council to review the relevant documents and provide comment.

I am an Associate and Managing Consultant for the Sydney office of Marshall Day Acoustics. I have a B.Elec Eng. (Hons) and have practiced in acoustics for over 15 years.

The proposed development includes the subdivision of an existing block into 62 residential lots, identified as Stages 45 and 46 of the Spring Farm Riverside development (hereafter referred to as **the development**).

Directly to the west of the subdivision is an existing approved sand quarry, identified as the Collins Sand Quarry (hereafter referred to as **the quarry**).

Camden Council has received two acoustic reports in relation to a development application for the proposed subdivision:

- (a) Report prepared by Renzo Tonin & Associates (NSW) Pty Ltd titled *Spring Farm Riverside – Stages 45 & 46 Acoustics Assessment* (hereafter referred to as the **RTA report**), report reference TB705-62F02 (r2) dated 3/6/16. The report author is identified only as DS. The report was prepared on behalf of the proponent of the subdivision.
- (b) Report prepared by Wilkinson Murray Pty Ltd titled *Collins Sand Quarry, Spring Farm; Assessment of noise impact upon proposed adjacent residential development* (hereafter referred to as the **WM report**), report reference 06179-R Version B dated 25/10/16. The report author is Barry Murray. The report was prepared on behalf of the operator of the Collins Sandy Quarry.

The two reports differ in their assessment of acoustic impacts on the subdivision and the appropriate noise control requirements etc. This review was commissioned by Council to identify which acoustic methodology is appropriate with respect to the proposal.

This report is a desktop review only. I have not been on either the development site or the quarry, although I have seen parts of the site from Macarthur Road.

This report provides a review of the submitted reports and is not intended as a full assessment of the site. Some calculations and suggestions are provided in order to assist Council with their evaluation of the development. Such calculations are not to be interpreted as a detailed assessment of noise from the site.

This report is based on the following:

- The documents listed above
- An request for quotation email from Kate Drinan of Camden Council
- Subdivision drawing set prepared by Mott MacDonald, dated 26/5/16



2.0 REVIEW OF ISSUES AND CONTENTIONS

The following sections provide a commentary on the issues regarding the assessment and the opinions put forward in the submissions.

2.1 Applicable noise criteria

The most significant point of difference in the two assessments is regarding the appropriate noise criteria that should apply for the development, for noise from the quarry. The WM Report proposes more restrictive criteria than proposed by the RTA report, resulting in recommendations for more stringent noise controls.

2.1.1 Existing Environmental Protection License

Operations at the quarry are controlled by an existing Environment Protection License (EPL) No 4093, with criteria as follows:

L3 Noise limits

L3.1 Noise from the premises is not to exceed an L_{A10} (15minute) noise emission criterion of 55dB(A) except as expressly provided by the license.

L3.2 Noise from the premises is to be measured or computer any point within one metre of the boundary of any residential premises or other noise sensitive areas (such as schools, hospitals) in the vicinity of the premises to determine compliance with condition L3.1 5dB(A) must be added if the noise is tonal or impulsive in character

Given the rural nature of the adjacent lots these conditions would typically have been applied to a point within 30m of the nearest existing residences. These presumably would have been to the dwelling to the north of the quarry and the dwelling to the east (now demolished, but which was on the proposed subdivision site). The assessment point to the (now demolished) dwelling to the east would have been approximately 100m from the quarry site boundary.

In order to assist with my review I have calculated an approximate sound power that would be able to be generated at the quarry and still comply with the EPL criteria. I do not have access to all data relating to the site such as topography and quarry operations. Calculations have been made on the following allowances:

- An assessment point located 100m outside the quarry boundary
- All noise from a point source in the quarry 20m from the site boundary
- 10dBA shielding being provided by existing earth mound on the boundary
- Noise not being tonal or impulsive

I calculate that on the basis of these allowances, plant producing a sound power level of 115 dB $L_{A10(15min)}$ would be allowable on site, 20m from the boundary and still comply with the EPL. Note that this is an approximation only and is provided for comparison to the RTA and WM noise levels later in this document.

2.1.2 EPA Industrial Noise Policy criteria

Both consultants have provided assessment for the development against the EPA Industrial Noise Policy (INP). The INP assesses against two types of criteria, an Amenity criteria and an Intrusiveness criteria.

Assessment against an Amenity criteria is agreed by both the RTA and WM reports. The 'Acceptable' Amenity criteria from the INP would be an external level of $L_{Aeq(9hr)}$ 55dB at the residential receivers.



As per Section 2.2 of the INP (and noted in Section 3.2.1 of the RTA report) the 'Recommended maximum' Amenity level of $L_{Aeq(9hr)}$ 60dB could be referenced at the receivers, only once all feasible and reasonable mitigation measures have been applied.

The INP Intrusiveness criteria is not applied by the RTA report (it is by the WM report), however I can find no valid reason to not develop a project specific Intrusiveness criteria for the site. An intrusiveness criteria is derived by adding 5dB to the Daytime Rating Background Level (RBL) at the site.

The RBL at the site is not determined conclusively by either of the reports, due to insufficient measurement data. On the available information I would expect that the RBL is likely to be in the range of 38-43dB. Further monitoring could be carried out to determine the exact RBL, however for the purposes of this review I have assumed the applicable Daytime RBL is 40dB(A).

On this basis, the INP Intrusiveness criteria would be a level of 45dB $L_{Aeq(15min)}$ at the residential receiver.

As outlined the external INP 'project-specific noise levels' for the site would be an Amenity criteria of $L_{Aeq(9hr)}$ 55dB (up to 60dB once all feasible and reasonable mitigation measures have been applied) and an Intrusiveness criteria of 45dB $L_{Aeq(15min)}$.

However the project-specific noise levels do not automatically apply as the conditions for consent, as indicated in the following extracts from the INP.

From INP Section 1.4.7 *Setting noise limits in consent and licence conditions:*

In setting noise limits, the regulatory/consent authorities need to consider the technical practicalities of mitigation, the amount of noise reduction provided, community views, benefits arising from the development and cost of achieving the project specific noise levels recommended here, along with the environmental consequences of exceeding the project-specific noise levels. It is important that the project-specific noise levels are not automatically interpreted as conditions for consent, without consideration of the other factors. In many instances, it may be appropriate to set noise limits for a development above the project-specific noise levels recommended in this document

From INP Section 10.1 *Applying the policy to existing sites* (I note this section relates to applications to extend an existing industrial site):

Where noise emissions from the site exceed the project-specific noise levels, the regulatory authorities and the noise-source manager need to negotiate achievable noise limits for the site. The project-specific noise levels should not be applied as mandatory noise limits. The project-specific noise levels supply the initial target levels and drive the process of assessing all feasible and reasonable control measures. Achievable noise limits result from applying all feasible and reasonable noise control measures. For sites with limited mitigation measures the achievable noise limits may sometimes be above the project-specific noise levels.

Applying the project-specific noise levels (without providing additional noise controls) would restrict the allowable noise output from the quarry. In order to not affect the operations of the quarry, which already have approval under EPL 4093 Council have two choices:

- (a) Refuse development approval for the subdivision
- (b) Provide noise criteria for the subdivision development that can feasibly and reasonably be achieved, with onus on the proponent to provide mitigation

This review focuses on the viability of, and options to achieve (b).

2.1.3 Internal noise criteria

Both the RTA and WM report identify noise impacts from the quarry operations that exceed the possible intrusive noise criteria of 45dB $L_{Aeq(15min)}$. From the data available I am of the opinion that this criteria is not likely to be achievable at the proposed subdivision without restricting the quarry operations, even if feasible and reasonable mitigation measures are applied.

I propose an alternative approach for Council's consideration, namely to require a criterion for internal areas within the new dwellings, in lieu of providing an external Intrusiveness criteria of 45dB $L_{Aeq(15min)}$.

Neither existing Camden Council policy nor the INP specifically address this scenario.

I note that the RTA report does provide some guidance on 'compliance with internal noise levels of 45dB(A)', however these levels are based only on achieving the equivalent of 55dB $L_{Aeq(9hr)}$ external. This would be an unsatisfactory criteria, as noise intrusiveness is not taken into consideration in determining this level.

Guidance for such an internal criteria could be taken from AS2017:2016 *Acoustics – Recommended design sound levels and reverberation times for building interiors*, which gives L_{Aeq} design sound level ranges of 30-40dB for Living areas and 35-40dB for Work areas (a range for Sleeping areas is given for night-time only).

Alternatively, if one hypothesised that the quarry noise did achieve 45dB $L_{Aeq(15min)}$ outside the dwelling then the internal level within the dwelling would be in the order of 35 $L_{Aeq(15min)}$ with windows open.

On the above basis Council could consider an internal criteria of 35 $L_{Aeq(15min)}$ in lieu of an external Intrusiveness criteria. An external Amenity criteria of $L_{Aeq(9hr)}$ 55dB could still be applied (suitable noise controls would be required, as discussed in Section 2.3).

In adopting such an approach dwellings would be provided with external noise amenity similar to the existing residences around the quarry and could enjoy the same internal noise levels that would be experienced if the normally applicable external Intrusiveness criteria was applied. However it would be appropriate that any potential purchasers were made aware of the nature of noise impacts at the site prior to purchase.

2.2 Predicted noise impacts from quarry

The two reports differ in their prediction of noise levels at the proposed residences due to quarry operations.

2.2.1 RTA report

The RTA report determined an expected cumulative sound power level of 101dB $L_{A10(15min)}$ for sources in the quarry, with sources as close as 20m to the site boundary. Predicted $L_{A10(15min)}$ noise levels of 54dB at Ground floor and 58dB at First floor are provided in Table 4 of the RTA report.

I note that the lot numbers in Table 4 do not correspond to the nearest (and presumably most affected) receiver lots in either Fig 2 of the RTA report or the Mott MacDonald subdivision plans I have been provided.

The sound power data in the RTA report is based on 15-minute measurement and observation of the site. There is no verification that the activities on the site do not exceed the levels measured on one occasion by RTA. Allowing for the assumptions in the RTA report (including all sound occurring from a point source 20m from the quarry boundary) the noise level at the nearest lots (approximately 10m east of the quarry boundary) would be expected to be in the order of 63dB $L_{A10(15min)}$, accounting for distance attenuation only. The RTA calculations are therefore assuming other losses (presumably primarily shielding) in the order of 9dB for Ground Floor and 5dB for First Floor. I note that I have insufficient data to quantify all losses in the RTA calculations but examination of the Cut & Fill plans



and Proposed Site Regrading plans from Mott MacDonald would suggest that line of site is unlikely to be broken for the first floor of the nearest residences (and may not be broken for ground floor either). In that scenario, the noise levels predicted by RTA would increase by at least 5 dB.

Neither the derived sound power levels nor predicted noise levels in the RTA report are sufficiently robust for Council to rely on.

2.2.2 WM report

The WM report details measurements of quarry operations, including a measured $L_{A10(15min)}$ of 71dB on the quarry-subdivision boundary. Table 3.3 of the WM report presents this same level as being the predicted level at the residential receiver, even though no additional attenuation has been ascribed for the 10m additional distance to the nearest future residential lot. Assuming the noise source controlling the measured level was the semi-permanent processing plant located 50m from the measurement location (as inferred in the report) there may be an additional 1-2dB to the nearest receiver lot.

The WM report identifies that quarry equipment may generate sound power levels in excess of 110dB(A). A sound power level of 110dB(A) would correlate reasonably well with the level of 71dB measured.

I note that sound power calculated by WM is similar to (slightly lower than) the approximate sound power level of 115 dB $L_{A10(15min)}$ that I have calculated be allowable on site currently (see Section 2.1.1 of this report).

2.2.3 Predicted impacts

Based on the available data, and taking into account the allowable noise levels from the quarry under EPL 4093, I am of the opinion that the WM prediction of noise levels at the nearest residential lot of 71dB $L_{A10(15min)}$ & 70dB $L_{Aeq(15min)}$ are not unreasonable. Note that these levels are on the basis of no shielding (either from natural topography or otherwise) to the residence.

On the basis that the quarry is comfortable with these assumed levels (as the WM report was prepared on behalf of the quarry) and that the proponent has not provided sufficiently robust data to reach an alternative conclusion I would advise Council to assess the site on the WM predicted levels.

2.3 Noise controls or restrictions

2.3.1 RTA proposal

No significant noise controls are proposed by RTA. However as discussed above there is no consideration of intrusive noise in the RTA report and the predicted noise levels at proposed residences cannot be validated.

2.3.2 WM proposal

Section 4 of the WM report provides a set of mitigation measures in order to minimise noise impacts to the proposed residential subdivision. On the basis that the quarry is satisfied with this approach one option for Council is to accept these measures and impose them on the proposed subdivision development. I note however that such conditions appear onerous and are unlikely to be palatable to the proponent.

2.3.3 Alternative option

An alternative to the measures proposed by WM is set out below. This is provided for Council's information as an example of the approach that could be taken. It would be necessary for the proponent's consultant to evaluate this option in greater detail.

The controls set out are based on achieving an internal criteria of 35 $L_{Aeq(15min)}$ (in lieu of an external Intrusiveness criteria) and an external Amenity criteria of $L_{Aeq(5hr)}$ 55dB. I note that this is strictly in accordance with published Camden Council policy.



Note also that I have not prepared a noise model or detailed calculations of quarry noise emissions (such works are outside of my engaged scope). If the approach below is to be adopted further detailed modelling should be carried out by the proponent.

The following measures are proposed, and would form the basis of relevant consent conditions:

1. A solid barrier (fence, mound or combination) would need to be constructed along the full extent of the north-western boundary of the development. The barrier would need to have an acoustic performance not less than $Rw30$. The wall could be removed once quarry operation and remediation works are completed. The height of the barrier would need to be such that external private open space to each dwelling was compliant with a criteria of $L_{Aeq(9hr)}$ 55dB. The barrier height should be confirmed via noise modelling, but I would expect it would need to be in the order of 3m.
2. Dwellings should be designed such that an internal level of $35 L_{Aeq(15min)}$ can be achieved. For dwellings close to the quarry this is likely to require the provision of alternative ventilation for some dwellings, such that windows can be closed to exclude noise whilst still having adequate fresh air for occupants. Some dwellings, particularly first floor areas overlooking the boundary barrier, may also require upgraded acoustic glazing. Some rooms (and dwellings) with the subdivision would not require any architectural treatment and could achieve the internal levels with windows open. This is more likely for rooms on south-eastern façades and dwellings on the eastern side of the subdivision.
3. All potential purchasers of lots within the subdivision should be made aware of the quarry and the higher than standard noise limits that apply.

Unlike the WM proposal, under this alternative option I do not see any reason to sterilise land within 50m of the quarry, limit development to single story, fix windows as inoperable or require air-conditioning (as opposed to alternative ventilation).

2.4 Impact from quarry remediation works

I do not have detailed information of the potential works during quarry remediation. The noise levels predicted in the WM report for site remediation are significantly lower than those for quarry operations. Whilst any screening on the site boundary will be increasingly less effective as the quarry is filled I would still expect the noise levels during site remediation works to be lower than might be experienced during quarry operations (based on the available data).

3.0 CONCLUSION

My review of the acoustic report submitted by Renzo Tonin & Associates on behalf of the proponent has found shortcomings in the application of a suitable noise criteria and noise prediction for the activities at the adjacent quarry. Given these shortcomings I can find no reasonable basis to conclude that both the existing approved quarry operations continue and a reasonable level of acoustic amenity be achieved at dwellings within the proposed subdivision.

A number of options are available to Council:

1. Have the proponent modify their application to align with the mitigation measures proposed in Section 4 of the Wilkinson Murray report. This would require extensive modification to the subdivision layout and restrictions on the development of dwellings.
2. Have the proponent modify their application to align with the proposed alternative criteria and noise control options set out in Section **Error! Reference source not found.** of this report. This would require provision of a noise barrier as well as architectural upgrades to some dwellings.
3. Request the proponent develop an alternative proposal to achieve an internal criteria of 35 $L_{Aeq(15min)}$ for dwellings and an external Amenity criteria of $L_{Aeq(9hr)}$ 55dB in private open spaces.

Alternatively Council could request that the proponent develop a proposal to satisfy the external Intrusiveness criteria that would normally be required (nominally $L_{Aeq(15min)}$ 45dB), although this may not be practically achievable.

I also note that Council could choose to adopt a less stringent internal criteria if desired, for example $L_{Aeq(15min)}$ 40dB, instead of the 35dB proposed.

APPENDIX A GLOSSARY OF TERMINOLOGY

SPL or L_p	<p><u>Sound Pressure Level</u> A logarithmic ratio of a sound pressure measured at distance, relative to the threshold of hearing (20 μPa RMS) and expressed in decibels.</p>
SWL or L_w	<p><u>Sound Power Level</u> A logarithmic ratio of the acoustic power output of a source relative to 10^{-12} watts and expressed in decibels. Sound power level is calculated from measured sound pressure levels and represents the level of total sound power radiated by a sound source.</p>
dB	<p><u>Decibel</u> The unit of sound level. Expressed as a logarithmic ratio of sound pressure P relative to a reference pressure of $P_r=20 \mu$Pa i.e. $dB = 20 \times \log(P/P_r)$</p>
dBA	<p>The unit of sound level which has its frequency characteristics modified by a filter (A-weighted) so as to more closely approximate the frequency bias of the human ear.</p>
A-weighting	<p>The process by which noise levels are corrected to account for the non-linear frequency response of the human ear.</p>
$L_{Aeq}(t)$	<p>The equivalent continuous (time-averaged) A-weighted sound level. This is commonly referred to as the average noise level. The suffix "t" represents the time period to which the noise level relates, e.g. (8 h) would represent a period of 8 hours, (15 min) would represent a period of 15 minutes and (2200-0700) would represent a measurement time between 10 pm and 7 am.</p>
$L_{A90}(t)$	<p>The A-weighted noise level equalled or exceeded for 90% of the measurement period. This is commonly referred to as the background noise level. The suffix "t" represents the time period to which the noise level relates, e.g. (8 h) would represent a period of 8 hours, (15 min) would represent a period of 15 minutes and (2200-0700) would represent a measurement time between 10 pm and 7 am.</p>
$L_{A10}(t)$	<p>The A-weighted noise level equalled or exceeded for 10% of the measurement period. This is commonly referred to as the average maximum noise level. The suffix "t" represents the time period to which the noise level relates, e.g. (8 h) would represent a period of 8 hours, (15 min) would represent a period of 15 minutes and (2200-0700) would represent a measurement time between 10 pm and 7 am.</p>

Reasons for Refusal

1. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the aim 1.2(2)(d) of the Camden Local Environmental Plan 2010 as the impact on future communities due to flooding is increased as reliable, safe flood free access is not available.
2. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with objectives 7.1(1)(a) and (b) of the Camden Local Environmental Plan 2010 as risk to life and property is increased and the development is not compatible with the land's flood hazard as reliable, safe flood free access is not available.
3. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with controls 7.1(3)(a) and (c) of the Camden Local Environmental Plan 2010 as the development is not compatible with the land's flood hazard and does not incorporate appropriate measures to manage risk to life from flood given the characteristics of the site, being a cul-de-sac, which during a 1% AEP flood would not allow safe and reliable flood free access.
4. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the objectives and controls of Part B1.1.11 of the Camden Development Control Plan as the proposed development is proposed on flood prone land and does not comply with Council's Flood Risk Management Policy, specifically sections 2.3 and 6.3 of the Policy given there is no reliable, safe flood free access available out of Araluen Place during a 1% AEP flood.
5. The proposed development is unsatisfactory in respect to Section 79C(1)(b)(c) and (e) of the *Environmental Planning and Assessment Act 1979* as the development will be impacted by the flood constraints of the land, which is not suitable for residential intensification and is therefore not within the public interest.
6. The NSW State Emergency Services (SES) has not supported the proposed development and states the SES should not be relied upon for evacuation.
7. Approval of this DA would set an undesirable precedent for similar development sites within the Camden Local Government Area that do not have reliable and safe flood free access. This would collectively result in a significant increased risk to life due to flooding.

DEVELOPMENT CONTROL CONSIDERATION	GROUND LEVEL OF FLOOD PRONE LAND																				
	OUTER FLOODPLAIN (ABOVE 1% AEP FLOOD LEVEL TO PMF)						FLOOD FRINGE (UP TO THE 1% AEP FLOOD LEVEL)					FLOOD STORAGE (UP TO THE 1% AEP FLOOD LEVEL)					FLOODWAY (UP TO THE 1% AEP FLOOD LEVEL)				
	SUBDIVISION	RESIDENTIAL	MINOR RESIDENTIAL ADDITIONS	COMMERCIAL OR INDUSTRIAL	RURAL (NON URBAN)	OPEN SPACE/RECREATION	CRITICAL UTILITIES & PUBLIC FACILITIES	SUBDIVISION	RESIDENTIAL	MINOR RESIDENTIAL ADDITIONS	COMMERCIAL OR INDUSTRIAL	RURAL (NON URBAN)	OPEN SPACE/RECREATION	CRITICAL UTILITIES & PUBLIC FACILITIES	SUBDIVISION	RESIDENTIAL	MINOR RESIDENTIAL ADDITIONS	COMMERCIAL OR INDUSTRIAL	RURAL (NON URBAN)	OPEN SPACE/RECREATION	CRITICAL UTILITIES & PUBLIC FACILITIES
FLOOR LEVEL	1	2	1,3	1	1,2	3	1,2,3	1	1,2	1,3	1,2	1,2	1,2	1,2,3	1	1,2	1,3	1,2	1,2	1,2	1,2
GROUND LEVEL	1,2,3	3	2,3	3	3	3	1,2,3	3	3	3	3	3	3	1,2,3	3	3	3	3	3	3	3
STRUCTURAL SOUNDNESS	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
EVACUATION & ACCESS	2,3	1,2	1,2,3	1,2	1,2,3	1,2	1,2,3	1,2	1,2	1,2,3	1,2	1,2	1,2	1,2,3	1,2	1,2	1,2,3	1,2	1,2	1,2	1,2
FLOOD AFFECTATION	2	2	2	2	2	2	1,2,3	1,2	1,2	1,2	1,2	1,2	1,2	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3
FLOOD AWARENESS	1,2	1,2	2,3	1,2	1,2	2	1,2	1,2	2,3	1,2	1,2	1,2	1,2	1,2	1,2	2,3	1,2	1,2	1,2	1,2	1,2
BUILDING MANAGEMENT	4	4	4	4	1,2,3,4	1,2,3,4	4	1,2,3	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	4	1,2,3	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4

■ NOT RELEVANT

■ UNSUITABLE LAND USE

FLOOR LEVEL

- Habitable floor levels are to be equal to or greater than the FPL. The FPL is the 1% AEP flood event level plus a freeboard of 600mm. See glossary for definitions of habitable rooms for residential/industrial/commercial situations
- Notwithstanding the provisions of (1), Council may permit a once only minor addition of habitable floor area up to 30m² of habitable floor area to an existing dwelling that has been lawfully constructed providing the work must not increase the number of bedrooms within the dwelling. A minor addition shall be allowed at the same level as the existing ground floor level of the dwelling. Council may consider applications for major additions of greater than 30m² providing the work must not increase the number of bedrooms within the dwelling. For a major addition the requirements of RESIDENTIAL apply, as well as Section 4.5 of this Policy.
- Notwithstanding the provisions of (1), Council may approve additions to existing flood liable industrial/commercial buildings, allowing habitable floor levels below the FPL. The applicant must demonstrate that all practical measures will be taken to minimise the impact of flooding. In determining such an application, Council will assess the application on a merits based approach with consideration to nature of business, frequency and depth of flooding and whether the raising of floor levels will be out of character with adjacent land uses or streetscapes.

GROUND LEVEL

- All allotments in future subdivisions are to be a minimum of 300mm above the 1% AEP flood level.
- For rural residential subdivisions, all proposals must nominate a building envelope which is a minimum of 300mm above the 1% AEP flood level. The building envelope must have a minimum area of 500m² and a minimum one way dimension of 15m, suitable for the erection of a dwelling. The building envelope, and access from the road, must be free of any site constraints such as mainstream flood affectation, local overland flow paths, required sewage and stormwater disposal areas, setbacks and significant trees/vegetation.
- Where on-site sewerage management systems are to be installed and operated, no portion of the sewerage management system (ie treatment tanks, pumps, etc) is permitted below the 1% AEP flood level. No portion of the irrigation area, absorption or evapo-transpiration area is permitted to be located below the 5% AEP flood level or within 40m of the top of bank of a watercourse.

STRUCTURAL SOUNDNESS

- Engineers report required to prove that any portion of a structure can withstand the force of flood water, debris and buoyancy, up to and including the PMF flood event.

EVACUATION & ACCESS

- Reliable safe access for pedestrians and vehicles required during the PMF flood event.
- Consideration required regarding an appropriate flood evacuation strategy and pedestrian/vehicular access route during a flood event up to the PMF. In the case of amenities building, which are not used for any storage or which will not have any valuable chattels permanently located in them, this consideration will not apply.
- The evacuation route from land above the 1% AEP flood level in each proposed allotment in future subdivisions must be contiguous to land not lower than the PMF flood level so as to allow evacuation in extreme events.

