



# Camden Local Planning Panel

**Minutes**

**21 August 2018**

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**Camden Council  
Administration Centre  
70 Central Avenue, Oran Park**



# CAMDEN LOCAL PLANNING PANEL

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## **PRESENT**

Stuart McDonald (Chairperson), Rachel Harrison (Expert Member), Mary-Lynne Taylor (Expert Member), Dean Boone (Community Member – North Ward).

## **ALSO IN ATTENDANCE**

Manager Statutory Planning, Team Leader DA Assessment – West, Governance Officer – Panel and Committees.

## **ACKNOWLEDGEMENT OF COUNTRY**

The Chair acknowledged the traditional Custodians of the Land:

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

## **RECORDING OF MEETING**

The Chair stated that the meeting is being audio recorded by Council staff for publication on Council's website and that no other recording by a video camera, still camera or any other electronic device capable of recording speech, moving images or still images is permitted without the prior approval of the panel.

## **APOLOGIES**

There were no leave of absence to be granted.

## **DECLARATION OF INTEREST**

Mr Dean Boone declared a conflict in relation to CLPP03 - Torrens Title Subdivision to Create 10 Residential Lots, Construction of 12 Dwellings Including 2 Sets of Attached Dwellings (5 in Each) and 2 Studio Dwellings with Strata Subdivision, Landscaping and Associated Site Works - 16 Podium Way, Oran Park.

The Chair accepted the declaration of Mr Boone and advised that Mr Boone would not participate in any deliberations or voting on this item.

Mr Stuart McDonald declared a conflict of interest in relation to a confidential item on the closed agenda in regards to a Planning Proposal at Raby Road and advised that he would take no part in the Panels consideration and recommendation to the Council in relation to that matter.

## **PUBLIC ADDRESSES**

Mr Matthew Kartawidjaja addressed the Panel in relation to CLPP01 – Proposed Outbuilding with Verrandah – 12 Purcell Street, Elderslie.

Mr David Smith addressed the Panel in relation to CLPP01 – Proposed Outbuilding with Verrandah – 12 Purcell Street, Elderslie.

Ms Millie Birkic addressed the Panel in relation to CLPP02 - Alterations and Additions to Child Care Centre - 12 Harrington Street, Elderslie.

The Panel adjourned the meeting at 2.43pm to consider the matters raised regarding CLPP01.

The Panel reconvened at 3.06pm to announce the determination of CLPP01.

**CLPP01 PROPOSED OUTBUILDING WITH VERANDAH - 12 PURCELL STREET, ELDERSLIE**

SUMMARY

The Panel has considered the officer's report and inspected the site of the proposed development.

DETERMINATION OF PANEL

The Panel resolved to refuse DA/2017/1800/1 for the construction of an outbuilding with verandah at 12 Purcell Street, Elderslie for the following reasons:

- (1) The proposed development does not comply with the Section 7.1 Flood Planning of the Camden Local Environment Plan 2010 (*Pursuant to Section 4.15(1)(a)(i) Environmental Planning & Assessment Act, 1979*).
- (2) The proposed development does not comply with the maximum size of an outbuilding and minimum side boundary setback as contained in Section D1.1 Rural Accommodations, Dwellings and Outbuildings of the Camden Development Control Plan 2011 (*Pursuant to Section 4.15(1)(a)(iii) Environmental Planning & Assessment Act, 1979*).
- (3) The application has not adequately demonstrated that the impacts on the flood behaviour of the locality can be satisfactorily addressed (*Pursuant to Section 4.15(1)(b) Environmental Planning and Assessment Act, 1979*):
- (4) The proposal will have an unacceptable building bulk and visual impact on the adjoining property to the south due to its size and siting only 1 metre from the property boundary, noting this is the second rural outbuilding on the property.
- (5) The proposal is likely to have an unacceptable impact on the trees immediately adjoining the neighbouring property and on the future development of that site.

VOTING NUMBERS

The Panel voted 4-0 in favour of the determination.

**CLPP02 ALTERATIONS AND ADDITIONS TO CHILD CARE CENTRE - 12 HARRINGTON STREET, ELDERSLIE**

SUMMARY

The Panel has considered the officer's report and inspected the site of the proposed development.

DETERMINATION OF PANEL

The Panel resolved to approve DA/2018/640/1 for alterations and additions to an existing child care centre at 12 Harrington Street, Elderslie subject to the conditions attached to the officer's report, with the deletion of condition 3(14) as this was a duplication of 3(11).

## REASONS FOR DETERMINATION

1. The proposed development will enhance the operation of the existing child care facility.
2. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, State Environmental Planning Policy No. 55 – Remediation of Land, Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River and Camden Local Environmental Plan 2010.
3. The proposed development is, subject to the recommended conditions, consistent with the objectives of the applicable development control plan, being the Camden Development Control Plan 2011.
4. The proposed front setback variation to Camden Development Control Plan 2011 is considered acceptable in the particular circumstances of this case as the variation will not generate any amenity impacts upon adjoining development as a result of the reduced setback.
5. The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
6. The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments, including surrounding residential dwellings.
7. In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is within the public interest.

## VOTING NUMBERS

The Panel voted 4-0 in favour of the determination.

### **CLPP03 TORRENS TITLE SUBDIVISION TO CREATE 10 RESIDENTIAL LOTS, CONSTRUCTION OF 12 DWELLINGS INCLUDING 2 SETS OF ATTACHED DWELLINGS (5 IN EACH) AND 2 STUDIO DWELLINGS WITH STRATA SUBDIVISION, LANDSCAPING AND ASSOCIATED SITE WORKS - 16 PODIUM WAY, ORAN PARK**

## SUMMARY

Due to the conflict that was raised by Mr Boone in the public meeting, when the Panel retired to deliberate on this item Mr Boone left the room and took no part in the determination or voting on this matter.

The remaining Panel members considered the officer's report and inspected the site of the proposed development.

## DETERMINATION OF PANEL

The Panel resolved to:

- i. support the written request lodged pursuant to Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to the minimum

subdivision lot size development standard, and

- ii. approve DA/2017/1680/1 for Integrated housing development consisting of Torrens title subdivision into 10 residential lots, construction of 12 dwellings including 2 sets of attached dwellings (5 in each) and 2 studio dwellings including strata subdivision, service provision and landscaping works at 16 Podium Way, Oran Park, subject to the conditions attached to the officer's report.

#### REASONS FOR DETERMINATION

1. The Panel accepts the applicant's written request to vary the minimum subdivision lot size development standard pursuant to Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
2. The proposed minimum subdivision lot size development standard variation to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 is considered acceptable in the particular circumstances of this case as compliance with the development standard is unnecessary and unreasonable and sufficient environmental planning grounds have been provided to justify contravening the development standard.
3. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being State Environmental Planning Policy (Sydney Region Growth Centres) 2006, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River.
4. The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
5. The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments.
6. In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is within the public interest.

#### VOTING NUMBERS

The Panel voted 3-0 in favour of the determination.

#### **CLPP04 TORRENS TITLE SUBDIVISION INTO 2 LOTS AND CONSTRUCTION OF 2 X 2 STOREY DWELLINGS - 24 CAPE YORK STREET, GREGORY HILLS**

#### SUMMARY

An addendum report was provided to the Panel dated 22/08/2018 and a copy of the addendum report is provided as an attachment to these minutes. The Panel considered this report and inspected the site of the proposed development.

#### DETERMINATION OF PANEL

The Panel resolved to:

- i. support the written request lodged pursuant to Clause 4.6 of Camden Local

Environmental Plan 2010 to vary the minimum subdivision lot size, and

- ii. approve DA/2018/22/1 for the Torren's title subdivision at 24 Cape York Street, Gregory Hills and construction of 2 x two storey dwellings, subject to the conditions attached to the officer's report.