FLOOD AFFECTATION

- Engineers report required to prove that the proposed development will not adversely increase flood affectation elsewhere
- The impact of the proposed development on flooding elsewhere is to be considered
- No net reduction in flood storage below the 1% AEP flood level

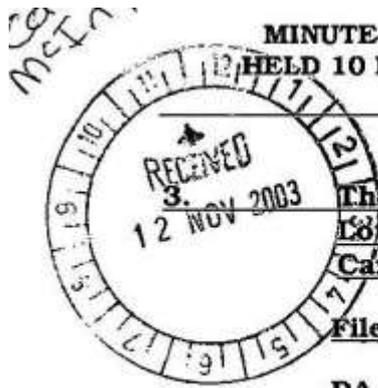
FLOOD AWARENESS

- Restrictions to be placed on title advising of flood planning levels (floor level) required relative to the 1% AEP flood level
- S149 certificates to notify affectation by the PMF flood
- Restrictions to be placed on title advising that a once only addition of habitable area has been undertaken and no further addition of habitable floor area will be permitted

BUILDING MANAGEMENT

- Flood management plans are required where floor levels are below the FPL.
- Applicant to demonstrate that there are adequate storage areas are available for hazardous materials and valuable goods and equipment at or above the FPL.
- No external storage of material below the 1% AEP flood level which may be hazardous during flood events
- Applicant to demonstrate that potential development as a consequence of a subdivision proposal can be undertaken in accordance with this policy

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 10 NOVEMBER, 2003, CIVIC CENTRE, OXLEY STREET
CAMDEN - 5.30PM**



**Three Lot Residential Subdivision (Two Additional
Lots), No 24 (Lot 640, DP 224250) Araluen Place,
Camden South**

File No: DA325.210-2 (Director, Development & Environment Division)
DA No: DAS 22/2003
Applicant: S N Triffett & Associates
Owner: A R A Moushigian
Zoning: Residential "A" & Rural "A" (40ha) Zone - CLEP 46

Purpose of Report

Council is in receipt of an application to create two additional lots from the subject site. This report addresses the application in accordance with relevant statutes and Council policies.

COUNCIL OF CAMDEN

File No: DA325.210-2
Assign to: 0201
Initials: [Handwritten initials]
Doc No: 5446.03
Folio No: 9

The application is referred to Council for consideration as it is recommended that the application be refused. The refusal is necessary as the proposed development fails to justify a State Environmental Planning Policy (SEPP) 1 objection and also the issue of flooding and the effect of this on the access to the proposed subdivision is not able to be addressed. All lots within Araluen Place are affected by their road access being cut off by the Probable Maximum Flood (PMF) and are also affected in a 1% AEP storm event flood at the intersection of Araluen Place and Elizabeth Macarthur Avenue (refer to **Tabled Document "DC 5"**).

Summary of Recommendation

It is recommended that Council refuse Development Application 22/2003 to subdivide Lot 640 DP224250, into three lots.

Background

The original subdivision, which resulted in the creation of Araluen Place, was registered in 1960 (lot 35 DP31361) with an area of approximately 0.527ha.

Lot 35 was subsequently consolidated in 1965 with the addition of land that fronted the Nepean River, which created the current Lot 640 DP224250 with the new area of 3.862ha. Another 5 re-subdivisions were approved in the 60's in Araluen Place, which created smaller lots ranging in area approximately from 1000m² to 2500m².

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The Proposal

The subject site has an area of 3.862ha and it is proposed to create 3 lots having areas of 3.499ha, 1413m² and 2215m². The larger lot is within a Rural 1(a) zone and the two smaller lots are within a Residential 2(a) zone. Access to the 3 lots is proposed from a 6m wide right of way, which incorporates the existing 4m wide bitumen driveway with concrete edging.

The Site

The site is situated at the end of Araluen Place with the lot having a road frontage of 20.12m. The majority of the site is flood affected by the 1% AEP storm event flood level (refer to **Tabled Document "DC 5"**). The whole site is affected in the PMF storm event.

The current house, approved in 1973, is located on a mound that is above the 1% AEP storm event flood level. Council formally developed its flood policy in 1978, which was re-evaluated in 1995 utilising more accurate data.

The two new proposed lots slope away from Araluen Place from RL 74.5m to RL 69-70m AHD at the lowest part of their rear boundary. The 1% AEP flood level on these lots is RL 72.6m AHD. The PMF level at this location is approximately RL 76.3m AHD, which is 1.8m above the highest part of the site.

As the area proposed to be subdivided is currently the entrance to the existing house there has been extensive landscaping along the driveway at the street frontage. Two significant large eucalyptus (Grey Box) dominate the proposed new lots (refer to **Tabled Document "DC 6"**). These trees would require reduction (trimming of their crowns) to make them appropriate for a residential backyard.

Notification

The application was advertised in accordance with Council's Policy and at the close of the notification period three submissions were received. Also a petition was received, which was reported to Council on 28 July 2003. **Copies of the submissions were provided separately for the information of Councillors.** The objections are summarised later in this report.

Planning Controls

The following plans and policies have been considered in the assessment of this application.

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- SREP 20 Hawkesbury-Nepean River System
- Camden LEP 46
- SEPP No.1 - Development Standards
- DCP 58 - Residential Development Control Plan
- Draft Camden Scenic and Cultural Landscape Plan
- Camden 2025
- Floodplain Management Manual: the management of flood liable land January 2001

Assessment

Section 79C Consideration

(a) The Provision of Any Environmental Planning Instrument

Sydney Regional Environmental Plan No 20

The land is affected by Sydney Regional Environmental Plan No 20 (No 2 - 1997) which states that Council shall not grant consent to an application to carry out development which drains to the Hawkesbury/Nepean River, unless it has taken into account the effect the proposed development will have on:

- (a) the water quality of the river;
- (b) the recreational opportunities of the river;
- (c) the economy of the river;
- (d) the agricultural potential of the river;
- (e) the significant vegetation and wildlife habitats of the river valley;
- (f) the environmental heritage of the river valley;
- (g) the scenic quality of the river and river valley;
- (h) whether the proposed development will be capable of connection to a Sydney Water Corporation or Council sewerage system, either now or in the future.

The impact of the proposed development on the river system in respect of SREP 20 has been considered and on its own, is able to be managed.

Camden Local Environmental Plan No 46

The subject land is principally zoned Rural "A" (40ha) and the area fronting Araluen Place is zoned Residential "A" (the zoning boundary is just past the proposed rear boundary of the 2 smaller lots - refer to **Tabled Document "DC 6"**). Within the Rural "A" zoning of LEP 46, a minimum subdivision area of 40ha is specified. A SEPP 1 objection has been lodged seeking a variation to

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ORD02

Attachment 4

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this minimum area planning standard in a Rural "A" zone (refer to **Tabled Document "DC 7"**).

The relevant rural zone objectives are as follows:

- "(b) to discourage fragmentation of landholdings into areas which are inadequate to support viable commercial agricultural practices;
- (f) to ensure that the development does not detract from the existing rural character or create unreasonable or uneconomic demands for the provision or extension of public amenities and services."

The other two lots in the Residential "A" zone are a permitted use.

The relevant residential zone objective is as follows:

"The objective of this zone is to set aside sufficient land for detached housing within suitable living areas of the Camden local government area."

The proposal is not located within suitable living areas of Camden, given the extent of flood affectation in both the 1% AEP and PMF storm events. The latter is considered further in this report. The subdivision would create additional resource demand for the provision of services provided by the State Emergency Service (SES).

SEPP No 1 – Development Standards

Where the consent authority is satisfied that a SEPP 1 objection is well founded and is of the opinion that granting the consent is consistent with the objectives of the LEP, it may, with the concurrence of the Director-General of Planning, grant consent to the development.

The applicant has argued in his submission that variation of the development standard is justified (refer to **Tabled Document "DC 7"**). However, the proposal is considered to be inconsistent with the objectives of the zoning and it is considered the SEPP 1 objection has not been adequately justified.

Development Control Plan No 58 – Residential Development Control Plan

The objectives of DCP 58:

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- "To maintain and enhance the features that create local character and sense of place.
- To achieve a high quality of development, sited in appropriate locations.
- To achieve development that is sustainable in terms of efficient use of land, resources and community facilities, maintenance of adequate services and facilities and development that reflects land capability and other constraints."

The third objective has not been met. In a PMF event, 1.8m of water is expected over the highest part of the site. Section 1.9.1 of the NSW Floodplain Management Manual (FMM) states: "*water depths generally in excess of 0.3m...may result in danger to personal safety and damage to property*". The proposed development is not sustainable with respect to the use of SES resources. The development does not reflect the current constraints on the site presented by possible flooding regimes.

Camden 2025

The application is considered to be inconsistent with the Camden 2025 Strategic Plan to the extent that appropriate service infrastructure, by way of safe egress routes in flooding scenarios has not been provided.

Draft Camden Cultural and Scenic Landscape Study

The Draft Camden and Scenic Landscape Study does not identify the subject site as having any specific cultural or scenic significance.

(b) Likely Impact on Both Natural and Built Environment

Overall Impacts

There would be minor impacts on the natural and built environment should the development proceed.

Landscape and Scenic Quality

The two significant Grey Box will be required to undergo reduction to their crowns to make them suitable for retention adjacent to the proposed houses.

Suitability of the Site for the Development

In consideration of the 1% AEP storm event, an area is available that is free of the 1% AEP storm event flood to

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erect a dwelling on each lot (refer to **Tabled Document "DC 6"**). The two new lots are proposed to have their vehicular access off the existing driveway that will still service the dwelling on the rural residential lot. This access arrangement provides no change to the turning head of Araluen Place.

In consideration of egress from the site and evacuation during a PMF storm event, the site is not suitable for the proposed development. The new lots together with the existing 19 homes do not have any vehicular access in a PMF storm event (refer to **Tabled Document "DC 5"**). This is discussed further below.

The NSW Government's 'Floodplain Management Manual: the management of flood liable land January 2001 (FMM)

The FMM requires the economic and social consequences of all events up to and including the PMF to be considered when assessing flood hazards. Further, the consequences of such events on the ability of emergency services to function needs to be considered.

The manual describes 'Effective Flood Access' as "... an exit route that remains trafficable for sufficient time to evacuate people and possessions, or any other appropriate boat or air based means of evacuation".

In a PMF storm event, the site which contains the proposed lots will be totally isolated at the intersection of Araluen Place and Elizabeth Macarthur Drive by flood water. This flood water is expected to be approximately 4.3m deep and travelling at approximately 1.2m/s. Such conditions will not provide for effective flood access for any emergency services.

Even in a 1% AEP storm event, the flood levels will be approximately RL 72.6m AHD, and between 600-800mm travelling at 0.8m/s.

Access routes need to offer a level of flood protection that, in combination with effective warning time, development type and flood duration, provide adequate time for evacuation reducing risk to acceptable levels. Without such access, the risk to personal safety of the entrapped and their rescuers may be unacceptable. Such access is not available for this site.

Section 1.6 of the FMM sets an aim of floodplain management as being "reducing the social and financial

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cost resulting from the risks of occupying the floodplain". By proposing to place additional people and assets in the floodplain, this proposal does not achieve this aim.

Council is currently preparing a draft Flood Risk Management Policy based on the FMM. Section 2.3 - Reliable Safe Flood Access, of the draft policy states:

"Every development application on flood prone land, within the PMF, must demonstrate that effective warning time and reliable safe flood access for the evacuation of people to a communal refuge is available in the event of a flood event."

It is considered this requirement cannot be met on this site and that an additional two lots within Araluen Place will add significant further burden on the local emergency services. During the PMF storm event, no reliable evacuation from the street could be effected if required.

The FMM also requires the cumulative affect of developing in flood prone areas to be taken into account by determining authorities. The consideration of approving two additional lots needs to include the effect of approving other similar developments in the Local Government Area, which are located on flood prone land. Such a consideration leads to the conclusion that the associated cumulative risk is too great.

(d) Submissions Received Following Notification

The development application was advertised for a period of 14 days from 3 June 2003 to 16 June 2003. Three submissions were received in respect of the development proposal. The following provides a summary and commentary of issues raised in the submissions. In addition, a petition was received which objects to the proposal. The petition (29 signatories) raises similar concerns to those made in the submissions.

General loss of ambience, privacy and overshadowing.

Comment: This is not considered significant and would be a matter for consideration in a development application to erect a dwelling house should the subdivision be approved.

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Danger to indigenous trees

Comment: Pruning existing trees would be necessary to allow the erection of a dwelling on the land to which the application relates.

Small area for building will necessitate a 2 storey house - out of keeping with existing development.

Comment: Council's policy DCP 58 allows 2 storey dwellings in this area.

Shared driveway for 3 residences, lead to access problems during possible flood/fire emergencies.

Comment: Emergency vehicles will not be able to drive into Araluen Place during a PMF storm event. The risk associated with this will be exacerbated by the proposed three lot subdivision.

Increased traffic movements and noise in tight cul-de-sac, also guest parking and narrow street make difficult access for emergencies.

Comment: The cul-de-sac has a reservation width of 20m and a carriageway width of 8m, which allows cars to park opposite each other and have a 3m wide travelling lane in the middle, suitable for emergency vehicles. The road widths would not be altered as a result of the proposed subdivision.

Low water pressure will become a greater problem especially in emergency fire situations.

Comment: Sydney Water has been contacted and their records show there is no evidence of water pressure problems in this area. The servicing of two additional lots is not considered to be problematic and service availability and suitability would need to be considered as part of Sydney Water's assessment should Council consent to the subdivision.

The 1:100 flood line cuts off the only access to Araluen Place.

Comment: The applicant was requested to provide more accurate levels at the intersection of Elizabeth Macarthur Avenue and Araluen Place to allow a detailed assessment of the flood impact on the residents of Araluen Place. From Council's plans, the 1% AEP storm event flood level would inundate the intersection to a

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depth of approximately 600 to 800 mm, with the water travelling at 0.8 m/s.

During a PMF storm event, the water level will be approximately RL 76.3m AHD, with water depths exceeding 4.3m, with storm water velocity at approximately 1.2 m/s at the intersection of Araluen Place and Elizabeth Macarthur Avenue.

Existing use rights ie in keeping thoroughbred horses without having an unsympathetic neighbour with an aggressive barking dog.

Comment: This issue is not able to be considered for a subdivision assessment.

Garbage collection from new houses on the cul-de-sac head.

Comment: Some bins would need to be placed in front of other adjacent properties on Council's road verge if the application were to be approved.

(e) The Public Interest

As a result of the hazards associated with flooding, the proposal is generally not in the public interest. Both proposed lots are extensively flood affected in a PMF storm event. Emergency services would be further burdened by the approval of the development proposal.

The FMM requires the cumulative effects of development in flood prone areas to be considered. Individually, sites may have little effect on flooding or be only slightly affected by flooding. This site is significantly affected. The cumulative effect of these increases in risk across the LGA need to be assessed. Section F10.2, Appendix F of the FMM gives an example of the cumulative effect: "increase over time in the at-risk population living and working on flood prone land and their impacts on emergency management resources or the capacity of evacuation routes".

Further, section 2.5.1 of the Manual states: "In assessing the impact of proposed developments on flooding behaviour elsewhere, it is incorrect to consider the impacts of individual developments on an ad hoc basis. Their effects should be considered on a cumulative basis...this includes...the number of people who may require evacuation, particularly in rare flood events"

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On this criteria, the public interest is not being served by approving this development.

Conclusion

The proposed development, without the issue of flooding and lots size, has some merit. The submitted SEPP 1 objection cannot be accepted as providing sufficient justification for the proposed variation of the minimum lot area of 40ha planning standard within LEP 46.

The impact of the PMF storm event on Araluen Place is very significant. On balance, refusal of the application is warranted. The potential social impacts of approving the development are considered too great.

In accordance with the above report, it is recommended that Council refuse the application.

Recommended: That:

- (i) Development Application No DAS22/2003 to subdivide No 24 (Lot 640 DP 224250) Araluen Place, Camden South into two residential lots and one rural residential lot be refused. The basis for refusal is that:
 - a) the proposed subdivision does not have a safe flood free access out of Araluen Place;
 - b) any additional dwellings within Araluen Place will be a further burden to all emergency services in times of flood.
- (ii) Those who made a submission be advised of Council's determination of the application.

Resolved on the Motion of Cr Campbell, seconded Cr McFadden that:

- (i) *Development Application No DAS22/2003 to subdivide No 24 (Lot 640 DP 224250) Araluen Place, Camden South into two residential lots and one rural residential lot be refused. The basis for refusal is that:*
 - a) the proposed subdivision does not have a safe flood free access out of Araluen Place;*
 - b) any additional dwellings within Araluen Place will be a further burden to all emergency services in times of flood.*

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- (ii) *Those who made a submission be advised of Council's determination of the application.*

DC103/03 THE MOTION WAS **CARRIED.**

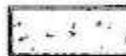
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SUBURB: CAMDEN SOUTH



Subject Site

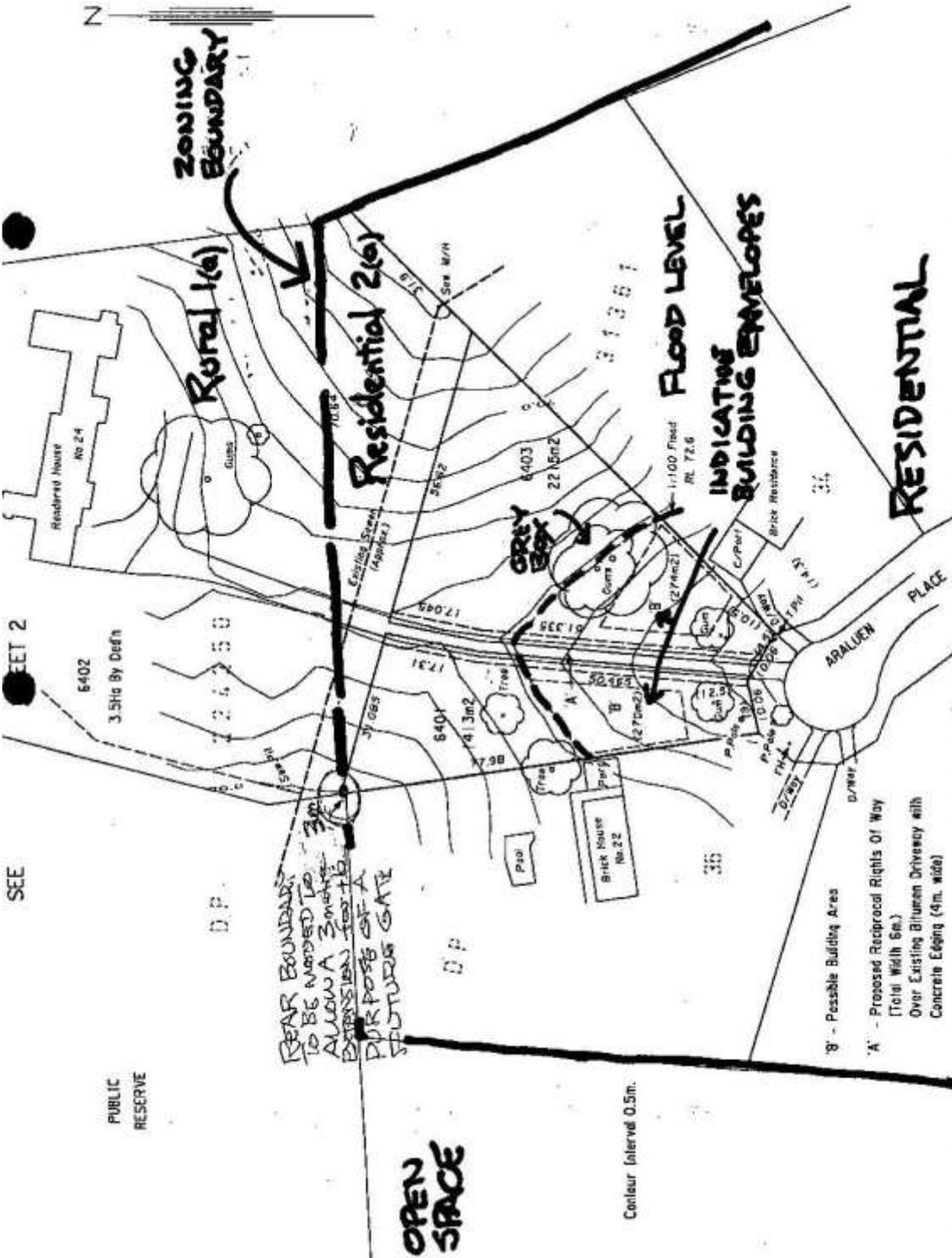
Scale 1:4000

LOCATION PLAN

24 Araluen Place, Camden South
Lot 640 Dp 224250



SHEET 1 OF 2 SHEETS



SCALE 1:750	DATE 28/05/03
SURVEYED: ST	DRAWN: ST
HEIGHT DATUM - AHD	

REVISIONS	
A	
B	
C	

PLAN OF PROPOSED SUBDIVISION
 24 ARALUEN PLACE, CAMDEN SOUTH
 LOT 640, DP 224250
 FOR ARA MOUSHIGIAN

IMPORTANT NOTE: The dimensions, areas and total number of lots herein are subject to field survey and also to the requirements of Council and any other authority which may have jurisdiction under any relevant legislation in NSW.

S.N. Triffett & Associates
 LAND & ENGINEERING SURVEYORS
 39 Old Hume Highway, Camden, 2570
 PHONE : 0246 559577
 MOBILE : 0402 120489

Attachment 4
 ORD02

Recommended Conditions

1.0 - General Conditions of Consent

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

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

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
1856 – Depot Issue A	Site Plan	Reggie's Residential Design and Drafting	18 July 2016
1856 – Depot Issue B	Floor Plan	Reggie's Residential Design and Drafting	18 July 2016

Document Title	Prepared by	Date
Statement of Environmental Effects	Hawes and Swan Town Planning Consultants	26 July 2016

- (2) **Time Limited Approval** - Pursuant to Section 80A(1)(d) of the *EP&A Act 1979*, the approved use is limited to a period of 18 (eighteen) months from the date of commencement of the use. Written notice of the commencement shall be provided to Council prior to the use commencing.

A further development application shall be provided to, and determined by, the Consent Authority prior to the expiration of this time period if the applicant intends to continue the use. If a development application is not determined prior to the expiry of this consent, then the approved use shall cease.

It is recommended that the further development application be lodged with the Consent Authority at least 3 months prior to the expiry of this consent.

- (3) **Outdoor Lighting** - Any lighting shall comply with AS 1158 and AS 4282.
- (4) **Separate Approval for Signs** - A separate development application for any proposed signage shall be provided to, and approved by, the Consent Authority prior to the erection or display of any such signs.

-
- (5) **Noxious Weeds Management** – The applicant must fully and continuously suppress and destroy by appropriate means, any noxious or environmentally invasive weed infestations that occur during or after works. New infestations must be reported to Council.

Pursuant to the *Noxious Weeds Act 1993*, the applicant must at all times ensure that any machinery, vehicles or other equipment entering or leaving the site are clean and free from any noxious weed material.

- (6) **Containment of Depot to be within the Building** - The depot must be solely contained within the eastern shed as depicted on the drawings approved by this development consent. The depot is not permitted within the existing western shed approved via Development Consent 1096/2011.
- (7) **Upgrade with the BCA** - Pursuant to Clause 93 of the EP & A Regulations 2000, within 12 weeks from the date of this consent being approved the existing building is to be upgraded in the following manner to bring the building to an acceptable level of compliance with the National Construction Code – Building Code of Australia 2016:
- a) Provide personnel exit doors throughout both sheds in accordance with D1 & D2 of the Building Code of Australia. These exit doors shall swing in the direction of egress and include the following:-

- Door latches that comply with D2.21 Operation of Latch of the BCA, which states:

"A door in a required exit, forming part of a required exit or in the path of travel to a required exit must be readily openable without a key from that faces a person seeking egress, by –

- (i) A single hand downward action on a single device which is located between 900mm & 1.1m from the floor and if serving an area required to be accessible by Part D3 –
 - (A) Be such that the hand of a person who cannot grip will not slip from the handle during the operation of the latch; and
 - (B) Have a clearance between the handle and the back plate or door face at the centre grip section of the handle of not less than 35mm and not more than 45mm; or
- (ii) A single hand pushing action on a single device which is located between 900mm & 1.2m from the floor."
- Bollards to proposed exit doors in accordance with D1.10 of the Building Code of Australia.

-
- b) Emergency Lighting and Illuminated Exit Signs shall be provided to both sheds in accordance with AS 2293.1-2005 and clauses E4.2 and E4.5 of the National Construction Code – Building Code of Australia 2016.
 - c) Provide Portable Fire Extinguishers throughout both sheds in accordance with AS 2444-2001 and E1.6 of the National Construction Code – Building Code of Australia 2016.

2.0 - During Works

The following conditions of consent shall be complied with during works associated with the upgrade of the existing shed to comply with the Building Code of Australia.

- (1) **Removal of Waste Materials** - Where there is a need to remove any identified materials from the site that contain fill/rubbish/asbestos, the waste material shall be assessed and classified in accordance with the NSW EPA Waste Classification Guidelines (2008) (refer to: www.environment.nsw.gov.au/waste/envguidlms/index.htm)

Once assessed, the materials shall be disposed of to a licensed waste facility suitable for that particular classification of waste. Copies of tipping dockets shall be retained and supplied to Council upon request.

- (2) **Site Management Plan** - The following practices are to be implemented during upgrade works:
 - a) builder's operations shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner;
 - b) waste shall not be burnt or buried on site, nor shall wind blown rubbish be allowed to leave the site. All waste shall be disposed of at an approved waste disposal facility;
 - c) a waste control container shall be located on the site;
 - d) all building materials, plant, equipment and waste control containers shall be placed on the building site. Building materials, plant and equipment (including water closets), shall not to be placed on public property (footpaths, roadways, public reserves, etc.);
 - e) toilet facilities shall be provided at, or in the vicinity of, the work site at the rate of 1 toilet for every 20 persons or part thereof employed at the site. Each toilet shall:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) have an on-site effluent disposal system approved under the *Local Government Act 1993*; or

-
- iii) be a temporary chemical closet approved under the *Local Government Act 1993*.
 - (3) **Construction Hours** - All work (including delivery of materials) associated with the fitout of the shed as a depot shall be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.
 - (4) **Compliance with BCA** - All building work shall be carried out in accordance with the requirements of the BCA.
 - (5) **Noise During Work** - All work shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

All work shall comply with the requirement of the NSW Industrial Noise Policy and the Environment Protection Authority's Environmental Noise Manual.