#### REASONS FOR DETERMINATION

1. The Panel accepts the applicant's written request to vary the minimum subdivision lot size development standard pursuant to Clause 4.6 of Camden Local Environmental Plan 2010.
2. The proposed minimum subdivision lot size development standard variation to Camden Local Environmental Plan 2010 is considered acceptable in the circumstances of this case due to the anomaly of the environmental planning instrument applying to the land.
3. The Panel accepts the addendum report provided to the Panel prior to the meeting regarding the provisions of the State Environmental Planning Policy No 55 – Remediation Land are satisfied.
4. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River and Camden Local Environmental Plan 2010.
5. The proposed variation to Camden Development Control Plan 2011 relating to site cover, is considered acceptable in the circumstances of this case as the variation will not generate any amenity impacts upon adjoining development. There are no significant additional adverse impacts from bulk and scale and building dominance and no significant additional impacts in relation to overshadowing and privacy.
6. The proposed variation to Camden Development Control Plan 2011 relating to the location of the Principal Private Open Space, forward of the building line, is considered acceptable in the circumstances of this case as the variation will not generate any amenity impacts upon adjoining development, and results in open space that achieves satisfactory solar access.
7. Subject to the recommended conditions the proposed development will be provided with adequate services.
8. The proposed development is of an appropriate scale and form for the site and the character of the locality.
9. The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments.
10. In consideration of the above-mentioned reasons, the proposed development is a suitable and planned use of the site and its approval is within the public interest.

#### VOTING NUMBERS

The Panel voted 4-0 in favour of the determination.

## **CLPP05 CONSTRUCTION OF A DECK AND AWNING - 8 STEWARD DRIVE ORAN PARK**

### SUMMARY

The Panel has considered the officer's report.

### DETERMINATION OF PANEL

The Panel resolved to approve DA/2018/749/1 for the construction of a deck and awning at 8 Steward Drive, Oran Park subject to the conditions attached to this report.

### REASONS FOR DETERMINATION

1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River.
2. The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
3. The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments.
4. In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is within the public interest.

### VOTING NUMBERS

The Panel voted 4-0 in favour of the determination.

**THE MEETING CLOSED AT 3.13PM**



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# ADDENDUM REPORT

## CAMDEN LOCAL PLANNING PANEL

### CLPP04

**SUBJECT:** TORRENS TITLE SUBDIVISION INTO 2 LOTS AND CONSTRUCTION OF 2 X 2 STOREY DWELLINGS - 24 CAPE YORK STREET, GREGORY HILLS

**FROM:** Director Planning and Environment

**TRIM #:** 18/231848

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DA Number:	2018/22/1
Proposed Development:	Torrens title subdivision into two lots and construction of 2 x two storey dwellings
Estimated Cost of Development:	\$580,000
Site Address(es):	24 Cape York Street, Gregory Hills
Applicant:	Mr Moses Chami
Owner(s):	Mr M D Nofoaluma & Ms C Assoni
Number of Submissions:	Nil
Development Standard Variation(s):	Camden Local Environmental Plan 2010 Clause 4.1 – minimum subdivision lot size
Classification:	Local Development
Recommendation:	Approve with recommended conditions
Panel Referral Criteria:	Departure from development standards greater than 10%
Report Prepared By:	Ray Lawlor, Executive Planner.

### PURPOSE OF REPORT

The purpose of this report is to seek the Camden Local Planning Panel's (CLPP) determination of a development application (DA) for the Torren's title subdivision and associated construction of 2 x two storey dwellings at 24 Cape York Street, Gregory Hills.

The CLPP is the consent authority for this DA as, pursuant to the Minister for Planning's Section 9.1 Direction, the development seeks to depart from the minimum subdivision lot size development standard within Camden Local Environmental Plan 2010 by greater than 10%.

### SUMMARY OF RECOMMENDATION

That the CLPP determine DA/2018/22/1 for the Torrens title subdivision of the land and construction of 2 x two storey dwellings pursuant to Section 4.16 of the *Environmental*

*Planning and Assessment Act 1979* by granting consent subject to the conditions attached to this report.

### **EXECUTIVE SUMMARY**

Council has received a DA for the two lot Torrens title subdivision of land at 24 Cape York Street, Gregory Hills and the construction of 2 x two storey dwelling houses. The proposed lots will have the following site areas:

- Proposed Lot A: = 285.83m<sup>2</sup>
- Proposed Lot B: = 250.27m<sup>2</sup>

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, relevant environmental planning instruments, development control plans and policies.

The DA is subject to the provisions of Camden Local Environmental Plan (CLEP) 2010, where a minimum subdivision lot size development standard of 450m<sup>2</sup> applies. The site however is located within a precinct where development is essentially controlled entirely by the provisions of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP), where a minimum lot size of 250m<sup>2</sup> applies.

The applicant is seeking to apply the development standards and controls that are applicable in the Turner Road Precinct and accordingly establish lots based upon a minimum lot size of 250m<sup>2</sup> under the Growth Centres SEPP.

This variation to minimum subdivision lot size is driven by this site being located just outside the South West Growth Centre boundary, but within the Gregory Hills release area of the Turner Road Precinct where State Environmental Planning Policy (Sydney Region Growth Centres) 2006 would otherwise apply. Refer to Images 1, 2 and 3.

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

### **COMPLIANCE WITH KEY PLANNING CONTROLS**

<b>Control</b>	<b>Proposed</b>	<b>Variation</b>
2.3 Zone objectives and Land Use Table CLEP 2010	The proposed development is defined as dwelling houses, which are permissible with consent under CLEP 2010.	None
4.1 Minimum subdivision lot size CLEP 2010 – 450m <sup>2</sup>	Lot A = 285.83m <sup>2</sup> Lot B = 250.27m <sup>2</sup>	36.48% to Lot A 44.38% to Lot B

### **VARIATION OF KEY PLANNING CONTROLS – CAMDEN DCP**

<b>Control</b>	<b>Proposed</b>	<b>Variation</b>
Site Cover (D2.1.5)	Dwelling A will have an upper floor site cover of approximately 34% and Dwelling B an upper	Upper floor site cover exceeds the maximum by

	<p>floor site cover of approximately 31%, which exceed the maximum 30% upper floor site cover.</p> <p>Dwellings are to comply with the maximum site cover (as percentage of the allotment area) with two storey developments requiring maximum site cover of 50% ground floor, and 30% upper floor.</p> <p>Despite these variations of the development standard the proposed development can otherwise meet the relevant DCP objectives.</p>	<p>approximately 1%-4%</p>
<p>Principal private open space PPOS - (D2.1.5) - PPOS of minimum 24sqm being part of the private open space located behind building line.</p>	<p>Lot/Dwelling B minimum 24m<sup>2</sup> area provided with &gt; 4m dimensions, within the front setback. Not part of the required POS area is provided behind the building line.</p> <p>This is located in the front yard directly accessible from the living area, as lot orientation means this is only means of achieving north facing PPOS with suitable solar access.</p>	<p>PPOS for Dwelling B forward of the building line, not part of POS located behind building line.</p>

## AERIAL PHOTO



**Image 1 – Aerial Site Photo**

## THE SITE

The site is known as 24 Cape York Street, Gregory Hills and is legally described as Lot 1857 DP1211730. The site has an overall area of 536.1m<sup>2</sup>. The site is a regularly shaped corner lot with a width of 17m and length of 32.013m. The site is oriented with a northern side boundary and with its primary street frontage facing east. The site is currently vacant. The site has a fall of approximately 0.75m from its southern to its northern boundary.

The site is located adjacent to the eastern boundary of the Turner Road Precinct, just outside the South West Growth Centre, but is within the Gregory Hills release area.

The land is zoned under CLEP 2010 rather than the Turner Road Precinct Plan of the Growth Centres SEPP.