3.0 – Ongoing Use

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

- (1) **Storage of goods** - The storage of goods, materials plant and machinery approved to be stored by this development consent must be confined within the depot building. At no time shall goods, materials, plant or machinery be displayed or placed outside of the depot building.
- (2) **Retailing Prohibited** – The use of the depot for retail activities including the commercial sale or hire of goods, materials plant and machinery is prohibited.
- (3) **Manufacturing Prohibited** – The use of the depot for the manufacturing of goods, materials plant and machinery is prohibited.
- (4) **Dismantling Prohibited** – The dismantling of goods, materials plant and machinery for waste disposal is prohibited.
- (5) **Containment of Depot Building** - The depot must be solely contained within the eastern shed as depicted on the drawings approved by this development consent. The depot is not permitted to occur within the existing western shed approved via Development Consent 1096/2011.
- (6) **Amenity** - The depot shall be managed strictly in accordance with the conditions outlined in this consent to reduce impacts on residential amenity and the agricultural nature of land.
- (7) **Loading to Occur within Building** - All loading and unloading operations are to be carried out wholly within the depot building with the building doors to be closed.

-
- (8) **Number of Vehicle Movements** – A maximum number of 4 vehicle movements per week (include waste removal) is permitted associated with the depot, via a vehicle no greater in size than a medium rigid vehicle.

If a vehicle enters and leaves the site, this is considered to be 2 (two) vehicle movements.

- (9) **Vehicle Log Book** – The owner is to maintain a vehicle log book of all vehicles associated with the depot, which is to include the vehicle licence plate number, vehicle type and weight, arrival and departure times and materials transported. The log book must be made available to Council staff upon request.
- (10) **Maximum Vehicle Size** – The maximum sized vehicle permitted to access the depot is Medium Rigid vehicle.
- (11) **Manoeuvring of Vehicles** - All vehicles must enter and exit the site in a forward direction.
- (12) **Driveways to be Maintained** - All access crossings, driveways and the internal road shall be maintained in good order for the life of the development.
- (13) **Hours of Operation** - The depot is only to operate and be accessed within the following hours:

Day	Hours of Operation
Monday	9:00am to 5:00pm
Tuesday	9:00am to 5:00pm
Wednesday	9:00am to 5:00pm
Thursday	9:00am to 5:00pm
Friday	9:00am to 5:00pm
Saturday	No operation permitted
Sunday and Public Holidays	No operation permitted

- (14) **Waste Disposal** – An ongoing use Waste Management Plan must be prepared, which details the type and amount of waste to be generated, the collection contractor and subsequent disposal facility. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves etc.) at any time.

Any waste collection vehicles that services the depot will be considered as part of the counted vehicle movements being a maximum of 4 per week.

- (15) **Storage or Hazardous Goods** - Dangerous and hazardous goods shall be stored in accordance with NSW WorkCover Authority requirements, dependant on the quantities stored. Any flammable or combustible liquids shall be stored in accordance with AS 1940 'The Storage and Handling of Flammable and Combustible Liquids'.

Hazardous and/or industrial waste arising from the use shall be removed and/or transported in accordance with the requirements of the EPA and the NSW WorkCover Authority.

- (16) **Handling Hazardous Materials** - Material Safety Data Sheets shall be held at the premises for all hazardous materials to ensure their correct handling.
- (17) **Liquid Spills** - Sufficient supplies of appropriate absorbent materials and other spill prevention and clean-up materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill and sweeping or shovelling the material into a secure bin.
Materials
- (18) **Offensive Noise** - The use and occupation of the premises including all plant and equipment shall not give rise to any offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* and shall comply with the NSW Industrial Noise Policy 2000 (as amended).
- (19) **Removal of Graffiti** - The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.

F.A.O.: Mr W H K Jones - Town Planner
Ms. Lara Synkowisk - Mayor
Mr. Peter Sidgreaves - Deputy Mayor
Mr. David Bligh - Councillor
Ms. Debby Dewberry - Councillor

Re: Proposed Development Application DA NO: 867/2016

We, Christopher Coles and Yvonne Coles, hereby formerly object to the proposed Development Application DA 867.1/2016 on Lot: 203 DP:812265 for the following reasons:

A) History of illegal usage of land and shed - The building application DA 1096/2011 for the shed was originally approved by council as a farm building for agricultural use only and prohibited any non-agricultural commercial use. The parcel of land itself, has RU1 zoning by the LED and is for agricultural purposes and holding live stock. In the four years we have lived in our property at 240 Cobbitty Road (backing onto the above mentioned property), I have never witnessed any animals on the land other than family pets of tenants living in the small property next to the shed. The shed has been used illegally for the storage of construction materials for Admark Constructions since it was built. This has been evident due to the additional wear and tear on the shared private road, noise of forklifts, construction materials being left outside of the shed and the quantity of trucks/traffic that go to and from the shed from 5.30 a.m until late at night.

When Admark Constructions started the extension to the shed, a council official visited the property regarding another matter and witnessed the illegal use of the property. Admark Constructions were warned to rectify the situation. There are many witnesses including ourselves (and who will confirm this at your request) who have complained to Adrian Saunders himself and/or Camden Council regarding the on-goings on his property and how council regulations were not being adhered to. History has proven that Admark Constructions have displayed a blatant disregard for upholding council regulations and consideration for the neighbouring homes and Cobbitty agricultural environment.

B) Inadequate controls for usage of land and shed - We would like to know what measures the council will be taking to ensure traffic, noise, and wear and tear to the shared road, will not be detrimental to the neighbouring community and how it will be monitored. We have previously been informed that the Council does not have the means to monitor the on goings of the property. Has this situation changed? Is this why the Council are given consideration to the application even though the owners of Admark Constructions has not complied with regulations in the past? It is difficult to believe the statistics for traffic, noise and trading hours Admark Constructions have stated will occur as a 'depot', as they were exceeded when the shed was half the size and were/are presently being illegally used.

C) Privacy - With the exception of Admark Constructions we enjoy beautiful rural views and nearly total privacy in our back garden with only a farming fence separating us and our neighbours. Our swimming pool which is located at the top of the back garden, is used in the warmer months on an almost daily bases by our two young children and their friends. I have been conscious of numbers of Admark employees being able to see our children whilst they play in swimwear in their own

backyard. I find this situation completely inappropriate as our property is zoned as R5 (large residential block) whereupon we supposedly back onto a block that is zoned RU1 for agricultural purposes only. We bought our family home on our private road surrounded by natural habitat for our children to grow up in. It is highly intrusive to us and surrounding families to then have Admark Construction establish a Depot where builders, warehouse staff, etc are continually present or visiting and could potentially put our children at risk. Their business practices have diminished the quality of our chosen rural lifestyle not to mention the beautiful aesthetic outlook.

D) **Safety** - With Admark Constructions operating their business in a residential and agricultural village, the safety of the private road adjoining ours and neighbouring families has been greatly reduced. Higher volume of traffic continually using the private road will pose a safety risk to our children who previously had been able to play close by and walk over to their neighbouring friends to play without fear of being run over.

Children who attend Cobbitty Public School begin their day at 9.30 a.m and finished at 3.30. If this development application is approved, Admark Constructions's (official) operating hours will begin as the neighbouring children will be walking to school. Their employees and sub contractors vehicles presently speed up and down the private road that we need to use to get to the main road. It has become very dangerous.

E) **Land Values** -The market value of our Cobbitty homes will decrease if this proposed development application is approved. We ourselves bought in Cobbitty Village because we value the rural lifestyle and appreciate the value of the aesthetic outlook we now possess. I believe both should be preserved and I understood that Camden Council were of the same opinion. Is this not the case? Real estate values that back on to/along side of the proposed development will decrease as a Depot/construction site operating next to family homes is not seen as desirable to most families.

F) **Industrial use of Agricultural Land** -We, ourselves are partners of air-conditioning and white goods company. If council are prepared to accept Admark Construction's development application, it would be difficult to understand why an application from ourselves seeking permission to store electrical stock could be denied. Likewise what is to stop some of the rest of the Cobbitty community requesting to run their business from their properties with no regard for their neighbours. The Council will be setting a precedence if the industrial development application is passed and place the whole of Cobbitty's rich culture of large residential properties that embrace agriculture environment in jeopardy.

G) **Abundance of Industrial Neighbouring Suburbs** - There are several neighbouring suburbs which are used for industrial purposes and have an abundance of land: that can be potentially used as a place for Admark Constructions to expand their business at no detriment to the community. We are aware that Admark Constructions already owned such a property in the Smeaton Grange area. The question we ask is why is it necessary to potentially begin the destruction of the historic Cobbitty town rich in agriculture and community when there are ample opportunities to expand ones industrial businesses close by.

H) **Health** - Two persons in our household suffer from Asthma. The air quality will decrease due to dust caused by additional traffic, containers, etc. There have already been concerns regarding contamination/waste in the soil on that property to the community. This development can only increase potential hazards.

We would appreciate if the Council take all of these issues into consideration when making their decision on this development application. We look forward to a positive outcome.

Yours Sincerely

Yvonne and Christopher Coles



Camden Council

Submission to NSW Heritage Council 'Review of the SHR Curtilage of Gledswood homestead

February 2017

Introduction

In accordance with the State Heritage Agreement, the NSW Heritage Division notified Council in November 2016 of its proposal to amend the curtilage of the Gledswood Homestead.

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 1).

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

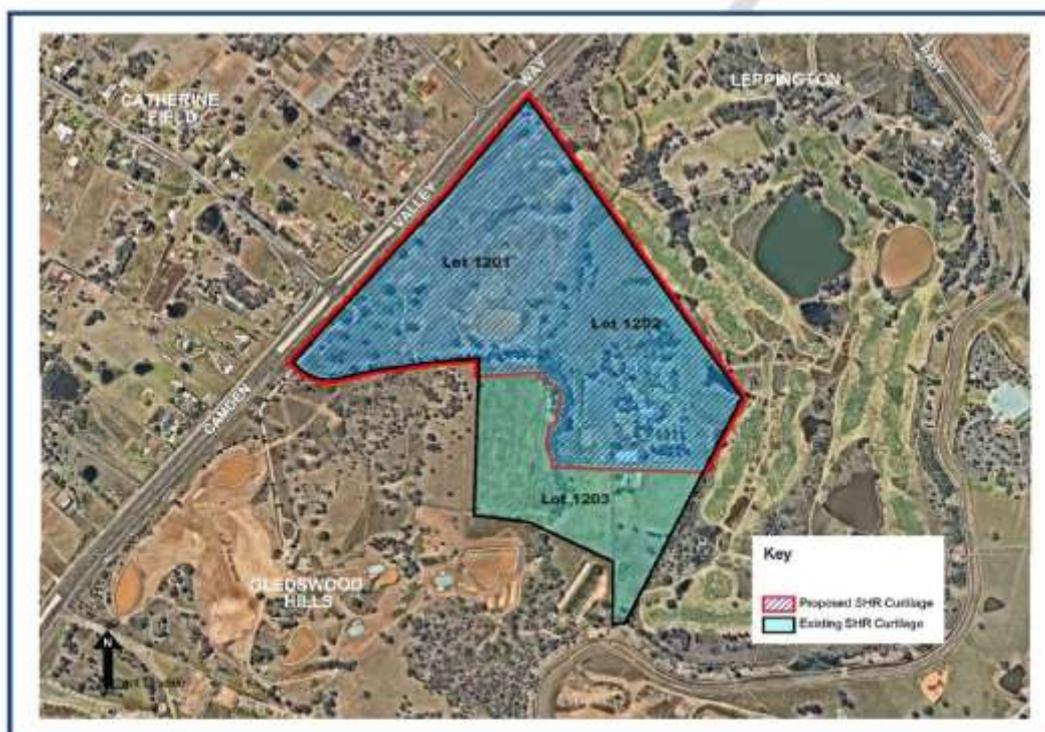


Figure 1 – Existing curtilage and proposed reduced curtilage

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).

Comment

The CMP recommends a reduction in the heritage curtilage, as currently proposed subject to appropriate conservation and development controls, as summarised in **Figure 2**.

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, 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 2 – plan of appropriate conservation and development controls in the CMP

Key Issue - 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 2**). 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 max height of 7m, with recessive roof colours to protect heritage views.

Response

Council is 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 3.

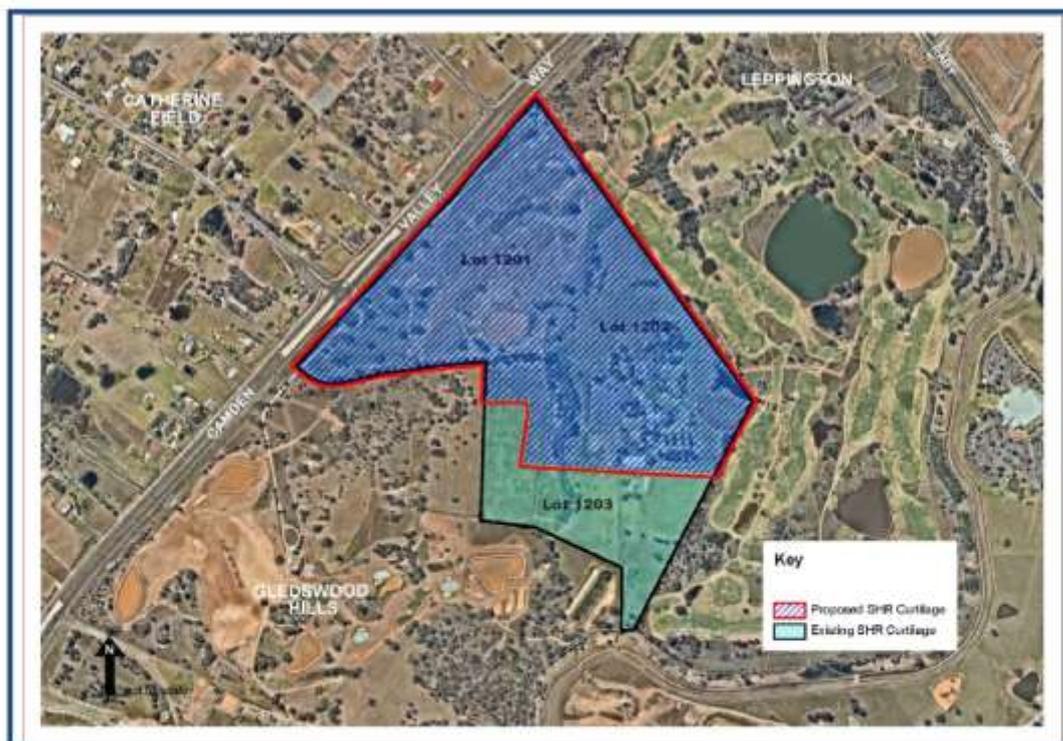


Figure 3 – plan of increased curtilage recommended by Council, including the sensitive L shaped area

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 has 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 control on materials.

Under the current planning legislation, development on land outside the curtilage could be approved as complying development. Assessment against the controls within the Codes

ORD04

SEPP would not achieve the heritage outcomes identified in the CMP for this portion of the site.

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

Attachment 1

DRAFT



CODE OF CONDUCT POLICY 5.3

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PART 1 - CONTEXT

This Part of the code establishes the purpose and principles that are used to interpret the standards in the code. This Part does not constitute separate enforceable standards of conduct.

1.0 DEFINITIONS

In the Code of Conduct the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the <i>Local Government (General) Regulations 2005</i>
administrator	an administrator of a Council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Division of Local Government, Department of Premier and Cabinet
code of conduct	a code of conduct adopted under section 440 of the Act
code of conduct complaint	a complaint that alleges conduct on the part of a Council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the Council's code of conduct
committee	a Council committee
complainant	a person who makes a code of conduct complaint
complainant Councillor	a Councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the General Manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by Councillors or the General Manager
conflict of interests	a conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
Council committee	a committee established by resolution of Council

Council committee member	a person other than a Councillor or member of staff of a Council who is a member of a Council committee
Council official	includes Councillors, members of staff of Council, administrators, Council committee members, conduct reviewers and delegates of Council
Councillor	a person elected or appointed to civic office and includes a Mayor
delegate of Council	a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body, to whom a function of the Council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes Council, State and Federal election campaigns
functions	where it relates to the conduct of Councillors, functions has the same meaning as "the role of a Councillor" as set out in section 232 of the Act and in addition, in relation to the Mayor, the additional functions as set out in section 226 of the Act.
investigator	a conduct reviewer or conduct review committee
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
person independent of Council	a person who is not an employee of the Council, has no current or ongoing contractual relationship with Council in the nature of a contract for services, retainer or contract for the provision of goods of any kind, or is not an employee of any entity with such a contractual relationship.
subject person	a person whose conduct is the subject of investigation by a conduct reviewer or conduct review committee under these procedures
the Division	the Division of Local Government, Department of Premier and Cabinet
the Regulation	the <i>Local Government (General) Regulation 2005</i>

The term "you" used in the Code of Conduct refers to Council officials.

The phrase "this code" used in the Code of Conduct refers also to the procedures for the administration of the code of conduct prescribed under the *Local Government (General) Regulation 2005*.

2.0 INTRODUCTION

- 2.1 This Code of Conduct is based upon the Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct"), made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every Council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, this Code of Conduct comprises all parts of this document.
- 2.2 The Code is made in three parts: Context, Standards of Conduct and Procedures.
- Part 1: Context - establishes the purpose and principles that are used to interpret the standards in the code. This Part does not constitute separate enforceable standards of conduct.
 - Part 2: Standards of conduct - sets out the conduct obligations required of Council officials. These are the enforceable standards of conduct.
 - Part 3: Procedures - contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for conduct reviews. This Part should be used to guide the management of complaints about breaches of the code.
- 2.3 Councillors, administrators, members of staff of Council, independent conduct reviewers, members of Council committees including the conduct review committee and delegates of the Council must comply with the applicable provisions of Council's code of conduct in carrying out their functions as Council officials. It is the personal responsibility of Council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind. Council contractors and volunteers will also be required to observe the relevant provisions of Council's code of conduct.
- 2.4 Failure by a Councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on Councillors for misconduct, including suspension or disqualification from civic office. [A Councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.](#)
- 2.5 Failure by a member of staff to comply with Council's code of conduct may give rise to disciplinary action.
- 2.6 A better conduct guide has also been developed to assist Councils to review and enhance their codes of conduct. This guide supports this code and provides further information on the provisions in this code.
- 2.7 Camden Council has adopted the Division of Local Government's Model Code of Conduct as required by the Act. Any reference in this document to the Model Code of Conduct reflects the Code of Conduct as presently adopted.
- 2.8 Should you wish to clarify or seek guidance on any of the provisions or issues relating to the code, you may speak to the General Manager about any issue.
- 2.9 This code is freely available to all staff, Councillors and the community via Council's website and hard copies are available at Council's Customer Service outlets. Council

staff may also access the code through the Intranet or by contacting the Senior Governance Officer.

3.0 PURPOSE OF THE CODE OF CONDUCT

- 3.1 This code of conduct sets the minimum requirements of conduct for Council officials in carrying out their functions, based upon the Model Code. The Model Code is prescribed by regulation.
- 3.2 The code has been developed to assist Council officials to:
- understand the standards of conduct expected of them;
 - enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439); and
 - act in a way that enhances public confidence in the integrity of local government.

4.0 KEY PRINCIPLES

- 4.1 The code is based on a number of key principles (reflected in s. 8, the Council's Charter in the Act). It sets out standards of conduct that meets these principles and statutory provisions applicable to local government activities. The principles underpin and guide these standards and may be used as an aid in interpreting the substantive provisions of the code, but do not themselves constitute separate enforceable standards of conduct.

(1) Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

(2) Leadership

You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. *This means promoting public duty to others in the Council and outside, by your own ethical behaviour.*

(3) Selflessness

You have a duty to make decisions in the public interest. You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests. *This means making decisions because they benefit the public, not because they benefit the decision maker.*

(4) Impartiality

You should make decisions on merit and in accordance with your statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. *This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of Council's resources; considering only relevant matters.*

(5) Accountability

You are accountable to the public for your decisions and actions and should consider issues on their merits, taking into account the views of others. *This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.*

(6) Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. *This means recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*

(7) Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. *This means obeying the law; following the letter and spirit of policies and procedures; observing the Code of Conduct; fully disclosing actual or potential conflicts of interest and exercising any conferred power strictly for the purpose for which the power was conferred.*

(8) Respect

You must treat others with respect at all times. *This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.*

5.0 GUIDE TO ETHICAL DECISION MAKING

5.1 If you are unsure about the ethical issues around an action or decision you are about to take, you should consider these five points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with Council's policy and with Council's objectives and the code of conduct?
- What will the outcome be for the employee or Councillor, work colleagues, the Council, persons with whom you are associated and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

- 5.2 Remember – you have the right to question any instruction or direction given to you that you think may be unethical or unlawful. If you are uncertain about an action or decision, you may need to seek advice from other people. This may include your supervisor or Senior Officer, your union representatives, the Division of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

Independent Commission Against Corruption	8281 5999
NSW Ombudsman	9286 1000
NSW Division of Local Government	4428 4100

PART 2: STANDARDS OF CONDUCT

This Part of the code sets out the conduct obligations required of Council officials. These are the enforceable standards of conduct.

Failure by a Council official to comply with Part 2, the standards of conduct, of Council's Code of Conduct may result in a range of consequences. For example, a Councillor's failure to comply may constitute misbehaviour and a substantial breach for the purposes of section 9 of the Independent Commission Against Corruption Act 1988. Failure by a member of staff to comply with Council's Code of Conduct may give rise to disciplinary action.

6.0 GENERAL CONDUCT OBLIGATIONS

General conduct

- 6.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the Council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- (a) contravenes the Act, associated regulations, Council's relevant administrative requirements and policies;
 - (b) is detrimental to the pursuit of the charter of Council;
 - (c) is improper or unethical;
 - (d) is an abuse of power or otherwise amounts to misconduct;
 - (e) causes, comprises or involves intimidation, harassment or verbal abuse;
 - (f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment; or
 - (g) causes, comprises or involves prejudice in the provision of a service to the community (Schedule 6A).
- 6.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act (section 439).
- 6.3 You must:
- (a) treat others with respect at all times; and
 - (b) while you are a Councillor provide leadership and guidance to the community at all times and not just at times when you are carrying out your role as a member of the governing body of the Council.

Fairness and equity

- 6.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 6.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 6.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age,

race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

- 6.7 Camden Council is committed to providing a harmonious work environment, which is conducive to good workplace relations. Harassment, bullying and unacceptable behaviour in the workplace is against the law and will not be tolerated by Camden Council management, employees and Councillors.

Related documents:

- *Policy No. 5.55 Dignity and Respect in the Workplace.*
- *Policy No. 5.27 Equal Employment Opportunity Policy.*

Development decisions

- 6.8 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 6.9 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

- 6.10 You must not participate in binding caucus votes in relation to matters to be considered at a Council or committee meeting.
- 6.11 For the purposes of clause 6.10, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the Council or committee.
- 6.12 Clause 6.10 does not prohibit Councillors from discussing a matter before the Council or committee prior to considering the matter in question at a Council or committee meeting or from voluntarily holding a shared view with other Councillors on the merits of a matter.
- 6.13 Clause 6.10 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a Council committee.

Alcohol and Drugs in the workplace

- 6.14 Council is committed to providing a safe, healthy and productive workplace that is free from hazards relating to drug and alcohol use.
- 6.15 Employees must report to work in a fit state at all times, unimpaired by any substance. Camden Council will not tolerate employees:
- Consuming alcohol while at work;
 - Possessing, selling, distributing or consuming prohibited drugs in the workplace;
 - Being affected by alcohol or drugs, including medically prescribed or over-the-counter drugs, such that they are unable to work safely, competently and professionally and in accordance with Council's Code of Conduct.

- 6.16 To show commitment to this policy, Council has provided an Employee Assistance Program (EAP). Employees who are dependent upon drugs or alcohol will not be discriminated against for seeking assistance through this programme to overcome their dependency.

Related documents:

- *Policy No. 5.29 Fit for Work (Drug & Alcohol Policy)*

7.0 CONFLICT OF INTEREST

- 7.1 A conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 7.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interest and take the appropriate action to manage the conflict in favour of your public duty.
- 7.3 Any conflict of interest must be managed to uphold the probity of Council decision-making. When considering whether or not you have a conflict of interest, it is always important to think about how others would view your situation.
- 7.4 Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 7.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person (section 442).
- 7.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter (section 443).
- 7.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
- (a) Councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (section 449);
 - (b) Councillors and members of Council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (section 451)¹ and
 - (c) designated persons immediately declare, in writing, any pecuniary interest (section 459).

1 Councillors should note that s 451(4) includes provisions that permit a Councillor, who would otherwise be precluded from participating in the consideration of a matter because they have a pecuniary conflict of interest in a matter that is being considered at a meeting, to participate in consideration of the matter, if

- (a) the matter is a proposal relating to
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the Council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the Council's area, and
- (a1) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and
- (b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.

The special disclosure referred to in (b) above is a prescribed form (Sch 3A of the Local Government (General Regulation) 2005) that an affected Councillor must sign and table at the meeting. It must also be included in full in the minutes of meeting. Information required includes land affected, relationship of land to the Councillor, nature of the land affected by a planning change, current and proposed planning controls, and the effect of the change on the Councillor.

The prescribed form is Attachment A to this Code of Conduct.

- 7.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the General Manager and other senior staff of the Council.
- 7.9 Where you are a member of staff of Council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the General Manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What are non-pecuniary interests?