The Upper Canal land (part of Sydney's water supply infrastructure) is located on the opposite side of Cape York Street to the east and north of the site. There are single storey dwellings on land to the south and west of the site. The dwelling to the south is also located outside the South West Growth Centre but is within the Gregory Hills release area.

## BACKGROUND

The zoning of the land under CLEP 2010 rather than the Growth Centres SEPP can be viewed as an anomaly. The Turner Road Precinct of the South West Growth Centre

was rezoned in December 2007 (under the Oran Park & Turner Road Precinct Plan of the Growth Centres SEPP). At the time when the boundaries of the precinct were determined, a strip of land (now including 24 Cape York Street) sitting between the release area land and the Sydney Catchment Authority Upper Sydney Canal land was excluded from the Turner Road Precinct.

It was not included in the Turner Road Precinct under the Growth Centres SEPP, as it was zoned SP2 Infrastructure. It was potentially required for infrastructure upgrades associated with the adjacent Upper Sydney Canal. It did not form part of the adjacent Canal lands but was in the same private ownership as the adjacent release area. Sometime after the rezoning of the Turner Road Precinct Sydney Water confirmed that the land was not needed, and therefore would not be acquired for infrastructure purposes.

In 2013, Council considered a planning proposal from Dart West Developments to rezone the land under CLEP 2010 from SP2 Infrastructure to R1 General Residential (the adjacent residential zone in the Gregory Hills release area of the Turner Road precinct). A 450m<sup>2</sup> minimum lot size was imposed as this was considered to be consistent with the overall lot sizes being created in the release area. The land was rezoned in February 2015.

As part of this rezoning process the planning agreement applying to the Gregory Hills release area of the Turner Road Precinct was amended to provide for additional open space elsewhere in the release area to take account of the residential development of this land. This effectively ties this land into development within the release area.

## **DEVELOPMENT HISTORY**

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

<b>Date</b>	<b>Development</b>
31 August 2015	Subdivision to create 345 residential lots, roads, drainage, landscaping and associated site works (DA/2015/133/1)

## **THE PROPOSAL**

DA/2018/22/1 seeks approval for construction of 2 x two storey dwellings with associated Torren's title subdivision.

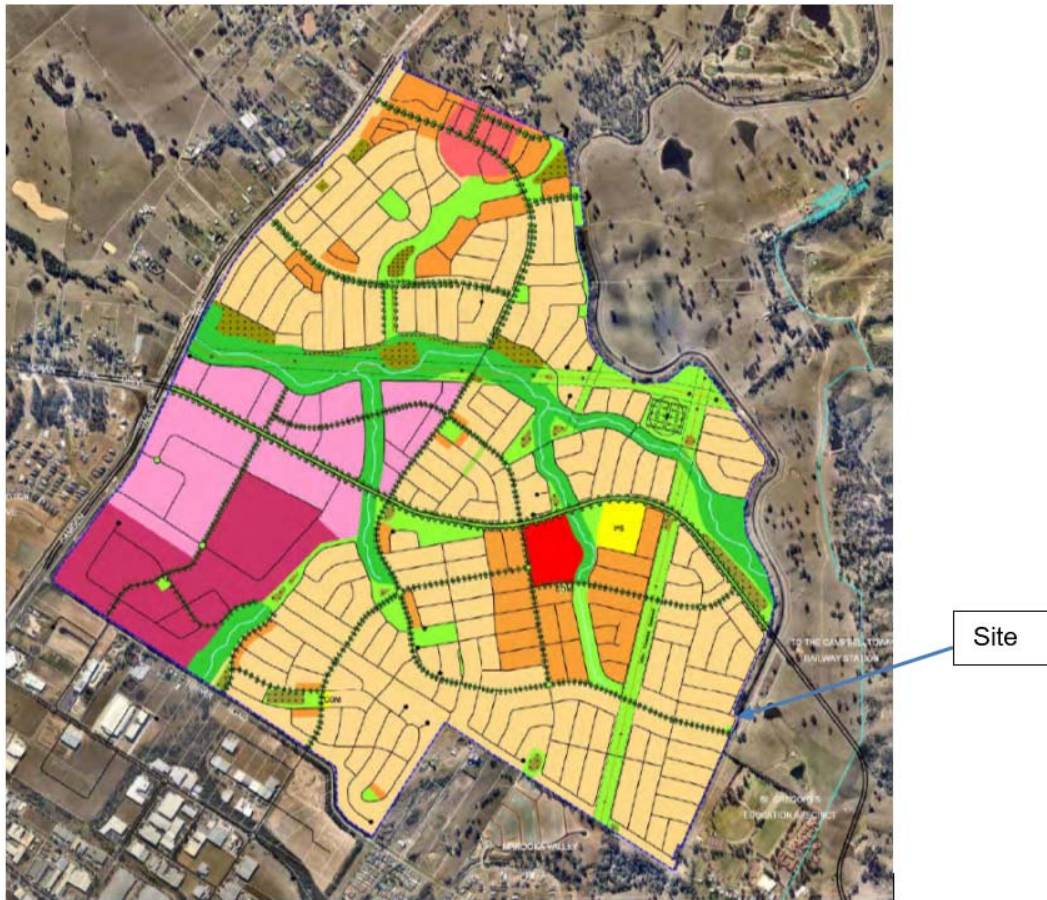
Specifically, the proposed development involves:

- The subdivision of land to create two lots with allotment areas of 285.83m<sup>2</sup> (Lot A) and 250.27 m<sup>2</sup> (Lot B);
- Construction of 2 x two storey dwellings, each containing 4 bedrooms; and
- Landscaping and associated works.

The estimated cost of the proposed development is \$580,000.

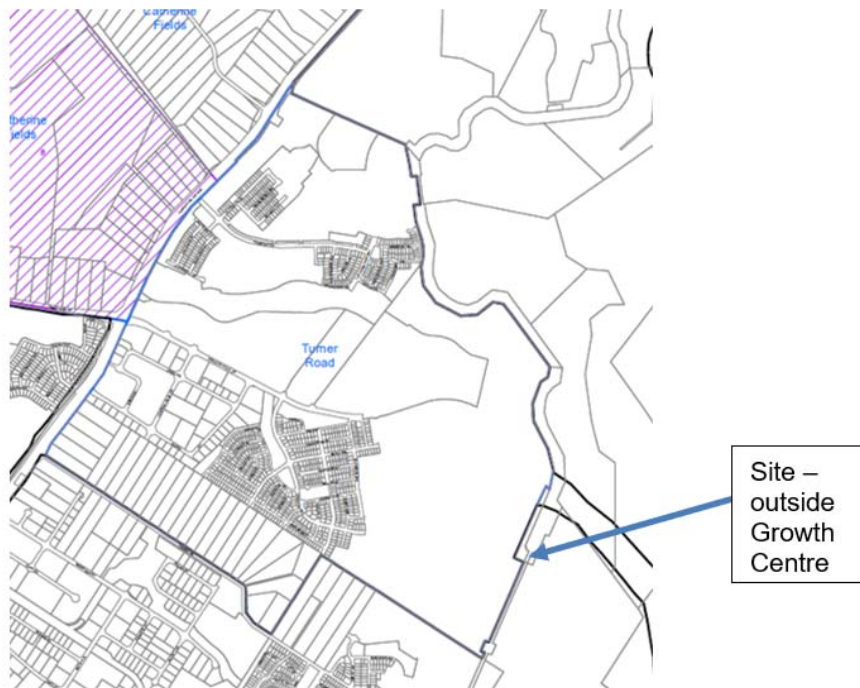
## **AREA MASTER PLAN**





Site shown within Master plan area for the Turner Road Precinct with the Turner Road Growth Centres Precincts DCP

**Image 2 – Figure 2 Turner Road Precinct Indicative Layout Plan**



**Image 3 – Figure 3 – Land Application Area Map – SEPP (Sydney Region Growth Centres) 2006**

## **ASSESSMENT**

### ***Environmental Planning and Assessment Act 1979 – Section 4.15(1)***

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA:

#### ***(a)(i) the provisions of any environmental planning instrument***

The environmental planning instruments that apply to the proposed development are:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River; and
- Camden Local Environmental Plan 2010.