- 7.10 Non-pecuniary interests are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 7.11 The political views of a Councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

- 7.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 7.13 If a disclosure is made at a Council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 7.12.
- 7.14 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 7.15 As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest but it involves:
- (a) a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household;
 - (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship; or
 - (c) an affiliation between the Council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 7.16 If you are a Council official, other than a member of staff of Council, and you have disclosed that a significant non-pecuniary conflict of interest exists, you must manage it in one of two ways:
- (a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official; or

- (b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 7.17 If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 7.18 If you are a member of staff of Council, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with your manager.
- 7.19 Despite clause 7.16(b), a Councillor who has disclosed that a significant non-pecuniary conflict of interest exists may participate in a decision to delegate Council's decision-making role to Council staff through the General Manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not Council would be deprived of a quorum if one or more Councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 7.16(b) above.

Reportable political donations

- 7.20 Councillors should note that matters before Council involving political or campaign donors may give rise to a non-pecuniary conflict of interest.
- 7.21 Where a Councillor has received or knowingly benefitted from a reportable political donation:
- (a) made by a major political donor in the previous four years, and
 - (b) where the major political donor has a matter before Council,
- then the Councillor must declare a non-pecuniary conflict of interest, disclose the nature of the interest, and manage the conflict of interest in accordance with clause 7.16(b).
- 7.22 For the purposes of this Part:
- (a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
 - (b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.
- 7.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 7.24 If a Councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 7.21, that Councillor is not prevented from participating in a decision to delegate Council's decision-making role to Council staff through the General Manager or appointing another person or body to make the decision in accordance with the law (see clause 7.19 above).
- 7.25 Councillors wishing to obtain further details regarding lodgement of returns to the Election Funding Authority of all political donations and electoral expenditure under

the *Election Funding, Expenditure and Disclosures Act 1981*, may be directed to the Election Funding website: www.efa.nsw.gov.au

Related documents:

- *Electoral Funding Act 1981.*

Loss of quorum as a result of compliance with this Part

- 7.26 Where a majority of Councillors are precluded under this Part from consideration of a matter the Council or committee must resolve to delegate consideration of the matter in question to another person.
- 7.27 Where a majority of Councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the Councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interest.
- 7.28 The Chief Executive will only exempt a Councillor from complying with a requirement under this Part where:
- (a) compliance by Councillors with a requirement under this Part in relation to a matter will result in the loss of a quorum, and
 - (b) the matter relates to the exercise of a function of the Council that may not be delegated under section 377 of the Act.
- 7.29 Where the Chief Executive exempts a Councillor from complying with a requirement under this Part, the Councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.
- 7.30 A Councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter, is permitted to participate in consideration of the matter, if:
- a. the matter is a proposal relating to
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the Council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the Council's area, and
 - b. [the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principle place of residence, and](#)
 - b.c. the Councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

Other business or employment

- 7.31 If you are a member of staff of Council considering outside employment or contract work that relates to the business of the Council or that might conflict with your Council duties, you must notify and seek the approval of the General Manager in writing (section 353).
- 7.32 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- (a) conflict with your official duties;

- (b) involve using confidential information or Council resources obtained through your work with the Council;
 - (c) require you to work while on Council duty; or
 - (d) discredit or disadvantage the Council.
- 7.33 It should be noted, the General Manager has the power to refuse permission to staff members to engage in secondary employment.
- 7.34 Secondary employment is one of the key risk areas for staff. It is the area where conflicts of interest can frequently arise and where elements of resource misuse are evident – such as staff time, materials, plant and vehicles, office supplies and equipment. Secondary employment can also result in misuse of confidential information and intellectual property rights.
- 7.35 Examples of where secondary employment may pose a conflict could include planners involved in drafting work for builders active in the Council area or engineering staff performing part time work for a Council road contractor.

Personal dealings with Council

- 7.36 You may have reason to deal with your Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

8.0 PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

In addition, a token gift is one which has a value of up to \$50.00.

Gifts and benefits

- 8.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.
- 8.2 You should never accept any gift or benefit if the gift is designed to influence the way a particular job is performed, regardless of the value of the offer. If, as an employee, a substantial gift or benefit is offered to influence the way work is performed, it is required to be reported immediately to your supervisor and to the General Manager.
- 8.3 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

- 8.4 Generally speaking, token gifts and benefits include:
- (a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - (i) the discussion of official business;
 - (ii) Council work related events such as training, education sessions and workshops;
 - (iii) Conferences;
 - (iv) Council functions or events;
 - (v) social functions organised by groups, such as Council committees and community organisations.
 - (b) invitations to and attendance at local social, cultural or sporting events;
 - (c) gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address);
 - (d) trivial items such as ties, scarves, coasters, tie pins, diaries, chocolates, flowers or modest refreshments;
 - (e) prizes of token value;
 - (f) items that are not offered on a frequent basis;
 - (g) items that can ideally be shared; or
 - (h) items that do not have a significant monetary value.

Gifts and benefits of value

- 8.5 Notwithstanding clause 8.4, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major

sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and should not be accepted. Gifts such as expensive pens or a more moderate amount of alcohol (for example more than one bottle of wine) may also be included as non token gifts.

How are offers of gifts and benefits to be dealt with?

- 8.6 You must not:
- (a) seek or accept a bribe or other improper inducement;
 - (b) seek gifts or benefits of any kind;
 - (c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty;
 - (d) accept any gift or benefit of more than token value; or
 - (e) accept an offer of cash or a cash-like gift, regardless of the amount.
- 8.7 For the purposes of clause 8.6(e), a "cash-like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
- 8.8 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the General Manager. The recipient, supervisor, Mayor or General Manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register through the Governance Team. The gift or benefit must be surrendered to Council, unless the nature of the gift or benefit makes this impractical.

Improper and undue influence

- 8.9 You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the appropriate exercise of their representative functions.
- 8.10 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

Related documents:

- *Policy No. 5.55* *Dignity and Respect in the Workplace.*
- *Policy No. 5.28* *Gifts and Benefits.*

9.0 RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations of Councillors and administrators

- 9.1 Each Council is a body politic. The Councillors or administrator/s are the governing body of the Council. The governing body has the responsibility of directing and controlling the affairs of the Council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 9.2 Councillors or administrators must not:
- (a) direct Council staff other than by giving appropriate direction to the General Manager in the performance of Council's functions by way of Council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (section 352);
 - (b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate (Schedule 6A of the Act);
 - (c) contact a member of the staff of the Council on Council related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager; or
 - (d) contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to Council's external auditors or the Chair of Council's audit committee who may be provided with any information by individual Councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

Obligations of staff

- 9.3 The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of the decisions of the Council without delay.
- 9.4 Members of staff of Council must:
- (a) give their attention to the business of Council while on duty;
 - (b) ensure that their work is carried out efficiently, economically and effectively;
 - (c) carry out lawful directions given by any person having authority to give such directions;
 - (d) give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them; and
 - (e) ensure that any participation in political activities outside the service of the Council does not conflict with the performance of their official duties.

Obligations during meetings

- 9.5 You must act in accordance with Council's Code of Meeting Practice and the *Local Government (General) Regulations 2005* during Council and committee meetings.

- 9.6 You must show respect to the Chair, other Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

Inappropriate interactions

- 9.7 You must not engage in any of the following inappropriate interactions:
- (a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
 - (b) Council staff approaching Councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
 - (c) Council staff refusing to give information that is available to other Councillors to a particular Councillor.
 - (d) Councillors and administrators who have lodged a development application with Council, discussing the matter with Council staff in staff-only areas of the Council.
 - (e) Councillors and administrators being overbearing or threatening to Council staff.
 - (f) Councillors and administrators making personal attacks on Council staff in a public forum.
 - (g) Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make.
 - (h) Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
 - (i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
 - (j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.
- 9.8 It is appropriate that staff and staff organisations have discussions with Councillors in relation to matters of industrial policy. Such discussions however should be limited to broader policy issues and should not relate to individual matters.

Councillor and Staff Contact

- 9.9 Councillors are permitted to contact staff directly to allow quick responses to Councillor related enquiries. Councillors are permitted to contact Managers directly on matters regarding their roles as elected representatives. Information should not be sought on any issue where a Councillor may have a conflict of interest or which pertains to a matter on which a declaration of pecuniary interest has been lodged. Contact must be directed to staff in the workplace or in an "on duty" setting only. Councillors may not seek advice from staff below the level of Manager.

Related documents:

- *Policy 5.8 Code of Meeting Practice.*

10.0 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

- 10.1 The General Manager and Senior Governance Officer are responsible for ensuring that members of the public, Councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 10.2 The General Manager must provide Councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 10.3 Members of staff of Council must provide full and timely information to Councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with Council procedures.
- 10.4 Members of staff of Council who provide any information to a particular Councillor in the performance of their civic duties must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- 10.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.

Related documents:

- *Access to Information Policy.*

Councillors and administrators to properly examine and consider information

- 10.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with Council's charter.

Refusal of access to documents

- 10.7 Where the General Manager and the Senior Governance Officer determine to refuse access to a document sought by a Councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the Councillor or administrator to perform their civic duty (see clause 10.2). The General Manager or the Senior Governance Officer must state the reasons for the decision if access is refused.

Use of certain Council information

- 10.8 In regard to information obtained in your capacity as a Council official, you must:
- only access Council information needed for Council business;
 - not use that Council information for private purposes;
 - not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with Council;
 - only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 10.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 10.10 In addition to your general obligations relating to the use of Council information, you must:
- (a) protect confidential information;
 - (b) only release confidential information if you have authority to do so;
 - (c) only use confidential information for the purpose it is intended to be used;
 - (d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person;
 - (e) not use confidential information with the intention to cause harm or detriment to your Council or any other person or body;
 - (f) not disclose any information discussed during a confidential session of a council meeting.

The misuse of confidential information is an example of improper or corrupt misuse of Council resources.

Personal information

- 10.11 When dealing with personal information you must comply with:
- (a) the *Privacy and Personal Information Protection Act 1998*;
 - (b) the *Health Records and Information Privacy Act 2002*;
 - (c) the Information Protection Principles and Health Privacy Principles;
 - (d) Council's Privacy Management Plan; and
 - (e) the Privacy Code of Practice for Local Government.

The misuse of personal information is an example of improper or corrupt misuse of Council resources.

Use of Council resources

- 10.12 You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 10.13 Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
- (a) the representation of members with respect to disciplinary matters;
 - (b) the representation of employees with respect to grievances and disputes; or
 - (c) functions associated with the role of the local consultative committee.
- 10.14 You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 10.15 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

- 10.16 You must not use Council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 10.17 You must not use Council letterhead, Council crests and other information that could give the appearance it is official Council material for:
- (a) the purpose of assisting your election campaign or the election campaign of others, or
 - (b) for other non-official purposes.
- 10.18 You must not convert any property of the Council to your own use unless properly authorised.
- 10.19 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.
- 10.20 Public resources are those items that are paid for, owned or controlled by Council. Resources can be tangible, such as equipment or intangible, such as your time. Public resources are there to enable you to do your job.
- 10.21 Misuse of resources is a breach of public duty; misuse that is sufficiently serious will result in disciplinary action or may constitute a criminal offence.
- 10.22 Councillors are to abide by Council's Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy with respect to Council resources and the provision of Council supplied equipment.

Councillor access to Council buildings

- 10.23 Councillors and administrators are entitled to have access to the Council chamber, Mayor's office (subject to availability), Councillors' room, and public areas of Council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the General Manager.
- 10.24 Councillors and administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council staff.
- 10.25 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence Council staff decisions.

Related documents:

- *Policy 5.57 Payment of Expenses and provision of Facilities for Mayor and Councillors;*
- *Local Government (General) Regulation 2005 (Clauses 163-179 Tenders);*
- *Policy No. 5.13 Internet and E-Mail access.*
- *ICAC Publication – "Use and misuse of public sector resources" February, 2008.*

11.0 MAINTAINING THE INTEGRITY OF THIS CODE

11.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

Complaints made for an improper purpose

11.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

11.3 For the purposes of clause 11.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- (a) to intimidate or harass another Council official;
- (b) to damage another Council official's reputation;
- (c) to obtain a political advantage;
- (d) to influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
- (e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
- (f) to avoid disciplinary action under this code;
- (g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code;
- (h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code; or
- (i) to prevent or disrupt the effective administration of this code.

Detrimental action

11.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

11.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

11.6 For the purposes of clauses 11.4 and 11.5 detrimental action is an action causing, comprising or involving any of the following:

- (a) injury, damage or loss;
- (b) intimidation or harassment;
- (c) discrimination, disadvantage or adverse treatment in relation to employment;
- (d) dismissal from, or prejudice in, employment; or
- (e) disciplinary proceedings.

Compliance with requirements under this code

11.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.

11.8 You must comply with a reasonable and lawful request made by a person exercising a function under this code.

- 11.9 You must comply with a practice ruling made by the Division of Local Government.
- 11.10 Where you are a Councillor or the General Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

- 11.11 You must report breaches of this code in accordance with the reporting requirements under this code.
- 11.12 You must not make allegations of suspected breaches of this code at Council meetings or in other public forums.
- 11.13 You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

- 11.14 Complaints alleging a breach of this Part (Part 11) by a Councillor, the General Manager or an administrator are to be made to the Division of Local Government.
- 11.15 Complaints alleging a breach of this Part by other Council officials are to be made to the General Manager.

PART 3 - PROCEDURES

This Part of the code contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer. This Part should be used to guide the management of complaints about breaches of the code.

12.0 INTRODUCTION

- 12.1 These procedures ("the Model Code Procedures") are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW ("the Model Code"). The Model Code and Model Code Procedures are made under sections 440 and 440AA respectively of the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulation 2005* ("the Regulation").
- 12.2 Sections 440 and 440AA of the Act require every Council to adopt a code of conduct and procedures for the administration of the code of conduct that incorporate the provisions of the Model Code and Model Code Procedures respectively.
- 12.3 In adopting procedures for the administration of their adopted codes of conduct, Councils may supplement the Model Code Procedures. However provisions of a Council's adopted procedures that are not consistent with those prescribed under the Model Code Procedures will have no effect.

13.0 ADMINISTRATIVE FRAMEWORK

The establishment of a panel of conduct reviewers

- 13.1 The Council must by resolution establish a panel of conduct reviewers.
- 13.2 The Council may by resolution enter into an arrangement with one or more other Councils to share a panel of conduct reviewers.
- 13.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 13.4 An expression of interest for members of the Council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 13.5 To be eligible to be a member of a panel of conduct reviewers, a person must, at a minimum, meet the following requirements:
- (a) an understanding of local government, and
 - (b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
 - (c) knowledge and experience of one or more of the following:
 - (i) investigations, or
 - (ii) law, or
 - (iii) public administration, or
 - (iv) public sector ethics, or
 - (v) alternative dispute resolution, and
 - (d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 13.6.

- 13.6 A person is not eligible to be a member of the panel of conduct reviewers if they are:
- (a) a Councillor, or
 - (b) a nominee for election as a Councillor, or
 - (c) an administrator, or
 - (d) an employee of a Council, or
 - (e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - (f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - (g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 13.7 A person is not precluded from being a member of the Council's panel of conduct reviewers if they are a member of another Council's panel of conduct reviewers.
- 13.8 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 13.9 The Council may terminate the panel of conduct reviewers at any time by resolution.
- 13.10 When the term of the conduct reviewers concludes or is terminated, the Council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 13.11 A person who was a member of a previous panel of conduct reviewers established by the Council may be a member of subsequent panels of conduct reviewers established by the Council.

The appointment of complaints coordinators

- 13.12 The General Manager must appoint a member of staff of the Council to act as a complaints coordinator. Where practicable, the complaints coordinator should be a senior and suitably qualified member of staff.
- 13.13 The General Manager may appoint other members of staff to act as alternates to the complaints coordinator.
- 13.14 The General Manager must not undertake the role of complaints coordinator.
- 13.15 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 13.16 The role of the complaints coordinator is to:
- (a) coordinate the management of complaints made under the Council's code of conduct;
 - (b) liaise with and provide administrative support to a conduct reviewer or conduct review committee;
 - (c) liaise with the Division of Local Government; and
 - (d) arrange the annual reporting of code of conduct complaint statistics.

14.0 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a "code of conduct complaint"?

- 14.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a Council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the Council's code of conduct.
- 14.2 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a "code of conduct complaint" are to be dealt with under Council's routine complaints management processes.

When must a code of conduct complaint be made?

- 14.3 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 14.4 A complaint made after 3 months may only be accepted if the General Manager, or, in the case of a complaint about the General Manager, the Mayor, is satisfied that there are compelling grounds for the matter to be dealt with under the code of conduct.

How may a code of conduct complaint about a Council official other than the General Manager be made?

- 14.5 All code of conduct complaints other than those relating to the General Manager are to be made to the General Manager in writing.
- 14.6 Where a code of conduct complaint about a Council official other than the General Manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 14.7 In making a code of conduct complaint about a Council official other than the General Manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 14.8 The General Manager or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 14.9 Notwithstanding clauses 14.5 and 14.6, where the General Manager becomes aware of a possible breach of the Council's code of conduct, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a code of conduct complaint about the General Manager be made?

- 14.10 Code of conduct complaints about the General Manager are to be made to the Mayor in writing.

- 14.11 Where a code of conduct complaint about the General Manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 14.12 In making a code of conduct complaint about the General Manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 14.13 The Mayor or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 14.14 Notwithstanding clauses 14.10 and 14.11, where the Mayor becomes aware of a possible breach of the Council's code of conduct by the General Manager, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

15.0 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?How are code of conduct complaints about staff (other than the General Manager) to be dealt with?

- 15.1 The General Manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about members of staff of Council and for determining the outcome of such complaints.
- 15.2 Where the General Manager decides not to make enquiries into a code of conduct complaint about a member of staff, the General Manager must give the complainant reasons in writing for their decision.
- 15.3 Without limiting clause 15.2, the General Manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 15.4 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 15.5 Sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of Council and Council committee members to be dealt with?

- 15.6 The General Manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about delegates of Council and Council committee members and for determining the outcome of such complaints.
- 15.7 Where the General Manager decides not to make enquiries into a code of conduct complaint about a delegate of Council or a Council committee member, the General Manager must give the complainant reasons in writing for their decision.
- 15.8 Without limiting clause 15.7, the General Manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 15.9 Sanctions for delegates of Council and/or members of Council committees depend on the severity, scale and importance of the breach and may include one or more of the following:
- (a) censure;
 - (b) requiring the person to apologise to any person or organisation adversely affected by the breach;
 - (c) prosecution for any breach of the law;
 - (d) removing or restricting the person's delegation; or
 - (e) removing the person from membership of the relevant Council committee.
- 15.10 Prior to imposing a sanction against a delegate of Council or a Council committee member under clause 15.9, the General Manager or any person making enquiries on

behalf of the General Manager must comply with the requirements of procedural fairness. In particular:

- (a) the substance of the allegation (including the relevant provision/s of Council's code of conduct that the alleged conduct is in breach of) must be put to the person the subject of the allegation; and
- (b) the person must be given an opportunity to respond to the allegation; and
- (c) the General Manager must consider the person's response in deciding whether to impose a sanction under clause 15.9.

How are code of conduct complaints about conduct reviewers to be dealt with?

- 15.11 The General Manager must refer all code of conduct complaints about conduct reviewers to the Division for its consideration.
- 15.12 The General Manager must notify the complainant of the referral of their complaint in writing.
- 15.13 The General Manager must implement any recommendation made by the Division as a result of its consideration of a code of conduct complaint about a conduct reviewer.

How are code of conduct complaints about administrators to be dealt with?

- 15.14 The General Manager must refer all code of conduct complaints about administrators to the Division for its consideration.
- 15.15 The General Manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about Councillors to be dealt with?

- 15.16 The General Manager must refer the following code of conduct complaints about Councillors to the Division:
 - (a) complaints alleging a breach of the pecuniary interest provisions of the Act;
 - (b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interests arising from reportable political donations (see section 328B);
 - (c) complaints alleging a breach of Part 11 of the code of conduct relating to the maintenance of the integrity of the code; and
 - (d) complaints the subject of a special complaints management arrangement with the Division.
- 15.17 Where the General Manager refers a complaint to the Division under clause 15.16, the General Manager must notify the complainant of the referral in writing.
- 15.18 Where the General Manager considers it to be practicable and appropriate to do so, the General Manager may seek to resolve code of conduct complaints about Councillors, other than those requiring referral to the Division under clause 15.16, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 15.20.

- 15.19 Where the General Manager resolves a code of conduct complaint under clause 15.18 to the General Manager's satisfaction, the General Manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 15.20 The General Manager must refer all code of conduct complaints about Councillors other than those referred to the Division under clause 15.16 or resolved under clause 15.18 to the complaints coordinator.

How are code of conduct complaints about the General Manager to be dealt with?

- 15.21 The Mayor must refer the following code of conduct complaints about the General Manager to the Division:
- (a) complaints alleging a breach of the pecuniary interest provisions of the Act,
 - (b) complaints alleging a breach of Part 11 of the code of conduct relating to the maintenance of the integrity of the code, and
 - (c) complaints the subject of a special complaints management arrangement with the Division.
- 15.22 Where the Mayor refers a complaint to the Division under clause 15.21, the Mayor must notify the complainant of the referral in writing.
- 15.23 Where the Mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve code of conduct complaints about the General Manager, other than those requiring referral to the Division under clause 15.21, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 15.25.
- 15.24 Where the Mayor resolves a code of conduct complaint under clause 15.23 to the Mayor's satisfaction, the Mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 15.25 The Mayor must refer all code of conduct complaints about the General Manager other than those referred to the Division under clause 15.21 or resolved under clause 15.23 to the complaints coordinator.

Referral of code of conduct complaints to external agencies

- 15.26 The General Manager, Mayor or a conduct reviewer or conduct review committee may, at any time, refer a code of conduct complaint to an external agency or body such as, but not limited to, the Division, the Independent Commission Against Corruption, the NSW Ombudsman or the Police for its consideration, where they consider such a referral is warranted.
- 15.27 Where the General Manager, Mayor, conduct reviewer or conduct review committee refers a complaint to an external agency or body under clause 15.26, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 15.28 Referral of a matter to an external agency or body shall finalise consideration of the matter under the code of conduct unless the Council is subsequently advised otherwise by the referral agency or body.

Disclosure of the identity of complainants

- 15.29 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- (a) the complainant consents in writing to the disclosure, or
 - (b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
 - (c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
 - (d) a conduct reviewer or conduct review committee is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or it is otherwise in the public interest to do so.
- 15.30 Clause 15.29 does not apply to code of conduct complaints made by Councillors about other Councillors or the General Manager.
- 15.31 Where a Councillor makes a code of conduct complaint about another Councillor or the General Manager and the complainant Councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 15.32 A request made by a complainant Councillor under clause 15.31 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 15.33 The General Manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee must consider a request made under clause 15.31 before disclosing information that identifies or tends to identify the complainant Councillor but are not obliged to comply with the request.
- 15.34 Where a complainant Councillor makes a request under clause 15.31, the General Manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee shall notify the Councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

- 15.35 Code of conduct complaints that are made as public interest disclosures under the *Public Interest Disclosures Act 1994* are to be managed in accordance with the requirements of that Act, the Council's internal reporting policy and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 15.36 For a code of conduct complaint to be dealt with as a public interest disclosure, the complainant must state at the outset and in writing at the time of making the complaint that it is made as a public interest disclosure.
- 15.37 Where a Councillor makes a code of conduct complaint about another Councillor or the General Manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant Councillor must consent in writing to the disclosure of their identity as the complainant.

- 15.38 Where a complainant Councillor declines to consent to the disclosure of their identity as the complainant under clause 15.37, the General Manager or the Mayor must refer the complaint to the Division for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Related documents:

- *Public Interests Disclosure Policy*

Special complaints management arrangements

- 15.39 The General Manager may request in writing that the Division enter into a special complaints management arrangement with the Council in relation to code of conduct complaints made by or about a person or persons.
- 15.40 Where the Division receives a request under clause 15.39, it may agree to enter into a special complaints management arrangement where it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- imposed an undue and disproportionate cost burden on the Council's administration of its code of conduct, or
 - impeded or disrupted the effective administration by the Council of its code of conduct, or
 - impeded or disrupted the effective functioning of the Council.
- 15.41 A special complaints management arrangement must be in writing and must specify the following:
- the code of conduct complaints the arrangement relates to, and
 - the period that the arrangement will be in force.
- 15.42 The Division may by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 15.43 While a special complaints management arrangement is in force, an officer of the Division (the assessing Divisional officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of these procedures except as provided by clause 15.44 below.
- 15.44 Where, following a preliminary assessment, the assessing Divisional officer determines that a code of conduct complaint warrants investigation by a conduct reviewer or a conduct review committee, the assessing Divisional officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing Divisional officer.
- 15.45 Prior to the expiry of a special complaints management arrangement, the Division shall, in consultation with the General Manager, review the arrangement to determine whether it should be renewed or amended.
- 15.46 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 15.45.

16.0 PRELIMINARY ASSESSMENTReferral of code of conduct complaints to conduct reviewers

- 16.1 The complaints coordinator must refer all code of conduct complaints about Councillors or the General Manager submitted to the complaints coordinator within 21 days of receipt of a complaint by the General Manager or the Mayor.
- 16.2 For the purposes of clause 16.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- (a) a panel of conduct reviewers established by the Council, or
 - (b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.
- 16.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers.
- 16.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- (a) they have a conflict of interests in relation to the matter referred to them, or
 - (b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - (c) they or their employer has entered into one or more contracts with the Council in the 2 years preceding the referral and they or their employer have received or expect to receive payments under the contract or contracts of a cumulative value that exceeds \$100K, or
 - (d) at the time of the referral, they or their employer are the Council's legal service providers or are a member of a panel of legal service providers appointed by the Council.
- 16.5 For the purposes of clause 16.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 7.1 above).
- 16.6 For the purposes of clause 16.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 16.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the Council.
- 16.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.

Preliminary assessment by a conduct reviewer

- 16.9 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.

- 16.10 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- (a) to take no action; or
 - (b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology; or
 - (c) to refer the matter back to the General Manager or, in the case of a complaint about the General Manager, the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, or apology; or
 - (d) to refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police; or
 - (e) to investigate the matter; or
 - (f) to recommend that the complaints coordinator convene a conduct review committee to investigate the matter.
- 16.11 In determining how to deal with a matter under clause 16.10, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 16.27.
- 16.12 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what option to exercise under clause 16.10.
- 16.13 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what option to exercise in relation to the matter under clause 16.10. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 16.14 The conduct reviewer must refer to the Division any complaints referred to him or her that should have been referred to the Division under clauses 15.16 and 15.21.
- 16.15 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 16.16 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 16.10, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it and this will finalise consideration of the matter under these procedures.
- 16.17 Where the conduct reviewer refers a complaint to another agency or body, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 16.18 The conduct reviewer may only determine to investigate a matter or to recommend that a conduct review committee be convened to investigate a matter where they are satisfied as to the following:
- (a) that the complaint is a "code of conduct complaint" for the purposes of these procedures; and
 - (b) that the alleged conduct, on its face, is sufficiently serious to warrant investigation; and
 - (c) that the matter is one that could not or should not be resolved by alternative means.

- 16.19 The conduct reviewer may only determine to recommend that a conduct review committee be convened to investigate a matter after consulting with the complaints coordinator and where they are satisfied that it would not be practicable or appropriate for the matter to be investigated by a sole conduct reviewer.
- 16.20 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator.
- 16.21 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint except as may be specifically required under these procedures.

Referral back to the General Manager or Mayor for resolution

- 16.22 Where the conduct reviewer determines to refer a matter back to the General Manager or to the Mayor to be resolved by alternative and appropriate means, they must write to the General Manager or, in the case of a complaint about the General Manager, to the Mayor, recommending the means by which the complaint may be resolved.
- 16.23 The conduct reviewer must consult with the General Manager or Mayor prior to referring a matter back to them under clause 16.22.
- 16.24 The General Manager or Mayor may decline to accept the conduct reviewer's recommendation. Where the General Manager or Mayor declines to do so, the conduct reviewer may determine to deal with the complaint by other means under clause 16.10.
- 16.25 Where the conduct reviewer refers a matter back to the General Manager or Mayor under clause 16.22, the General Manager or, in the case of a complaint about the General Manager, the Mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 16.26 Where the conduct reviewer refers a matter back to the General Manager or Mayor under clause 16.22, the General Manager, or, in the case of a complaint about the General Manager, the Mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

- 16.27 In undertaking the preliminary assessment of a complaint, the conduct reviewer may have regard to the following considerations:
- (a) whether the complaint is a "code of conduct complaint";
 - (b) whether the complaint is trivial, frivolous, vexatious or not made in good faith;
 - (c) whether the complaint discloses prima facie evidence of a breach of the code;
 - (d) whether the complaint raises issues that would be more appropriately dealt with by another agency or body;
 - (e) whether there is or was an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of;
 - (f) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or apology;

- (g) whether the issue/s giving rise to the complaint have previously been addressed or resolved;
- (h) whether the conduct complained of forms part of a pattern of conduct;
- (i) whether there were mitigating circumstances giving rise to the conduct complained of;
- (j) the seriousness of the alleged conduct;
- (k) the significance of the conduct or the impact of the conduct for the Council;
- (l) how much time has passed since the alleged conduct occurred; or
- (m) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

17.0 OPERATIONS OF CONDUCT REVIEW COMMITTEES

- 17.1 Where a conduct reviewer recommends that the complaints coordinator convene a conduct review committee to investigate a matter, the conduct reviewer must notify the complaints coordinator of their recommendation and the reasons for their recommendation in writing.
- 17.2 The complaints coordinator must convene a conduct review committee comprising three conduct reviewers selected from:
- (a) a panel of conduct reviewers established by the Council, or
 - (b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.
- 17.3 In selecting suitable conduct reviewers for membership of a conduct review committee convened under clause 17.2, the complaints coordinator may have regard to the following:
- (a) the qualifications and experience of members of the panel of conduct reviewers, and
 - (b) any recommendation made by the conduct reviewer about the membership of the committee.
- 17.4 The conduct reviewer who made the preliminary assessment of the complaint must not be a member of a conduct review committee convened under clause 17.2.
- 17.5 A member of a panel of conduct reviewers may not be appointed to a conduct review committee where they would otherwise be precluded from accepting a referral of the matter to be considered by the committee under clause 16.4.
- 17.6 Where the complaints coordinator convenes a conduct review committee, they will advise the complainant in writing that the committee has been convened and the membership of the committee.
- 17.7 Where, after a conduct review committee has been convened, a member of the committee becomes unavailable to participate in further consideration of the matter, the complaints coordinator may appoint another person from a panel of conduct reviewers to replace them.
- 17.8 Meetings of a conduct review committee may be conducted in person or by teleconference.
- 17.9 The members of the conduct review committee must elect a chairperson of the committee.
- 17.10 A quorum for a meeting of the conduct review committee is two members.
- 17.11 Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.
- 17.12 If a quorum is not present at a meeting of the conduct review committee, it must be adjourned to a time and date that is specified.

- 17.13 Each member of the conduct review committee is entitled to one vote in relation to a matter. In the event of an equality of votes being cast, the chairperson will have a casting vote.
- 17.14 If the vote on a matter is not unanimous, then this should be noted in the report of the conduct review committee in which it makes its determination in relation to the matter.
- 17.15 The chairperson may make a ruling on questions of procedure and the chairperson's ruling is to be final.
- 17.16 The conduct review committee may only conduct business in the absence of the public.
- 17.17 The conduct review committee must maintain proper records of its proceedings.
- 17.18 The complaints coordinator shall undertake the following functions in support of a conduct review committee:
- (a) provide procedural advice where required;
 - (b) ensure adequate resources are provided including secretarial support;
 - (c) attend meetings of the conduct review committee in an advisory capacity; and
 - (d) provide advice about Council's processes where requested.
- 17.19 The complaints coordinator must not be present at, or in sight of a meeting of, the conduct review committee where it makes its final determination in relation to the matter.
- 17.20 The conduct review committee may adopt procedures governing the conduct of its meetings that supplement these procedures. However any procedures adopted by the committee must not be inconsistent with these procedures.

18.0 INVESTIGATIONS

What matters may a conduct reviewer or conduct review committee investigate?

- 18.1 A conduct reviewer or conduct review committee (hereafter referred to as an "investigator") may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 18.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the General Manager, or, in the case of alleged conduct on the part of the General Manager, to the Mayor.
- 18.3 The General Manager or the Mayor is to deal with a matter reported to them by an investigator under clause 18.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

- 18.4 The investigator must at the outset of their investigation provide a written notice of investigation to the subject person. The notice of investigation must:
- disclose the substance of the allegations against the subject person; and
 - advise of the relevant provisions of the code of conduct that apply to the alleged conduct; and
 - advise of the process to be followed in investigating the matter; and
 - invite the subject person to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice; and
 - provide the subject person the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 18.5 The subject person may within 14 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the subject person to identify the substance of the allegation against them.
- 18.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the subject person in relation to the matter referred to them.
- 18.7 Where an investigator issues an amended notice of investigation, they will provide the subject person with a further opportunity to make a written submission in response to the amended notice of investigation within 28 days or such other reasonable period specified by the investigator in the amended notice.
- 18.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the General Manager, or in the case of a complaint about the General Manager, to the Mayor. The notice must:
- advise them of the matter the investigator is investigating, and

- (b) in the case of the notice to the complainant, invite them to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice.

Written and oral submissions

- 18.9 Where the subject person or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 18.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 18.11 Prior to preparing a draft report, the investigator must give the subject person an opportunity to address the investigator on the matter being investigated. The subject person may do so in person or by telephone.
- 18.12 Where the subject person fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the subject person.
- 18.13 Where the subject person accepts the opportunity to address the investigator in person, they may have a support person or legal advisor in attendance. The support person or legal advisor will act in an advisory or support role to the subject person only. They must not speak on behalf of the subject person or otherwise interfere with or disrupt proceedings.
- 18.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

- 18.15 Investigations are to be undertaken without undue delay.
- 18.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 18.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 18.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 18.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Referral or resolution of a matter after the commencement of an investigation

- 18.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- (a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology; or
 - (b) refer the matter to the General Manager, or, in the case of a complaint about the General Manager, to the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology; or
 - (c) refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police.
- 18.21 Where an investigator determines to exercise any of the options under clause 18.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 16 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 18.22 Where an investigator determines to exercise any of the options under clause 18.20 after the commencement of an investigation, they may by written notice to the subject person, the complainant, the complaints coordinator and the General Manager, or in the case of a complaint about the General Manager, the Mayor, discontinue their investigation of the matter.
- 18.23 Where the investigator discontinues their investigation of a matter under clause 18.22, this shall finalise the consideration of the matter under these procedures.
- 18.24 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 18.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 18.25 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 18.26 The investigator must provide their draft report to the subject person and invite them to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 18.27 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 18.28 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 18.29 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. Where as a result of making further enquiries, the investigator makes any material change to their

proposed report that makes new adverse comment about the subject person or an affected person, they must provide the subject person or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.

- 18.30 Where the subject person or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 18.31 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 18.32 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 18.22.
- 18.33 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 18.34 The investigator's final report must:
- (a) make findings of fact in relation to the matter investigated; and,
 - (b) make a determination that the conduct investigated either:
 - (i) constitutes a breach of the code of conduct; or
 - (ii) does not constitute a breach of the code of conduct; and
 - (c) provide reasons for the determination.
- 18.35 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- (a) that the Council revise any of its policies or procedures;
 - (b) that the subject person undertake any training or other education relevant to the conduct giving rise to the breach;
 - (c) that the subject person be counselled for their conduct;
 - (d) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation;
 - (e) that findings of inappropriate conduct be made public;
 - (f) in the case of a breach by the General Manager, that action be taken under the General Manager's contract for the breach;
 - (g) in the case of a breach by a Councillor, that the Councillor be formally censured for the breach under section 440G of the Act;
 - (h) in the case of a breach by a Councillor, that the Council resolves as follows:
 - (i) that the Councillor be formally censured for the breach under section 440G of the Act; and
 - (ii) that the matter be referred to the Division for further action under the misconduct provisions of the Act.
- 18.36 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- (a) that the Council revise any of its policies or procedures;
 - (b) that a person or persons undertake any training or other education.

- 18.37 In making a recommendation under clause 18.35, the investigator may have regard to the following:
- (a) the seriousness of the breach;
 - (b) whether the breach can be easily remedied or rectified;
 - (c) whether the subject person has remedied or rectified their conduct;
 - (d) whether the subject person has expressed contrition;
 - (e) whether there were any mitigating circumstances;
 - (f) the age, physical or mental health or special infirmity of the subject person;
 - (g) whether the breach is technical or trivial only;
 - (h) any previous breaches;
 - (i) whether the breach forms part of a pattern of conduct;
 - (j) the degree of reckless intention or negligence of the subject person;
 - (k) the extent to which the breach has affected other parties or the Council as a whole;
 - (l) the harm or potential harm to the reputation of the Council or local government arising from the conduct;
 - (m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny;
 - (n) whether an educative approach would be more appropriate than a punitive one;
 - (o) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action; and
 - (p) what action or remedy would be in the public interest.
- 18.38 At a minimum, the investigator's final report must contain the following information:
- (a) a description of the allegations against the subject person;
 - (b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated;
 - (c) a statement of reasons as to why the conduct reviewer considered that the matter warranted investigation;
 - (d) a statement of reasons as to why the conduct reviewer considered that the matter was one that could not or should not be resolved by alternative means;
 - (e) where the matter is investigated by a conduct review committee, a statement as to why the matter was one that warranted investigation by a conduct review committee instead of a sole conduct reviewer;
 - (f) a description of any attempts made to resolve the matter by use of alternative means;
 - (g) the steps taken to investigate the matter;
 - (h) the facts of the matter;
 - (i) the investigator's findings in relation to the facts of the matter and the reasons for those findings;
 - (j) the investigator's determination and the reasons for that determination;
 - (k) any recommendations.
- 18.39 The investigator must provide a copy of their report to the complaints coordinator, the subject person and the complainant.
- 18.40 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the General Manager or, where the report relates to the General Manager's conduct, to the Mayor and this will finalise consideration of the matter under these procedures.

- 18.41 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 18.35, paragraph (a), the complaints coordinator must provide a copy of the investigator's report to the General Manager. Where the General Manager agrees with the recommendation/s, the General Manager is responsible for implementing the recommendation/s.
- 18.42 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 18.35, paragraphs (b) or (c), the complaints coordinator must provide a copy of the investigator's report to the General Manager or, where the report relates to the General Manager's conduct, to the Mayor. The General Manager is responsible for arranging the implementation of the recommendation/s where the report relates to a Councillor's conduct. The Mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the General Manager's conduct.
- 18.43 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 18.35, paragraphs (d) to (h), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary Council meeting for the Council's consideration unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary Council meeting following the election.

Consideration of the final investigation report by Council

- 18.44 The role of the Council in relation to a final investigation report is to impose a sanction where an investigator determines that there has been a breach of the code of conduct and makes a recommendation in their final report under clause 18.35, paragraphs (d) to (h).
- 18.45 The Council is to close its meeting to the public to consider the final investigation report where it is permitted to do so under section 10A of the Act.
- 18.46 Where the complainant is a Councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant Councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the Act or the Model Code.
- 18.47 Prior to imposing a sanction, the Council must provide the subject person with an opportunity to make an oral submission to the Council. The subject person is to confine their submission to addressing the investigator's recommendation/s.
- 18.48 Once the subject person has completed their oral submission they must absent themselves from the meeting and, where they are a Councillor, take no part in any discussion or voting on the matter.
- 18.49 The Council must not invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 18.50 Prior to imposing a sanction, the Council may by resolution:
- (a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
 - (b) seek an opinion by the Division in relation to the report.

- 18.51 The Council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Division.
- 18.52 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 18.53 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the Council, the subject person and the complainant.
- 18.54 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 18.55 The Council is only required to provide the subject person a further opportunity to address it on a supplementary report where the supplementary report contains new information that is adverse to them.
- 18.56 A Council may by resolution impose one or more of the following sanctions on a subject person:
- (a) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution;
 - (b) that findings of inappropriate conduct be made public;
 - (c) in the case of a breach by the General Manager, that action be taken under the General Manager's contract for the breach;
 - (d) in the case of a breach by a Councillor, that the Councillor be formally censured for the breach under section 440G of the Act;
 - (e) in the case of a breach by a Councillor:
 - (i) that the Councillor be formally censured for the breach under section 440G of the Act, and
 - (ii) that the matter be referred to the Division for further action under the misconduct provisions of the Act.
- 18.57 The Council is not obliged to adopt the investigator's recommendation/s. Where the Council does not adopt the investigator's recommendation/s, the Council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 18.58 The Council may, by resolution, impose a sanction on the subject person under clause 18.57 different to the sanction recommended by the investigator in their final report.
- 18.59 Where the Council resolves not to adopt the investigator's recommendation/s, the complaints coordinator must notify the Division of the Council's decision and the reasons for it.

19.0 RIGHTS OF REVIEW

Failure to comply with a requirement under these procedures

- 19.1 Where any person believes that a person has failed to comply with a requirement prescribed under these procedures, they may, at any time prior to the Council's consideration of an investigator's final report, raise their concerns in writing with the Division.

Practice rulings

- 19.2 Where a subject person and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Division to make a ruling on a question of procedure ("a practice ruling").
- 19.3 Where the Division receives a request in writing for a practice ruling, the Division may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 19.4 Where the Division makes a practice ruling, all parties are to comply with it.
- 19.5 The Division may decline to make a practice ruling. Where the Division declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

Requests for review

- 19.6 A person the subject of a sanction imposed under Part 18 of these procedures other than one imposed under clause 18.57, paragraph (e), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Division.
- 19.7 A review under clause 19.6 may be sought on the following grounds:
- (a) that the investigator has failed to comply with a requirement under these procedures; or
 - (b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct; or
 - (c) that the Council has failed to comply with a requirement under these procedures in imposing a sanction.
- 19.8 A request for a review made under clause 19.6 must be made in writing and must specify the grounds upon which the person believes the investigator or the Council has erred.
- 19.9 The Division may decline to conduct a review, where the grounds upon which the review is sought are not sufficiently specified.
- 19.10 The Division may undertake a review of a matter without receiving a request under clause 19.6.
- 19.11 The Division will undertake a review of the matter on the papers. However, the Division may request that the complaints coordinator provide such further information that the Division considers reasonably necessary for it to review the matter. The

complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Division.

- 19.12 Where a person requests a review under clause 19.6, the Division may direct the Council to defer any action to implement a sanction. The Council must comply with a direction to defer action by the Division.
- 19.13 The Division must notify the person who requested the review and the complaints coordinator of the outcome of the Division's review in writing and the reasons for its decision. In doing so, the Division may comment on any other matters the Division considers to be relevant.
- 19.14 Where the Division considers that the investigator or the Council has erred, the Division may recommend that a decision to impose a sanction under these procedures be reviewed.
- 19.15 In the case of a sanction implemented by the General Manager or Mayor under clause 18.42, where the Division recommends that the decision to impose a sanction be reviewed:
- (a) the complaints coordinator must provide a copy of the Division's determination in relation to the matter to the General Manager or the Mayor; and
 - (b) the General Manager or Mayor must review any action taken by them to implement the sanction; and
 - (c) the General Manager or Mayor must consider the Division's recommendation in doing so.
- 19.16 In the case of a sanction imposed by the Council by resolution under clause 18.57, where the Division recommends that the decision to impose a sanction be reviewed:
- (a) the complaints coordinator must, where practicable, arrange for the Division's determination to be tabled at the next ordinary Council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary Council meeting following the election, and
 - (b) the Council must:
 - (i) review its decision to impose the sanction; and
 - (ii) consider the Division's recommendation in doing so; and
 - (iii) resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 19.17 Where having reviewed its previous decision in relation to a matter under clause 19.16 the Council resolves to reaffirm its previous decision, the Council must state in its resolution its reasons for doing so.

20.0 PROCEDURAL IRREGULARITIES

- 20.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct except as may be otherwise specifically provided under the code of conduct.
- 20.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- (a) the non-compliance is isolated and/or minor in nature; or
 - (b) reasonable steps are taken to correct the non-compliance; or
 - (c) reasonable steps are taken to address the consequences of the non-compliance.

21.0 PRACTICE DIRECTIONS

- 21.1 The Division may at any time issue a practice direction in relation to the application of these procedures.
- 21.2 The Division will issue practice directions in writing, by circular to all Councils.
- 21.3 All persons performing a function prescribed under these procedures must consider the Division's practice directions when performing the function.

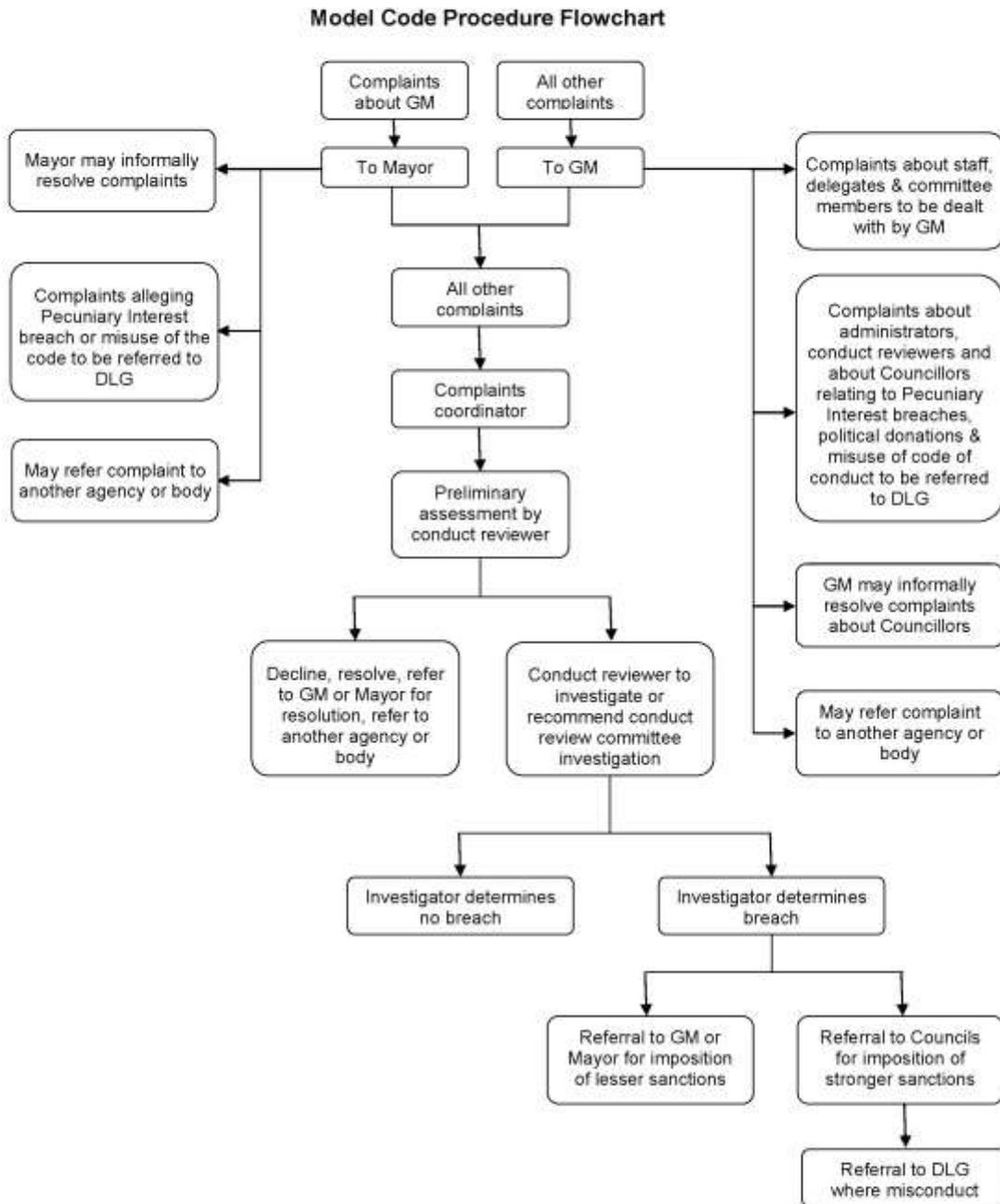
22.0 REPORTING ON COMPLAINTS STATISTICS

- 22.1 The complaints coordinator must arrange for the following statistics to be reported to the Council within 3 months of the end of September of each year:
- (a) the total number of code of conduct complaints made about Councillors and the General Manager under the code of conduct in the year to September;
 - (b) the number of code of conduct complaints referred to a conduct reviewer;
 - (c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints;
 - (d) the number of code of conduct complaints investigated by a conduct reviewer;
 - (e) the number of code of conduct complaints investigated by a conduct review committee;
 - (f) without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures;
 - (g) the number of matter reviewed by the Division and, without identifying particular matters, the outcome of the reviews; and
 - (h) the total cost of dealing with code of conduct complaints made about Councillors and the General Manager in the year to September, including staff costs.
- 22.2 The Council is to provide the Division with a report containing the statistics referred to in clause 22.1 within 3 months of the end of September of each year.

23.0 CONFIDENTIALITY

- 23.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly

disclosed except as may be otherwise specifically required or permitted under these procedures.



* * *

RELEVANT LEGISLATION: *Local Government Act 1993*
Local Government (General) Regulation 2005
Protected Disclosures Act 1994;
Privacy and Personal Information Protection Act
1998;
Health Records and Information Privacy Act
2002;

RELATED POLICIES: 5.55 Dignity and Respect in the Workplace;
 5.27 Equal Employment Opportunity;
 5.29 Drugs and Alcohol;
 5.15 Councillor and Staff Contact;
 5.8 Code of Meeting Practice;
 5.24 Disciplinary Procedures.
 5.57 Payment of Expenses and Provision of
 Facilities for Mayor and Councillors;
 5.13 Internet and E-Mail access.

DELEGATIONS: N

SUSTAINABILITY ELEMENT: N

STAFF TRAINING REQUIRED? N

NEXT REVIEW DATE:**PREVIOUS POLICY****ADOPTED:**

29/03/2005; 12/05/2003;
 27/05/1996; 14/06/1994;
 22/07/2008; 25/11/2008;
 26/02/2013

MINUTE: ORD44/13

CODE OF CONDUCT
POLICY NO 5.3
 Adopted by Council:
 Minute No:

Page 54 of 56

Attachment A
Form of Special Disclosure of Pecuniary Interest

The particulars of this form are to be written in block letters or typed.

If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. The special disclosure must relate to a pecuniary interest that arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under section 443 of the Act) in that person's principal place of residence. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by _____ [full name of councillor] in the matter of _____ [insert name of environmental planning instrument] which is to be considered at a meeting of Camden Council for _____ Committee (as the case requires) to be held on the _____ day of 20__.

	Pecuniary interest
Address of land in which councillor or an associated person, company or body has a proprietary interest (the "identified land") 1	
Relationship of identified land to councillor [Tick or cross one box.]	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land.
Nature of land that is subject to a change in zone/planning control by proposed LEP (the "subject land") 3 [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

CODE OF CONDUCT
POLICY NO 5.3
Adopted by Council:
Minute No:

[If more than one pecuniary interest is to be declared, reprint the above and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by Council's General Manager and included in full in the minutes of the meeting]

- 1 Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative 4 or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.
- 2 Section 442 of the *Local Government Act 1993* provides that a "pecuniary interest" is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
- 3 A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest-see section 448 (g) (ii) of the *Local Government Act 1993*.
- 4 "Relative" is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.



STATEMENT OF BUSINESS ETHICS

1. INTRODUCTION

- 1.1 Camden Council ("Council") is committed to ensuring its business is conducted in a sound commercial and ethical manner, having regard to legislative requirements, the requirements of the Office of Local Government, and Council policies.
- 1.2 Council will demonstrate and practice a professional and ethical approach to all its business activities. Council staff will observe a high standard of probity, ethical behavior and integrity in their business dealings and are bound by, and required to conduct their activities in accordance with:
- Council's Core Values;
 - Council's Code of Conduct;
 - Council's Secondary Employment Policy;
 - Council's Privacy Management Plan;
 - Council's policies concerning gifts and benefits;
 - The *Local Government Act 1993*;
 - Delegated authorities;
 - Work health & safety legislation.
- 1.3 This Statement of Business Ethics ("Statement") provides guidance regarding the standards of ethical behavior that organisations, service providers, small businesses and individuals can expect from Councillors and staff, and that are expected of them in their dealings with Council.

2. BUSINESS PRINCIPLES

There are four key principles which guide dealings with applicants, objectors and suppliers.

Objectivity

- 2.1 Council establishes criteria and objectively assesses matters against such criteria. We take into account all relevant and material facts and circumstances that apply to a given situation, and make decisions based upon merit. Objectivity does not require inviting bids from firms that have performed poorly in the past, or taking into account irrelevant factors in making decisions.

Fairness

- 2.2 Council will treat all parties involved in a fair and even-handed manner. For example, applicants will be advised of all the information required to make an application and, when decision is made, of the reasons for the decision. Potential suppliers will be given equal access to information and opportunities to submit bids. Tenders or requests for quotation will not be called unless there is the intention to award a contract, subject to a satisfactory offer. Changes to or introduction of new selection criteria midway through a tendering process will not occur without advice of such changes being provided to all tenderers.

Openness

- 2.3 All dealings with Council will be transparent and open to public scrutiny. This includes both the process surrounding the dealing and, where appropriate, the nature of the dealing itself. Council will maintain appropriate confidentiality, protect private information, and not disclose commercial-in-confidence or proprietary information unless legally required to do so.

Value for Money

- 2.4 Council will consider all the factors that are relevant to a particular purchase. These include, but may not be limited to, initial and ongoing costs, quality and reliability, timeliness and continuity of supply, and commitment to public health, employee safety, environmental sustainability and other legislative compliance. Value for money does not necessarily mean "lowest price".

The lowest price might, however, represent best value for money if it satisfies other essential criteria.

3. WHAT CAN YOU EXPECT FROM COUNCIL

- 3.1 Council will ensure that all policies, procedures and practices related to approvals, tendering, contracting and the procurement of goods and services are consistent with best practice and the highest standard of ethical conduct. All approvals and procurement activities and decisions will be fully and clearly documented to provide an effective audit trail and allow for effective performance review. Councillors and members of staff must adhere to Council's Code of Conduct. As a result they are expected to:

- Use public resources effectively and efficiently;
- Abide by all relevant and applicable laws and regulations;
- Respect and comply with Council's policies and procedures;
- Deal fairly, honestly and ethically with all individuals and organisations;
- Assess applications objectively, considering all relevant and material factors;
- Promote fair and open competition while seeking best value for money;
- Avoid actual, potential or perceived conflicts of interest;
- Protect confidential information and refrain from discussing Council business or information with the media;
- Never solicit or accept remuneration, gifts or other benefits from a supplier or applicant in the discharge of official duties;
- Respond promptly to reasonable requests for advice and information.

4. WHAT IS EXPECTED OF YOU?

4.1 We require all members of the public, applicants, objectors, suppliers, contractors, sub-contractors and business partners to observe the following when doing business with or on behalf of Council:

- Deliver value for money;
- Act ethically, fairly and honestly in all dealings with Council;
- Respect the obligation of staff to abide by Council policies including the Code of Conduct;
- Comply with Council's approvals and procurement policies and procedures;
- Respect and comply with the conditions set out in documents supplied by Council;
- Provide accurate and reliable advice and information when required;
- Declare actual, potential or perceived conflicts of interest as soon as possible;
- Take all measures to prevent unauthorised release of privileged information, including confidential information;
- Refrain from lobbying or canvassing Councillors or members of staff during tender or other procurement processes;
- Refrain from engaging in any form of collusive practice, including offering Council officials inducements or incentives designed to improperly influence the conduct of their duties;
- Refrain from discussing Council business or information in the media;
- Assist Council to prevent unethical practices in its business relationships.

5. WHY YOU MUST COMPLY

5.1 This Statement is about being able to conduct business in a fair and ethical manner that advances both the interests and objectives of Council and everyone's business. As all stakeholders are required to comply with this Statement, compliance will not place any party at a disadvantage.

5.2 Complying with these principles and standards of behaviour will also prepare suppliers to deal with the ethical requirements of other public sector organisations, should they choose to do business with them. There are consequences of not complying with the standards of behaviour outlined in this Statement.

5.3 Breach of this Statement or demonstrated corrupt or unethical conduct could lead to:

- Disqualification of tender, or termination of contracts;
- Loss of future work;
- Dismissal for Council employees and delegates
- Investigation for corruption;

- Loss of reputation;
- Matters being referred to law enforcement authorities for criminal investigation, or to ICAC or other independent authorities.

6. DOING BUSINESS WITH COUNCIL

Gifts and Benefits

- 6.1 Council awards contracts and determines applications based solely on merit. Gifts must not be given in connection with any prospective business dealings or generally where they might be perceived as intending to influence Council officers. Contractors must hold their sub-contractors to the same standards. Council officers are not permitted to ask for any reward or incentive for doing their job and none is expected. Attempting to give a gift is likely to have a negative effect on relationships with Council. Council maintains a gifts register to ensure that any gifts are recorded.

Conflicts of Interest

- 6.2 Councillors and staff are required to disclose and resolve any actual or potential conflicts of interest. Applicants, objectors, business partners, contractors and suppliers are required to do the same. It is the responsibility of all persons doing business with Council to understand what constitutes a conflict of interest.

In broad terms, a conflict of interest exists when a public official could be influenced, or a reasonable person would perceive that the public official could be influenced, by a personal interest when carrying out their public duty. Further explanations of conflict of interest can be found in Council's Code of Conduct.

Declarations of conflict of interest should be made promptly to the Council officer who is administering the matter or the Manager Customer Service and Governance (see contact details at the end of this Statement).

Use of Council equipment and resources

- 6.3 Council equipment, resources and information should only be used for their proper official purpose and in accordance with the relevant policies of Council.

Use of Council information

- 6.4 Any confidential Council information should be treated as such and should not be revealed to unauthorised persons. Private, confidential, commercial-in-confidence or proprietary information contained within applications, objections, tenders, quotations, expressions of interest, proposals, heads of agreements and the like, should never be given to competitors or unauthorised persons. Information provided by Council should only be used for the purpose it was given.

- 6.5 Suppliers handling private information on behalf of Council are expected to adhere to Council's Privacy Management Plan.

Communication

- 6.6 All communication by any means should be clear and direct to minimise the risk of perception of inappropriate influence being brought to bear on the business relationship. Only authorised Council staff can make comments on behalf of Council and others must not do so without Council's consent.

Secondary and post-separation employment

- 6.7 Members of Council staff have a duty to maintain public trust and confidence and not use commercially sensitive information to facilitate future employment opportunities.

Intellectual property rights

- 6.8 In business relationships with Council, parties are expected to respect each other's intellectual property rights, and formally negotiate any access, licence or use of intellectual property.

Workplace Safety

- 6.9 It is expected that Council and those who conduct business with Council will ensure that workplace safety is of paramount importance and that all legislative and procedural safety requirements are complied with.

This includes preventing bullying, harassment and discrimination and those who engage in, or cause, instruct, aid or knowingly permit another person to engage in these practices in the workplace will be held responsible.

Political Donations

- 6.10 The law requires that persons who have a financial interest in, or have made a submission in relation to, a development application or a planning instrument, disclose certain information about political donations and other gifts. This is a mandatory requirement if a donation or gift has been made to a Councillor or Council employee within the previous two years of the application or submission.

Sponsorship

- 6.11 Camden Council has adopted Sponsorship Guidelines, of which all public officials should make themselves aware prior to entering into any sponsorship arrangements with Council.

7. WHOM TO CONTACT ABOUT THIS STATEMENT

If you are concerned about a possible breach of this Statement, or about any conduct that could involve fraud, corrupt conduct, maladministration, or serious and substantial waste of public funds, please contact Council's General Manager or Manager Customer Service and Governance by letter, phone, or email at the contact details below.

Information may also be lodged on our website at <http://www.camden.nsw.gov.au/council/forms-and-publications/forms/report-a-problem/>

Phone: 02 4654 7777
Email: mail@camden.nsw.gov.au
Address: PO BOX 183 Camden NSW 2570

Alternatively, reports of unethical behaviour can be made to:

- Independent Commission Against Corruption (ICAC) – 8281 5999
- NSW Ombudsman – 9286 1000
- NSW Office of Local Government – 4428 4100

ORD09

Attachment 1



Monthly Report

Camden Council

November 2016

Investment Exposure

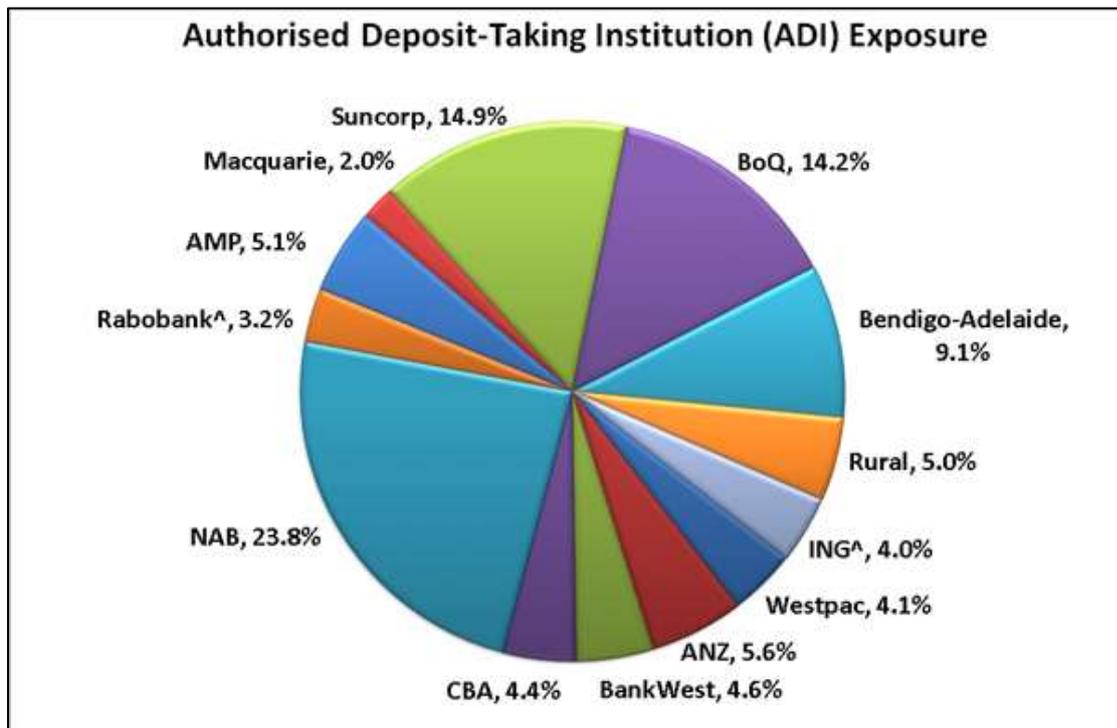
Council's investment portfolio is directed to the higher rated ADIs. Council will continue to diversify the investment portfolio across the higher rated ADIs (A1 or higher).

Capacity is approaching the maximum limits with Suncorp and BoQ.

ADI	Exposure \$M	Rating	Policy Limit	Actual	Capacity
Westpac	\$4.00M	A1+	25.0%	4.1%	\$20.68M
ANZ	\$5.50M	A1+	25.0%	5.6%	\$19.18M
BankWest	\$4.50M	A1+	25.0%	4.6%	\$20.18M
CBA	\$4.30M	A1+	25.0%	4.4%	\$20.38M
NAB	\$23.50M	A1+	25.0%	23.8%	\$1.18M
Rabobank^	\$3.20M	A1	5.0%	3.2%	\$1.74M
AMP	\$5.00M	A1	15.0%	5.1%	\$9.81M
Macquarie	\$2.00M	A1	15.0%	2.0%	\$12.81M
Suncorp	\$14.70M	A1	15.0%	14.9%	\$0.00M
BoQ	\$14.00M	A1	15.0%	14.2%	\$0.81M
Bendigo-Adelaide	\$9.00M	A1	15.0%	9.1%	\$5.81M
Rural	\$5.00M	A1	15.0%	5.0%	\$9.87M
ING^	\$4.00M	A2	5.0%	4.0%	\$0.99M
Total	\$98.70M			100.0%	

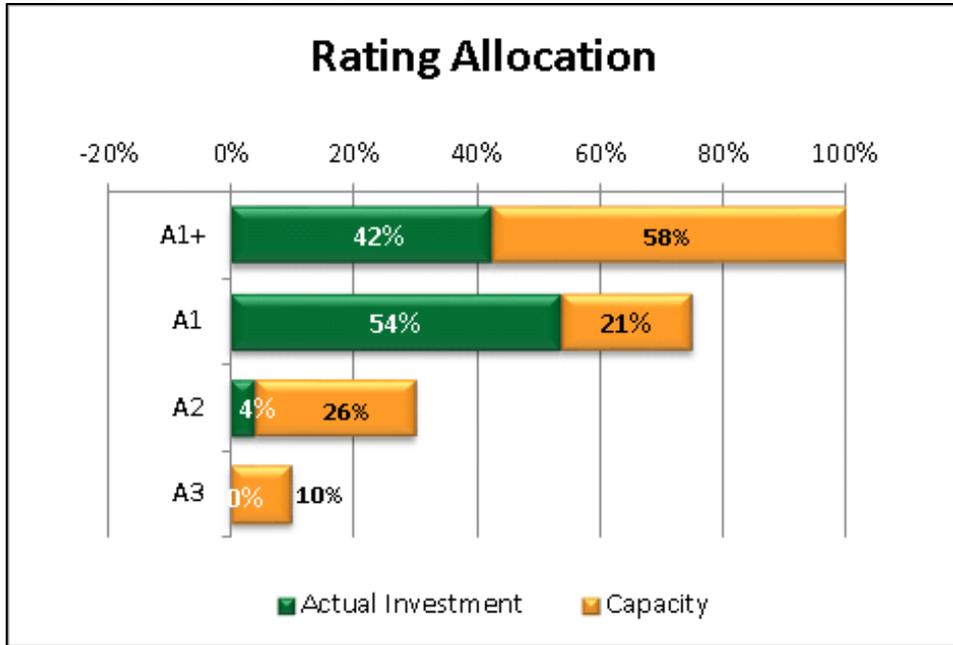
[^]Foreign subsidiary banks are limited to 5% of the total investment portfolio as per Council's investment policy.

The investment portfolio is predominately directed to the higher rated entities led by NAB, Suncorp and BoQ.



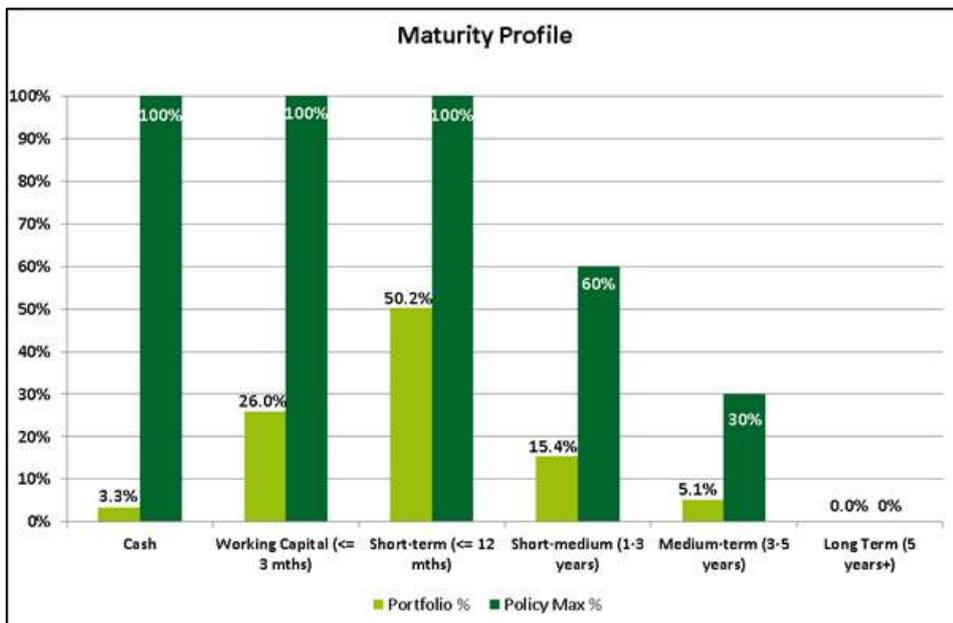
Credit Quality

A1+ (the domestic majors) and A1 (the higher rated regionals) rated ADIs are the largest share of Council's investments. There is still capacity to invest across the entire credit spectrum.



Term to Maturity

The portfolio remains adequately liquid with approximately 3.3% of investments at-call and another 26.0% of assets maturing within 3 months. There is still high capacity to invest in terms greater than 1 year. In consultation with its investment advisors, Council has strategically diversified its investments across various maturities up to 5 years over the past few years.



In the historic low interest rate environment, as existing deposits mature, they will generally be reinvested at much lower rates than preceding years. A larger spread of maturities in medium-term assets would help income pressures over future financial years. The RBA continued its easing cycle, cutting interest rates by a further 25bp to a record low 1.5% in its meeting in August. After the positive rhetoric from new RBA Governor Philip Lowe, money markets are now pricing in the possibility of a rate rise by early 2018, although the longer-term interest rate outlook remains very low.

Current Budget Rate	3.00%
Source of Funds Invested	
Section 94 Developer Contributions	\$51,393,798
Restricted Grant Income	\$1,014,307
Externally Restricted Reserves	\$10,198,430
Internally Restricted Reserves	\$21,678,421
General Fund	\$14,415,044
Total Funds Invested	\$98,700,000
Council's investment portfolio has increased by \$2.6 million since the October reporting period. The increase primarily relates to the second rates instalment for the 2016/17 financial year received in November.	

2016-17 Budget

INTEREST RECEIVED DURING 2016/17 FINANCIAL YEAR					
	November	Cumulative	Original Budget	*Revised Budget	Projected Interest
General Fund	\$96,444	\$466,536	\$1,400,000	\$1,400,000	\$1,200,000
Restricted	\$161,136	\$849,112	\$700,400	\$1,400,000	\$1,600,000
Total	\$257,580	\$1,315,648	\$2,100,400	\$2,800,000	\$2,800,000

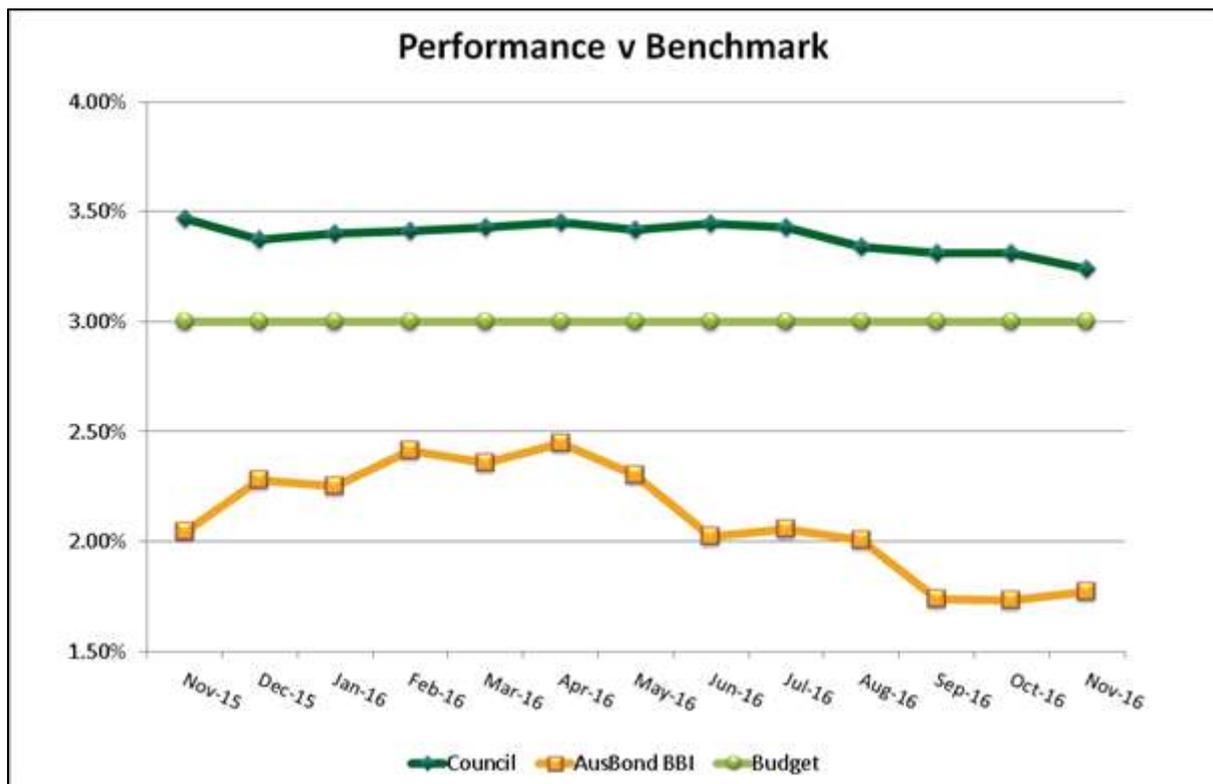
*The Revised Budget is reviewed on a quarterly basis as part of the Budget Process

Interest Summary

The portfolio's interest summary as at 30 November 2016 is as follows:

NUMBER OF INVESTMENTS	72
AVERAGE DAYS TO MATURITY	290
AVERAGE PERCENTAGE	3.24% p.a.
WEIGHTED PORTFOLIO RETURN	3.24% p.a.
CBA CALL ACCOUNT *	1.20% p.a.
HIGHEST RATE	5.10% p.a.
LOWEST RATE	2.57% p.a.
BUDGET RATE	3.00% p.a.
AVERAGE BBSW (30 Day)	1.62% p.a.
AVERAGE BBSW (90 Day)	1.76% p.a.
AVERAGE BBSW (180 Day)	2.00% p.a.
OFFICIAL CASH RATE	1.50% p.a.
AUSBOND BANK BILL INDEX	1.77% p.a.

*Note: CBA call account is not included in the investment performance calculations

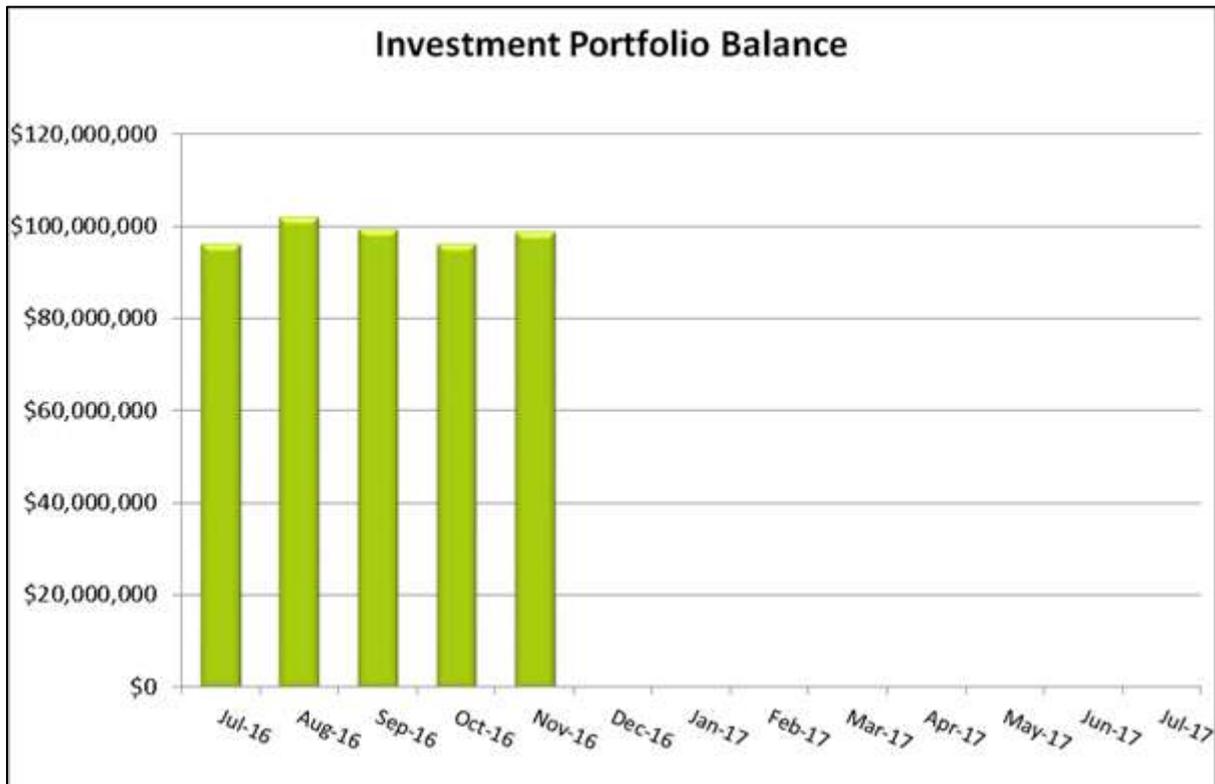


The portfolio's outperformance over the benchmark (AusBond Bank Bill Index) continues to be attributed to the longer-dated deposits in the portfolio. Deposits invested close to or above 4% will contribute strongly to outperformance over coming financial years. As existing deposits mature, performance will generally fall as deposits will be reinvested at much lower prevailing rates compared to previous years. Future budgets may be adjusted to reflect a longer period of low interest rates.

Appendix A – List of Investments

Camden Council Investment Portfolio as at 30 November 2016								
Institution	Type	Amount	Interest Rate	Date Invested	Maturity Date	Original Term of Investment (days)	Days to Maturity	Interest Accrued as at 30/11/2016
BOQ	TD	\$2,500,000.00	5.00%	4/11/2013	1/11/2018	1823	701	\$9,246.58
BOQ	TD	\$1,000,000.00	5.10%	25/11/2013	22/11/2018	1823	722	\$838.36
ING Bank	TD	\$1,000,000.00	4.63%	28/11/2013	23/11/2017	1456	358	\$1,014.79
BOQ	TD	\$1,000,000.00	4.85%	28/11/2013	23/11/2017	1456	358	\$1,063.01
BOQ	TD	\$1,000,000.00	4.65%	27/02/2014	22/02/2018	1456	449	\$35,416.44
Rabobank	TD	\$1,000,000.00	5.00%	28/02/2014	28/02/2019	1826	820	\$37,945.21
Rabobank	TD	\$1,200,000.00	5.00%	3/03/2014	6/03/2019	1829	826	\$44,876.71
Westpac	TD	\$1,500,000.00	4.55%	15/05/2014	15/05/2019	1826	896	\$37,397.26
Westpac	TD	\$1,500,000.00	4.55%	21/05/2014	22/05/2019	1827	903	\$36,275.34
Bendigo Adelaide Bank	TD	\$1,500,000.00	4.05%	22/05/2014	24/05/2017	1098	175	\$32,122.60
Bendigo Adelaide Bank	TD	\$1,000,000.00	4.05%	27/05/2014	31/05/2017	1100	182	\$20,860.27
Bendigo Adelaide Bank	TD	\$2,000,000.00	4.05%	30/05/2014	31/05/2017	1097	182	\$40,832.88
NAB	TD	\$2,000,000.00	4.00%	5/06/2014	7/06/2017	1098	189	\$39,232.88
Macquarie Bank	TD	\$1,000,000.00	4.00%	1/08/2014	31/07/2017	1095	243	\$13,369.86
BOQ	TD	\$1,000,000.00	4.15%	5/08/2014	1/08/2018	1457	609	\$13,871.23
Rabobank	TD	\$1,000,000.00	4.10%	27/11/2014	27/11/2019	1826	1092	\$449.32
Bendigo Adelaide Bank	TD	\$1,500,000.00	4.25%	28/11/2014	4/12/2019	1832	1099	\$523.97
NAB	TD	\$1,500,000.00	4.00%	16/12/2014	11/12/2019	1821	1106	\$57,698.63
Macquarie Bank	TD	\$1,000,000.00	3.85%	19/12/2014	19/12/2019	1826	1114	\$36,706.85
Rural Bank	TD	\$2,000,000.00	3.70%	9/01/2015	9/01/2018	1096	405	\$66,295.89
Rural Bank	TD	\$1,500,000.00	3.70%	14/01/2015	15/01/2018	1097	411	\$48,961.64
Westpac	TD	\$1,000,000.00	3.90%	2/02/2015	2/02/2020	1826	1159	\$32,375.34
NAB	TD	\$1,000,000.00	3.15%	27/02/2015	1/03/2017	733	91	\$23,732.88
Bendigo Adelaide Bank	TD	\$1,000,000.00	3.00%	14/10/2015	18/10/2017	735	322	\$3,945.21
ANZ	TD	\$2,000,000.00	2.80%	4/11/2015	8/02/2017	462	70	\$4,142.47
Bendigo Adelaide Bank	TD	\$2,000,000.00	3.00%	20/11/2015	22/11/2017	733	357	\$1,643.84
BOQ	TD	\$1,000,000.00	3.05%	25/11/2015	29/11/2017	735	364	\$501.37
AMP	TD	\$1,000,000.00	2.85%	9/12/2015	7/12/2016	364	7	\$27,953.42
Suncorp Metway	TD	\$1,000,000.00	2.98%	30/06/2016	7/12/2016	160	7	\$12,573.15
Rural Bank	TD	\$1,500,000.00	2.98%	30/06/2016	14/12/2016	167	14	\$18,859.73
NAB	TD	\$1,500,000.00	2.94%	30/06/2016	21/12/2016	174	21	\$18,606.58
BOQ	TD	\$1,000,000.00	3.00%	4/07/2016	4/01/2017	184	35	\$12,328.77
Suncorp Metway	TD	\$2,000,000.00	2.82%	6/07/2016	21/12/2016	168	21	\$22,869.04
Suncorp Metway	TD	\$1,500,000.00	2.80%	13/07/2016	21/12/2016	161	21	\$16,224.66
Bankwest	TD	\$1,500,000.00	2.70%	20/07/2016	11/01/2017	175	42	\$14,868.49
Suncorp Metway	TD	\$1,200,000.00	2.70%	27/07/2016	18/01/2017	175	49	\$11,273.42
ING Bank	TD	\$2,000,000.00	2.76%	27/07/2016	25/01/2017	182	56	\$19,206.58
BOQ	TD	\$1,500,000.00	2.75%	3/08/2016	15/02/2017	196	77	\$13,561.64
ANZ	TD	\$2,000,000.00	2.70%	3/08/2016	1/02/2017	182	63	\$17,753.42
NAB	TD	\$3,000,000.00	2.80%	3/08/2016	22/02/2017	203	84	\$27,616.44
Bankwest	TD	\$1,000,000.00	2.61%	10/08/2016	4/01/2017	147	35	\$8,080.27
Bankwest	TD	\$1,000,000.00	2.61%	10/08/2016	18/01/2017	161	49	\$8,080.27
ANZ	TD	\$1,500,000.00	2.60%	10/08/2016	6/03/2017	208	96	\$12,073.97
NAB	TD	\$1,500,000.00	2.73%	17/08/2016	8/03/2017	203	98	\$11,892.33
ING Bank	TD	\$1,000,000.00	2.65%	19/08/2016	13/03/2017	206	103	\$7,550.68
BOQ	TD	\$1,000,000.00	2.80%	19/08/2016	15/03/2017	208	105	\$7,978.08
Suncorp Metway	TD	\$2,000,000.00	2.60%	24/08/2016	20/03/2017	208	110	\$14,104.11
Suncorp Metway	TD	\$1,000,000.00	2.60%	24/08/2016	27/03/2017	215	117	\$7,052.05
AMP	TD	\$1,000,000.00	2.95%	31/08/2016	29/03/2017	210	119	\$7,435.62

Camden Council Investment Portfolio as at 30 November 2016								
Institution	Type	Amount	Interest Rate	Date Invested	Maturity Date	Original Term of Investment (days)	Days to Maturity	Interest Accrued as at 30/11/2016
BOQ	TD	\$1,000,000.00	2.72%	31/08/2016	3/04/2017	215	124	\$6,855.89
Suncorp Metway	TD	\$1,000,000.00	2.65%	31/08/2016	5/04/2017	217	126	\$6,679.45
NAB	TD	\$1,000,000.00	2.60%	31/08/2016	10/04/2017	222	131	\$6,553.42
CBA	TD	\$1,000,000.00	2.57%	2/09/2016	12/04/2017	222	133	\$6,336.99
NAB	TD	\$2,500,000.00	2.60%	7/09/2016	18/04/2017	223	139	\$15,136.99
Suncorp Metway	TD	\$1,000,000.00	2.62%	14/09/2016	24/04/2017	222	145	\$5,598.90
NAB	TD	\$1,000,000.00	2.70%	14/09/2016	28/08/2017	348	271	\$5,769.86
NAB	TD	\$1,000,000.00	2.65%	21/09/2016	26/04/2017	217	147	\$5,154.79
Suncorp Metway	TD	\$1,500,000.00	2.57%	28/09/2016	1/05/2017	215	152	\$6,759.45
NAB	TD	\$1,000,000.00	2.75%	5/10/2016	2/08/2017	301	245	\$4,294.52
NAB	TD	\$500,000.00	2.75%	5/10/2016	31/07/2017	299	243	\$2,147.26
NAB	TD	\$1,000,000.00	2.80%	19/10/2016	4/10/2017	350	308	\$3,298.63
NAB	TD	\$1,500,000.00	2.75%	26/10/2016	25/09/2017	334	299	\$4,068.49
Suncorp Metway	TD	\$1,500,000.00	2.70%	2/11/2016	3/05/2017	182	154	\$3,217.81
BOQ	TD	\$1,000,000.00	2.75%	2/11/2016	8/05/2017	187	159	\$2,184.93
NAB	TD	\$1,500,000.00	2.80%	2/11/2016	30/10/2017	362	334	\$3,336.99
Bankwest	TD	\$1,000,000.00	2.60%	9/11/2016	10/05/2017	182	161	\$1,567.12
AMP	TD	\$1,000,000.00	2.70%	15/11/2016	19/06/2017	216	201	\$1,183.56
AMP	TD	\$2,000,000.00	2.70%	16/11/2016	21/06/2017	217	203	\$2,219.18
NAB	TD	\$1,000,000.00	2.72%	17/11/2016	14/06/2017	209	196	\$1,043.29
BOQ	TD	\$1,000,000.00	2.80%	24/11/2016	15/05/2017	172	166	\$536.99
Suncorp Metway	TD	\$1,000,000.00	2.81%	28/11/2016	22/05/2017	175	173	\$230.96
NAB	TD	\$1,000,000.00	2.70%	30/11/2016	17/05/2017	168	168	\$73.97
# TD Investments	72	\$95,400,000.00	3.24%					\$1,053,532.99
CBA	Call Account	\$3,300,000.00	1.20%					
		\$98,700,000.00						



Appendix B – Ratings Definitions

Standard & Poor's Ratings Description

Standard & Poor's (S&P) is a professional organisation that provides analytical services. An S&P rating is an opinion of the general credit worthiness of an obligor with respect to particular debt security or other financial obligation – based on relevant risk factors.

Credit ratings are based, in varying degrees, on the following considerations:

- Likelihood of payment
- Nature and provisions of the obligation
- Protection afforded by, and relative position of, the obligation in the event of bankruptcy, reorganisation or other laws affecting creditors' rights
- The issue rating definitions are expressed in terms of default risk.

S&P Short-Term Obligation Ratings are:

- **A-1:** This is the highest short-term category used by S&P. The obligor's capacity to meet its financial commitment on the obligation is strong. Within this category, certain obligations are designated with a plus sign (+). This indicates that the obligor's capacity to meet its financial commitment on these obligations is extremely strong.
- **A-2:** A short-term obligation rated A-2 is somewhat more susceptible to the adverse changes in circumstances and economic conditions than obligations in higher rating categories. However the obligor's capacity to meet its financial commitment on the obligation is satisfactory.
- **A-3:** A short-term obligation rated A-3 exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitment on the obligation.

S&P Long-Term Obligations Ratings are:

- **AAA:** An obligation/obligor rated AAA has the highest rating assigned by S&P. The obligor's capacity to meet its financial commitment on the obligation is extremely strong.
- **AA:** An obligation/obligor rated AA differs from the highest rated obligations only in small degree. The obligor's capacity to meet its financial commitment on the obligations is very strong.
- **A:** An obligation/obligor rated A is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations/obligors in higher rated categories. However the obligor's capacity to meet its financial commitment on the obligation is strong.
- **BBB:** A short-term obligation rated BBB exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitment on the obligation.
- **Unrated:** Financial Institutions do not necessarily require a credit rating from the various ratings agencies such as Standard & Poor's and these institutions are classed as "Unrated". Most Credit Unions and Building societies fall into this category. These institutions nonetheless must adhere to the capital maintenance requirements of the Australian Prudential Regulatory Authority (APRA) in line with all authorised Deposit Taking Institutions (Banks, Building societies and Credit Unions).
- **Plus (+) or Minus(-):** The ratings from "AA" to "BBB" may be modified by the addition of a plus or minus sign to show relative standing within the major rating categories

Fitch and Moody's have similar classifications.



Monthly Report

Camden Council

December 2016

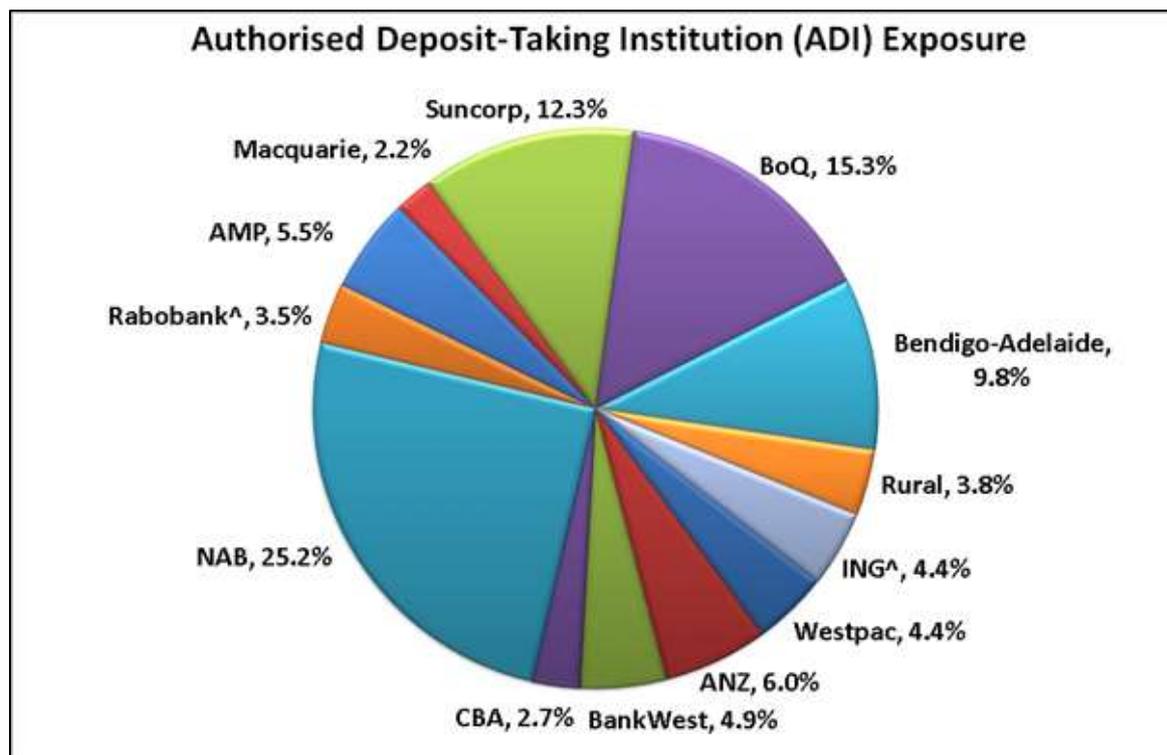
Investment Exposure

Council's investment portfolio is directed to the higher rated entities led by NAB, Suncorp and BoQ. Council was marginally above capacity limits with NAB and BoQ at the end of December 2016 due to portfolio shrinkage. The temporary "overweight" position has already been rectified by reinvesting surplus funds on 3 January 2017.

ADI	Exposure \$M	Rating	Policy Limit	Actual	Capacity
Westpac	\$4.00M	A1+	25.0%	4.4%	\$18.85M
ANZ	\$5.50M	A1+	25.0%	6.0%	\$17.35M
BankWest	\$4.50M	A1+	25.0%	4.9%	\$18.35M
CBA	\$2.50M	A1+	25.0%	2.7%	\$20.35M
NAB	\$23.00M	A1+	25.0%	25.2%	-\$0.15M
Rabobank^	\$3.20M	A1	5.0%	3.5%	\$1.37M
AMP	\$5.00M	A1	15.0%	5.5%	\$8.71M
Macquarie	\$2.00M	A1	15.0%	2.2%	\$11.71M
Suncorp	\$11.20M	A1	15.0%	12.3%	\$0.00M
BoQ	\$14.00M	A1	15.0%	15.3%	-\$0.29M
Bendigo-Adelaide	\$9.00M	A1	15.0%	9.8%	\$4.71M
Rural	\$3.50M	A1	15.0%	3.8%	\$10.21M
ING^	\$4.00M	A2	5.0%	4.4%	\$0.57M
Total	\$91.40M			100.0%	

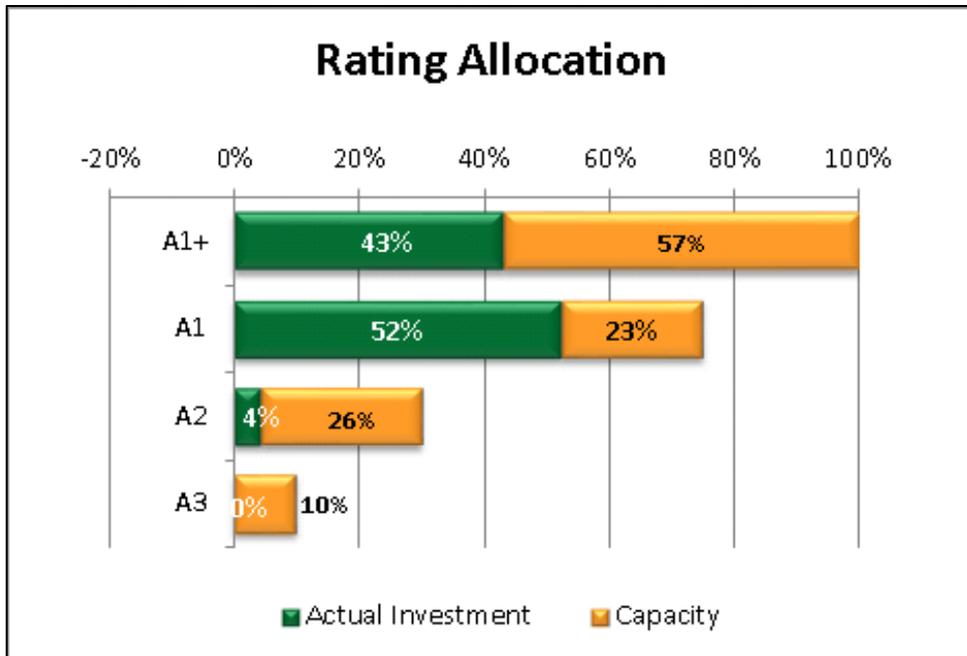
^Foreign subsidiary banks are limited to 5% of the total investment portfolio as per Council's investment policy.

Council will continue to diversify the investment portfolio across the higher rated ADIs (A1 or higher).



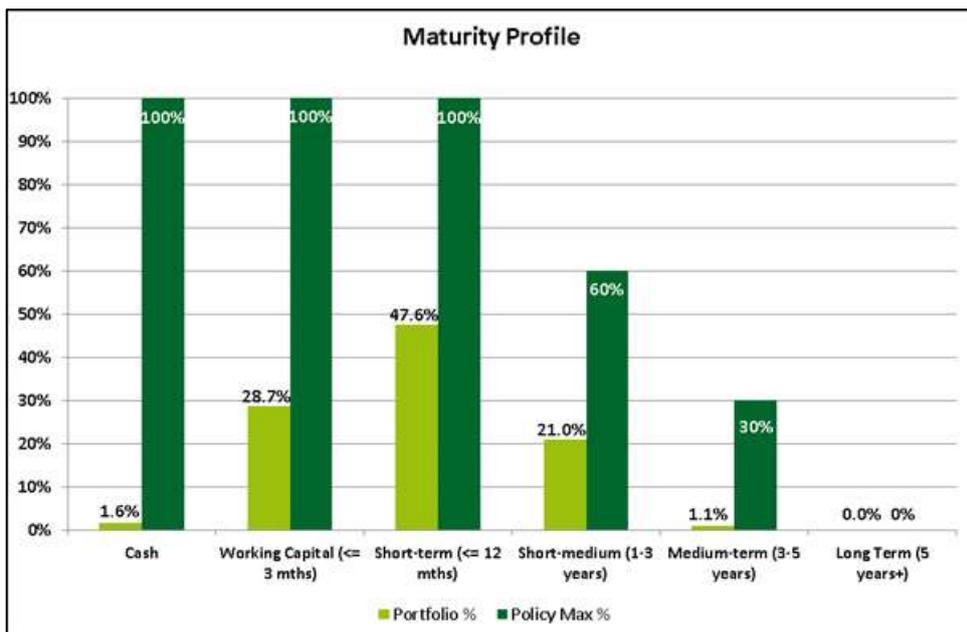
Credit Quality

A1+ (the domestic majors) and A1 (the higher rated regionals) rated ADIs are the largest share of Council's investments. There is still capacity to invest across the entire credit spectrum.



Term to Maturity

The portfolio remains adequately liquid with approximately 1.6% of investments at-call and another 28.7% of assets maturing within 3 months. There is still high capacity to invest in terms greater than 1 year.



In the historic low interest rate environment, as existing deposits mature, they will generally be reinvested at much lower rates than preceding years. A larger spread of maturities in medium-term assets would help income pressures over future financial years. The RBA reduced interest rates to a record low of 1.5% in August 2016. After the initial positive rhetoric from new RBA Governor Philip Lowe, money markets are now pricing in the possibility of a rate rise by late 2017, although the longer-term interest rate outlook remains low, particularly after the recent -0.5% fall in the GDP figure revealed for Q3 2016.

2016-17 Budget

Current Budget Rate	3.00%
Source of Funds Invested	
Section 94 Developer Contributions	\$51,001,698
Restricted Grant Income	\$869,946
Externally Restricted Reserves	\$10,748,705
Internally Restricted Reserves	\$21,652,342
General Fund	\$7,127,309
Total Funds Invested	\$91,400,000
Council's investment portfolio has decreased by \$7.3 million since the November reporting period. The decrease primarily relates to payments for capital works and operational expenditure prior to the end of December.	

INTEREST RECEIVED DURING 2016/17 FINANCIAL YEAR					
	December	Cumulative	Original Budget	*Revised Budget	Projected Interest
General Fund	\$77,596	\$544,132	\$1,400,000	\$1,400,000	\$1,200,000
Restricted	\$165,134	\$1,014,246	\$700,400	\$1,400,000	\$1,600,000
Total	\$242,730	\$1,558,378	\$2,100,400	\$2,800,000	\$2,800,000

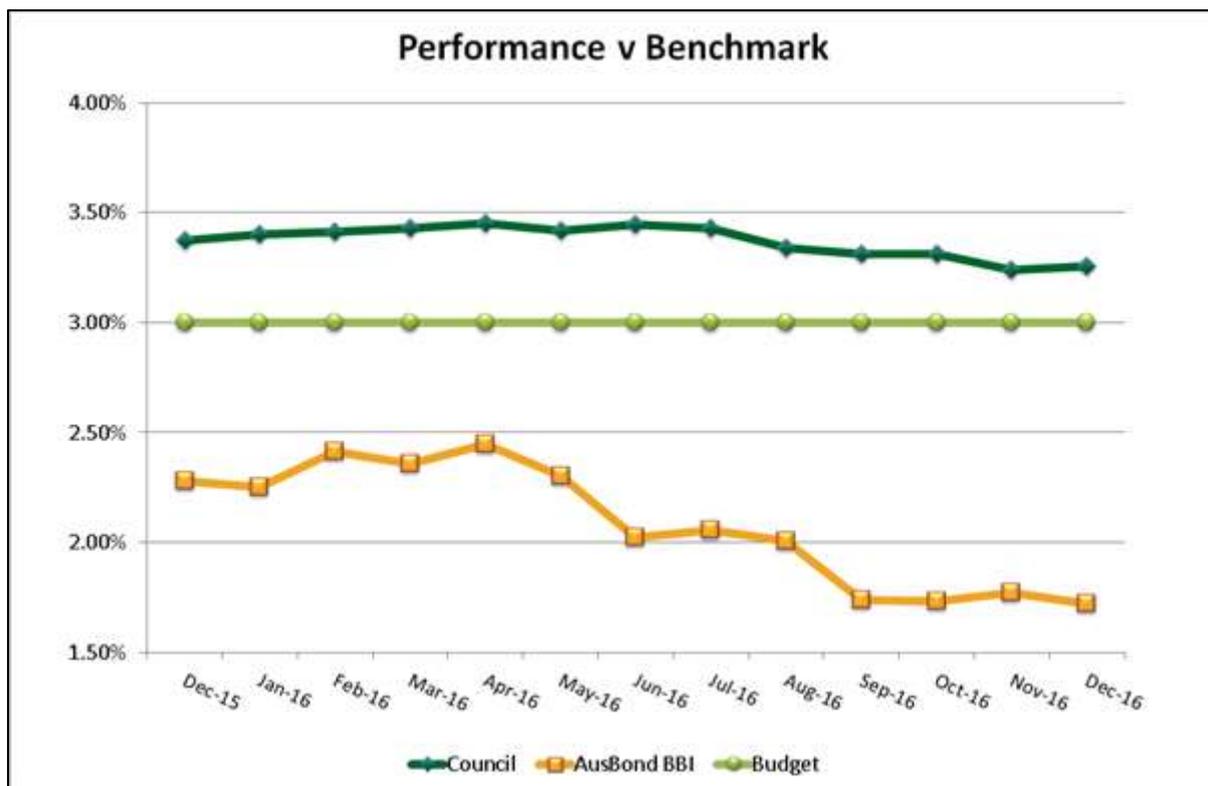
*The Revised Budget is reviewed on a quarterly basis as part of the Budget Process

Interest Summary

The portfolio's interest summary as at 31 December 2016 is as follows:

NUMBER OF INVESTMENTS	69
AVERAGE DAYS TO MATURITY	280
AVERAGE PERCENTAGE	3.25% p.a.
WEIGHTED PORTFOLIO RETURN	3.26% p.a.
CBA CALL ACCOUNT *	1.20% p.a.
HIGHEST RATE	5.10% p.a.
LOWEST RATE	2.57% p.a.
BUDGET RATE	3.00% p.a.
AVERAGE BBSW (30 Day)	1.62% p.a.
AVERAGE BBSW (90 Day)	1.78% p.a.
AVERAGE BBSW (180 Day)	2.02% p.a.
OFFICIAL CASH RATE	1.50% p.a.
AUSBOND BANK BILL INDEX	1.72% p.a.

*Note: CBA call account is not included in the investment performance calculations

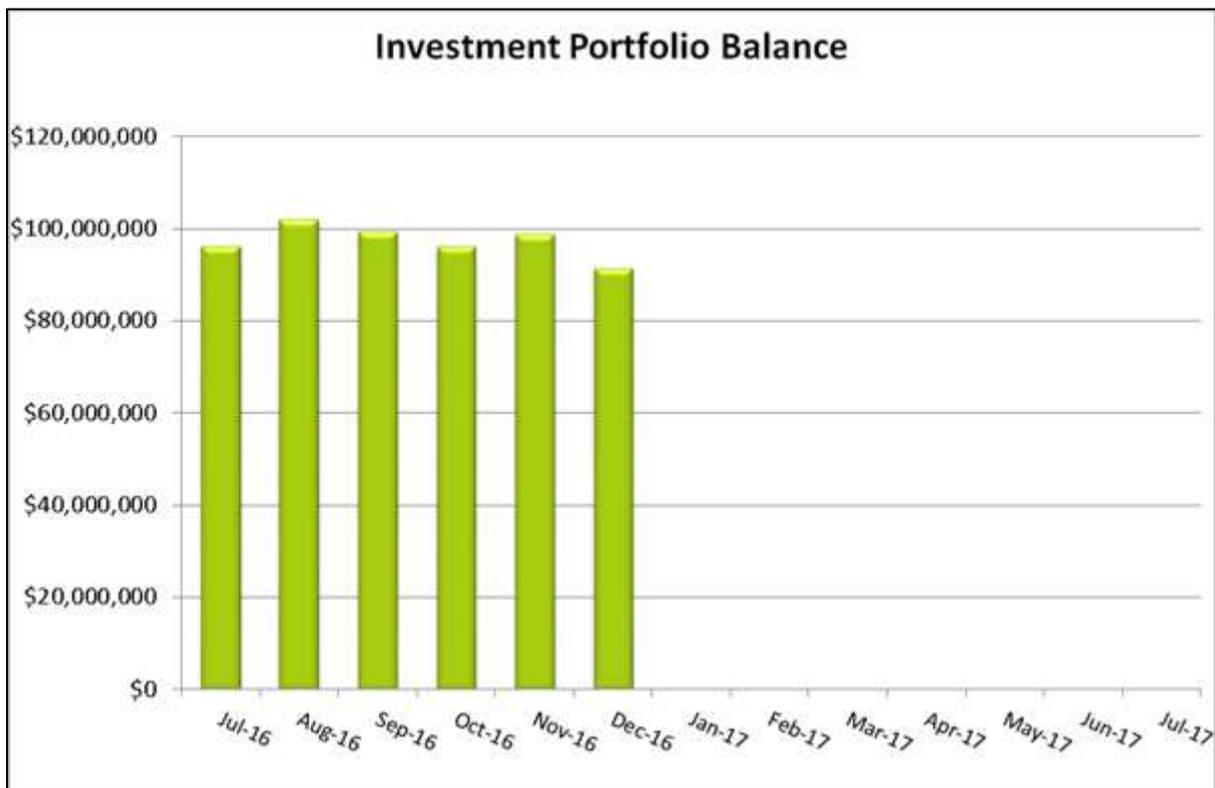


The portfolio's outperformance over the benchmark (AusBond Bank Bill Index) continues to be attributed to the longer-dated deposits in the portfolio. Deposits invested close to or above 4% will contribute strongly to outperformance over coming financial years. As existing deposits mature, performance will generally fall as deposits will be reinvested at much lower prevailing rates compared to previous years. Future budgets may be adjusted to reflect a longer period of low interest rates.

Appendix A – List of Investments

Camden Council Investment Portfolio as at 31 December 2016								
Institution	Type	Amount	Interest Rate	Date Invested	Maturity Date	Original Term of Investment (days)	Days to Maturity	Interest Accrued as at 31/12/2016
BOQ	TD	\$2,500,000.00	5.00%	4/11/2013	1/11/2018	1823	670	\$19,063.01
BOQ	TD	\$1,000,000.00	5.10%	25/11/2013	22/11/2018	1823	691	\$5,169.86
ING Bank	TD	\$1,000,000.00	4.63%	28/11/2013	23/11/2017	1456	327	\$4,947.12
BOQ	TD	\$1,000,000.00	4.85%	28/11/2013	23/11/2017	1456	327	\$5,162.15
BOQ	TD	\$1,000,000.00	4.65%	27/02/2014	22/02/2018	1456	418	\$9,365.75
Rabobank	TD	\$1,000,000.00	5.00%	28/02/2014	28/02/2019	1826	789	\$42,191.78
Rabobank	TD	\$1,200,000.00	5.00%	3/03/2014	6/03/2019	1829	795	\$49,972.60
Westpac	TD	\$1,500,000.00	4.55%	15/05/2014	15/05/2019	1826	865	\$43,193.84
Westpac	TD	\$1,500,000.00	4.55%	21/05/2014	22/05/2019	1827	872	\$42,071.92
Bendigo Adelaide Bank	TD	\$1,500,000.00	4.05%	22/05/2014	24/05/2017	1098	144	\$9,282.19
Bendigo Adelaide Bank	TD	\$1,000,000.00	4.05%	27/05/2014	31/05/2017	1100	151	\$24,300.00
Bendigo Adelaide Bank	TD	\$2,000,000.00	4.05%	30/05/2014	31/05/2017	1097	151	\$47,712.93
NAB	TD	\$2,000,000.00	4.00%	5/06/2014	7/06/2017	1098	158	\$46,027.40
Macquarie Bank	TD	\$1,000,000.00	4.00%	1/08/2014	31/07/2017	1095	212	\$16,767.12
BOQ	TD	\$1,000,000.00	4.15%	5/08/2014	1/08/2018	1457	578	\$17,395.89
Rabobank	TD	\$1,000,000.00	4.10%	27/11/2014	27/11/2019	1826	1061	\$3,931.51
Bendigo Adelaide Bank	TD	\$1,500,000.00	4.25%	28/11/2014	4/12/2019	1832	1068	\$5,938.36
NAB	TD	\$1,500,000.00	4.00%	16/12/2014	11/12/2019	1821	1075	\$2,630.14
Macquarie Bank	TD	\$1,000,000.00	3.85%	19/12/2014	19/12/2019	1826	1083	\$1,371.23
Rural Bank	TD	\$2,000,000.00	3.70%	9/01/2015	9/01/2018	1096	374	\$72,580.82
Rural Bank	TD	\$1,500,000.00	3.70%	14/01/2015	15/01/2018	1097	380	\$53,675.34
Westpac	TD	\$1,000,000.00	3.50%	2/02/2015	2/02/2020	1826	1128	\$35,687.67
NAB	TD	\$1,000,000.00	3.15%	27/02/2015	1/03/2017	733	60	\$26,408.22
Bendigo Adelaide Bank	TD	\$1,000,000.00	3.00%	14/10/2015	18/10/2017	735	291	\$6,493.15
ANZ	TD	\$2,000,000.00	2.80%	4/11/2015	8/02/2017	462	39	\$8,898.63
Bendigo Adelaide Bank	TD	\$2,000,000.00	3.00%	20/11/2015	22/11/2017	733	326	\$6,739.73
BOQ	TD	\$1,000,000.00	3.05%	25/11/2015	29/11/2017	735	333	\$3,091.78
BOQ	TD	\$1,000,000.00	3.00%	4/07/2016	4/01/2017	184	4	\$14,876.71
Bankwest	TD	\$1,500,000.00	2.70%	20/07/2016	11/01/2017	175	11	\$18,308.22
Suncorp Metway	TD	\$1,200,000.00	2.70%	27/07/2016	18/01/2017	175	18	\$14,025.21
ING Bank	TD	\$2,000,000.00	2.76%	27/07/2016	25/01/2017	182	25	\$23,894.79
BOQ	TD	\$1,500,000.00	2.75%	3/08/2016	15/02/2017	196	46	\$17,065.07
ANZ	TD	\$2,000,000.00	2.70%	3/08/2016	1/02/2017	182	32	\$22,339.73
NAB	TD	\$3,000,000.00	2.80%	3/08/2016	22/02/2017	203	53	\$94,750.68
Bankwest	TD	\$1,000,000.00	2.61%	10/08/2016	4/01/2017	147	4	\$10,296.99
Bankwest	TD	\$1,000,000.00	2.61%	10/08/2016	18/01/2017	161	18	\$10,296.99
ANZ	TD	\$1,500,000.00	2.60%	10/08/2016	6/03/2017	208	65	\$15,386.30
NAB	TD	\$1,500,000.00	2.73%	17/08/2016	8/03/2017	203	67	\$15,370.27
ING Bank	TD	\$1,000,000.00	2.65%	19/08/2016	13/03/2017	206	72	\$9,801.97
BOQ	TD	\$1,000,000.00	2.80%	19/08/2016	15/03/2017	208	74	\$10,356.16
Suncorp Metway	TD	\$2,000,000.00	2.60%	24/08/2016	20/03/2017	208	79	\$18,520.55
Suncorp Metway	TD	\$1,000,000.00	2.60%	24/08/2016	27/03/2017	215	86	\$9,260.27
AMP	TD	\$1,000,000.00	2.95%	31/08/2016	29/03/2017	210	88	\$9,941.10
BOQ	TD	\$1,000,000.00	2.72%	31/08/2016	3/04/2017	215	93	\$9,166.03
Suncorp Metway	TD	\$1,000,000.00	2.65%	31/08/2016	5/04/2017	217	95	\$8,930.14
NAB	TD	\$1,000,000.00	2.60%	31/08/2016	10/04/2017	222	100	\$8,761.64
CBA	TD	\$1,000,000.00	2.57%	2/09/2016	12/04/2017	222	102	\$8,519.73
NAB	TD	\$2,500,000.00	2.60%	7/09/2016	18/04/2017	223	108	\$20,657.53
Suncorp Metway	TD	\$1,000,000.00	2.62%	14/09/2016	24/04/2017	222	114	\$7,824.11
NAB	TD	\$1,000,000.00	2.70%	14/09/2016	28/08/2017	348	240	\$8,063.01
NAB	TD	\$1,000,000.00	2.65%	21/09/2016	26/04/2017	217	116	\$7,405.48
Suncorp Metway	TD	\$1,500,000.00	2.57%	28/09/2016	1/05/2017	215	121	\$10,033.56

Camden Council Investment Portfolio as at 31 December 2016								
Institution	Type	Amount	Interest Rate	Date Invested	Maturity Date	Original Term of Investment (days)	Days to Maturity	Interest Accrued as at 31/12/2016
NAB	TD	\$1,000,000.00	2.75%	5/10/2016	2/09/2017	301	214	\$6,630.14
NAB	TD	\$500,000.00	2.75%	5/10/2016	31/07/2017	299	212	\$3,315.07
NAB	TD	\$1,000,000.00	2.80%	19/10/2016	4/10/2017	350	277	\$5,676.71
NAB	TD	\$1,500,000.00	2.75%	26/10/2016	25/09/2017	334	268	\$7,571.92
Suncorp Metway	TD	\$1,500,000.00	2.70%	2/11/2016	3/05/2017	182	123	\$6,657.53
BOQ	TD	\$1,000,000.00	2.75%	2/11/2016	8/05/2017	187	128	\$4,520.55
NAB	TD	\$1,500,000.00	2.80%	2/11/2016	30/10/2017	362	303	\$6,904.11
Bankwest	TD	\$1,000,000.00	2.60%	9/11/2016	10/05/2017	182	130	\$3,775.34
AMP	TD	\$1,000,000.00	2.70%	15/11/2016	19/06/2017	216	170	\$3,476.71
AMP	TD	\$2,000,000.00	2.70%	16/11/2016	21/06/2017	217	172	\$6,805.48
NAB	TD	\$1,000,000.00	2.72%	17/11/2016	14/06/2017	209	165	\$3,353.42
BOQ	TD	\$1,000,000.00	2.80%	24/11/2016	15/05/2017	172	135	\$2,915.07
Suncorp Metway	TD	\$1,000,000.00	2.81%	28/11/2016	22/05/2017	175	142	\$2,617.53
NAB	TD	\$1,000,000.00	2.70%	30/11/2016	17/05/2017	168	137	\$2,367.12
NAB	TD	\$1,000,000.00	2.70%	1/12/2016	19/06/2017	200	170	\$2,293.15
Suncorp Metway	TD	\$1,000,000.00	2.80%	7/12/2016	3/07/2017	208	184	\$1,917.81
AMP	TD	\$1,000,000.00	2.75%	7/12/2016	5/07/2017	210	186	\$1,883.56
# TD Investments	69	\$09,900,000.00	3.26%					\$1,005,422.44
CBA	Call Account	\$1,500,000.00	1.20%					
		\$91,400,000.00						



Appendix B – Ratings Definitions

Standard & Poor's Ratings Description

Standard & Poor's (S&P) is a professional organisation that provides analytical services. An S&P rating is an opinion of the general credit worthiness of an obligor with respect to particular debt security or other financial obligation – based on relevant risk factors.

Credit ratings are based, in varying degrees, on the following considerations:

- Likelihood of payment
- Nature and provisions of the obligation
- Protection afforded by, and relative position of, the obligation in the event of bankruptcy, reorganisation or other laws affecting creditors' rights
- The issue rating definitions are expressed in terms of default risk.

S&P Short-Term Obligation Ratings are:

- **A-1:** This is the highest short-term category used by S&P. The obligor's capacity to meet its financial commitment on the obligation is strong. Within this category, certain obligations are designated with a plus sign (+). This indicates that the obligor's capacity to meet its financial commitment on these obligations is extremely strong.
- **A-2:** A short-term obligation rated A-2 is somewhat more susceptible to the adverse changes in circumstances and economic conditions than obligations in higher rating categories. However the obligor's capacity to meet its financial commitment on the obligation is satisfactory.
- **A-3:** A short-term obligation rated A-3 exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitment on the obligation.

S&P Long-Term Obligations Ratings are:

- **AAA:** An obligation/obligor rated AAA has the highest rating assigned by S&P. The obligor's capacity to meet its financial commitment on the obligation is extremely strong.
- **AA:** An obligation/obligor rated AA differs from the highest rated obligations only in small degree. The obligor's capacity to meet its financial commitment on the obligations is very strong.
- **A:** An obligation/obligor rated A is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations/obligors in higher rated categories. However the obligor's capacity to meet its financial commitment on the obligation is strong.
- **BBB:** A short-term obligation rated BBB exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitment on the obligation.
- **Unrated:** Financial Institutions do not necessarily require a credit rating from the various ratings agencies such as Standard & Poor's and these institutions are classed as "Unrated". Most Credit Unions and Building societies fall into this category. These institutions nonetheless must adhere to the capital maintenance requirements of the Australian Prudential Regulatory Authority (APRA) in line with all authorised Deposit Taking Institutions (Banks, Building societies and Credit Unions).
- **Plus (+) or Minus(-):** The ratings from "AA" to "BBB" may be modified by the addition of a plus or minus sign to show relative standing within the major rating categories

Fitch and Moody's have similar classifications.



Camden Council Minutes

Business Assurance and Risk Committee Meeting

16 November 2016

**Executive Boardroom
Camden Council
Administration Building
70 Central Avenue
Oran Park
5.30PM**



BUSINESS ASSURANCE AND RISK COMMITTEE

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Voting Members Present:

John Gordon	Independent Member (Chair)
Bruce Hanrahan	Independent Member
Cr Therese Fedeli	Camden Council Councillor

Attendees:

General Manager (arrived 6.20pm)
 Manager Finance & Corporate Planning
 Business Assurance Officer
 Risk Management Officer (arrived 5.45pm)
 Senior Governance Officer

Invitees:

Director Customer and Corporate Services (arrived 5.40pm)
 Director Community Infrastructure (arrived 6.08pm)
 Director Planning & Environmental Services (arrived 5.42)
 Manager Governance & Corporate Services
 Manager Community Services
 Manager Infrastructure Services
 Manager Strategic Planning

BUS01 Apologies**RECOMMENDED**

That leave of absence be granted to Councillor Sidgreaves from the Business Assurance and Risk Committee meeting.

DECISION

That Councillor Sidgreaves be granted leave of absence.

BUS02 Declaration Of Interest**RECOMMENDED**

That the Business Assurance and Risk Committee declarations be noted.

DECISION

No declarations of interest were made.

BUS03 Minutes To The 10 October 2016 Business Assurance And Risk Committee Meeting**RECOMMENDED**

That the Business Assurance and Risk Committee:

- i. approve the minutes to the 10 October 2016 Business Assurance and Risk Committee meeting.

DISCUSSION

The Business Assurance and Risk Committee reviewed the Actions listing table noting all actions from the previous Minutes which have been completed or are underway. It was confirmed that the actions listing should show completed items for a 12 month period.

The Committee also confirmed the decisions of the 6 July 2016 meeting included in the actions listing where a quorum was not present.

DECISION

The Business Assurance and Risk Committee:

- i. approve the minutes to the 10 October 2016 Business Assurance and Risk Committee meeting.
- ii. resolved that Item numbers 11, 12 and 13 of the Action Plan are confirmed
- iii. agreed that forward meeting plans be agreed on a calendar year basis with dates for the remainder of the year to be circulated.

Moved: Mr Hanrahan
Seconded: Councillor Fedeli

BUS04 Presentation - Voluntary Planning Agreements

RECOMMENDED

That the Business Assurance and Risk Committee:

- i. Note the presentation provided to the Committee

DISCUSSION

The Manager Strategic Planning addressed the Committee in relation to Camden Council's Voluntary Planning Agreement (VPA) arrangements. The key components and benefits of VPAs and an outline of the process for entering into VPAs was discussed as part of the presentation.

DECISION

The Business Assurance and Risk Committee noted the presentation and thanked the Manager Strategic Planning for an informative session.

The Director Planning and Environmental Services and the Manager Strategic Planning left after this item.

BUS05 Civic Centre Operations Internal Audit ReportRECOMMENDED

That the Business Assurance and Risk Committee:

- i. note the Civic Centre Operations Internal Audit Report.

DISCUSSION

Council's Business Assurance Officer outlined the findings from the Civic Centre Operations Internal Audit that was outsourced to BDO.

It was highlighted that there were delays in completing the audit and that although the final report provided by the outsourced audit firm met the audit needs, it took a long time to get to that stage with multiple reviews of the audit report undertaken.

The Business Assurance Officer tabled the Customer Satisfaction Surveys at the meeting.

Discussion was had around the use of the facility and the Committee was advised that an action exists within Council's Camden Town Centre Vision to consider initiatives to increase activity at the Civic Centre.

It was highlighted that many of the Centre's operational recommendations in the report had been completed.

The Director Customer and Corporate Services acknowledged the significant effort from the Manager Community Services, Civic Centre Manager and Business Assurance Officer, in reviewing the audit report and finalising the audit to deliver the end product provided to the Committee.

DECISION

That the Business Assurance and Risk Committee note the Civic Centre Operations Internal Audit Report.

The Manager Community Services left after this item.

BUS06 Inventory Management Internal Audit ReportRECOMMENDED

That the Business Assurance and Risk Committee:

- i. note the Inventory Management Internal Audit Report.

DISCUSSION

Council's Business Assurance Officer provided a summary of the broad findings from the inventory management internal audit which included a number of risks to be addressed.

The Business Assurance Officer commended the Infrastructure Services branch for acting swiftly in addressing the issues highlighting they have already put in plans to conduct the necessary reviews to improve the operation of Council's Store and

Workshop.

The Business Assurance Officer tabled the Customer Satisfaction Surveys at the meeting.

DECISION

That the Business Assurance and Risk Committee note the Inventory Management Internal Audit Report.

BUS07 Audit Report Recommendations - Implementation Status Update - October 2016

RECOMMENDED

That the Business Assurance and Risk Committee:

- i. note the Implementation Status Update for October 2016.

DISCUSSION

Council's Business Assurance Officer commented on the status of Management's progress in implementing recommendations from past audits.

It was also advised that the target dates for some recommendations may be revised where new audits identify risks and recommendations that are of a higher priority than those identified in previous audits. It was advised that recommendations addressing highest priority risks will be addressed first wherever possible.

DECISION

That the Business Assurance and Risk Committee note the Implementations Status Update for October 2016.

The Manager Infrastructure Services left after this item.

BUS08 Internal Audit Plan Status Update

RECOMMENDED

That the Business Assurance and Risk Committee:

- i. Note the Internal Audit Plan Status Update

DISCUSSION

Council's Business Assurance Officer provided an update on the status of the internal audit program. It was also advised that the Plan would be reviewed as required once the Enterprise Risk Management Workshops are complete and brought back to the Committee for approval.

DECISION

That the Business Assurance and Risk Committee note the Internal Audit Plan Status Update.

BUS09 External Audit UpdateRECOMMENDED

That the Business Assurance and Risk Committee:

- i. Note the external audit update

DISCUSSION

Council's Business Assurance Officer advised the Committee that the Audit Office of NSW are finalising contract negotiations with contract audit firms and as a result Council's external auditor was unable to attend.

The Committee were advised that the Audit Office now oversees all local council audits. Camden Council had received advice from the Audit Office that PricewaterhouseCoopers (pwc) would continue as Council's contract auditor. However, the contract negotiations were yet to be finalised.

Council's Business Assurance Officer advised the Committee that the financial statements considered at the last Business Assurance and Risk Committee meeting were submitted to Council for adoption as planned in October.

DECISION

That the Business Assurance and Risk Committee note the external audit update.

BUS10 Enterprise Risk Management UpdateRECOMMENDED

That the Business Assurance and Risk Committee:

- i. Note the status update on the establishment of Council's Enterprise Risk Management Framework

DISCUSSION

Council's Risk Management Officer provided an update on Council's Enterprise Risk Management Framework. It was advised that training had been provided and workshops to identify risks had commenced.

Mr Gordon asked whether a system had been sourced to record Council's risks. The Risk Management Officer advised this was in progress. Mr Gordon provided a recommendation of another Council that has implemented similar systems. The Committee requested the top 10 risks to be provided to the next meeting.

DECISION

That the Business Assurance and Risk Committee:

- i. Note the status update on the establishment of Council's Enterprise Risk Management Framework
- ii. Provide a list of the top 10 risks to the next Business Assurance and Risk Committee meeting.

BUS11 Governance Information Report - November 2016RECOMMENDED

That the Business Assurance and Risk Committee:

- i. Note the Governance Information Report.

DISCUSSION

Council's Business Assurance Officer tabled an updated list of Government Information (Public Access) Act (GIPAA) applications. The Committee agreed that the information was a good start. Mr Gordon requested that Health Regulations and Information Privacy Act (HRIPA) applications be included in future reports.

DECISION

That the Business Assurance and Risk Committee note the Governance Information Report.

The Director Customer and Corporate Services, Director Community Infrastructure, Manager Governance and Corporate Services and Risk Management Officer left after this item.

BUS12 Business Assurance And Risk Committee And Internal Audit Annual ReportRECOMMENDED

That the Business Assurance and Risk Committee:

- i. approve the Business Assurance and Risk Committee and Internal Audit Annual Report for presentation to Council.

DISCUSSION

Council's Business Assurance Officer advised the Committee that the report tabled was a draft report on the activities of the Committee and the internal audit function as required under the Business Assurance and Risk Committee Charter. The Committee were asked if there were any changes they wanted made to the report.

Mr Gordon recommended including 'in camera' sessions as a separate item. Mr Gordon also advised that he would provide some additional commentary to include in the closing comments section of the report.

It was agreed that the report would be provided to Council as part of a Workshop and that Mr Gordon and Mr Hanrahan would attend. It will likely be early next year with Council's Business Assurance Officer to confirm the date.

DECISION

That the Business Assurance and Risk Committee:

- i. approve in principle the Business Assurance and Risk Committee and Internal Audit Annual Report for presentation to Council subject to minor amendments discussed being amended and circulated to the Committee
- ii. submit the annual report to Council as part of a Workshop to be presented by the Committee's independent members.

BUS13 Local Government Amendment (Governance And Planning) Act - Changes To Audit And Risk Committees

RECOMMENDED

That the Business Assurance and Risk Committee:

- i. note the changed requirements for Council's Business Assurance and Risk Committee

DISCUSSION

Council's Business Assurance Officer advised the Committee that the amendments to the *Local Government Act 1993* in relation to Audit, Risk and Improvement Committees have not yet been proclaimed. It was advised that the amendments will not apply until six months after the next Council election after the amendments are proclaimed.

It was agreed that the Business Assurance and Risk Committee Charter should not be amended until there was more certainty around the changes and the relevant guidelines and regulations were provided by the Office of Local Government.

DECISION

That the Business Assurance and Risk Committee:

- i. note the changed requirements for Council's Business Assurance and Risk Committee
- ii. resolved that the Business Assurance and Risk Committee Charter be reviewed after the Office of Local Government guidelines are finalised.

BUS14 General Business

RECOMMENDED

That the Business Assurance and Risk Committee:

- i. Note any General Business items discussed

DISCUSSION

Mr Gordon requested that progress with Council's Fit for the Future submission be reported to the Committee on a regular basis. Council's Business Assurance Officer advised that the intention was to provide an update at the next meeting.

DECISION

That the Business Assurance and Risk Committee note the general business items discussed.

The meeting closed at 7.40pm.

Next Meeting:

The next meeting of the Business Assurance and Risk Committee will be held on 1 MARCH 2017 at the Oran Park Executive Boardroom, commencing at 5.30 pm.