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

BASIX Certificates were submitted with the Development Application. The certificates demonstrate that the proposal will meet the required reduction targets and an appropriate condition of consent will be imposed to ensure future compliance with these targets.

#### **Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River**

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

There will be no detrimental impacts upon the Hawkesbury-Nepean system as appropriate erosion and sediment control measures and water pollution control devices are proposed as part of the development which will avoid adverse impacts on natural watercourses and ultimately the Hawkesbury-Nepean River system.

### Camden Local Environmental Plan (CLEP) 2010

#### *Site Zoning*

The site is zoned R1 – General Residential pursuant to Clause 2.2 of the LEP.

#### *Land Use/Development Definitions*

The proposed development is defined as a dwelling house under CLEP 2010. The proposed development includes the subdivision of land which is permitted by Section 2.6 of the LEP.

#### *Permissibility*

The proposed development is permitted with consent in the R1 – General Residential zone pursuant to Clause 2.3 and the land use table of CLEP 2010.

An assessment table in relation to relevant provisions of CLEP 2010 is provided as an attachment to this report.

The attached compliance table also assesses the proposed development against provisions of State Environmental Planning Policy (Sydney Region Growth Centres) – Turner Road Precinct Plan.

#### *Proposed Variation*

### LEP Variation – Minimum subdivision lot size

#### *LEP Development Standard*

Pursuant to Clause 4.1(3) of CLEP 2010, the minimum subdivision lot size is 450m<sup>2</sup> (refer to image 4 below). The development proposes to create two lots with areas of 285.83m<sup>2</sup> and 250.27m<sup>2</sup> which do not comply with the minimum 450m<sup>2</sup> subdivision lot size.





**Image 4 – Extract of Minimum Lot Size Map of Camden LEP 2010 – Sheet LSZ 017**

### *Variation Request*

Pursuant to Clause 4.6(3) (Exceptions to Development Standards) of the LEP, the applicant has submitted a written request seeking to justify variation of the minimum subdivision lot size development standard in Clause 4.1(3).

This request has been prepared in accordance with principles and test identified in Land & Environment Court judgements:

- Wehbe v Pittwater Council [2007] NSW LEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009

As part of the Clause 4.6 written request the applicant contends that:

- The proposed development achieves the objectives of the zone and the development standard as:
  - It will create 2 lots with two detached dwellings consistent with providing a variety of housing types and densities to meet the housing needs of the community and be consistent with surrounding development characterized by mix of single and two storey dwellings.
  - It will not adversely impact on the amenity of the neighbouring residential development in terms of amenity, overshadowing, overlooking, loss of privacy or visual bulk and scale. The design, height, bulk and scale, setbacks and materials are compatible with existing development in the surrounding streetscape and locality.
  - The proposed subdivision will be consistent with existing subdivision pattern and lot size in the area, having regard to proximity and strategic relationship to adjoining land zoned under SEPP (Sydney Region Growth Centres) 2006, and with two lot Torrens title subdivision and dwellings recently approved by Council, including:
    - DA/2017/1221/1 - 22 Cape York Street (Partly within SEPP and CLEP area)
    - DA/2017/788/1 – 18 Cape York Street (Wholly within SEPP)
    - DA/2017/1347/1 – 14 Cape York Street (Wholly within SEPP)

- DA/2018/218/1 – 18 Bega Street, Gregory Hills (Wholly within SEPP area)
  - DA/2016/1675/1 – 30 Bega Street, Gregory Hills (Partly with SEPP and CLEP area)
  - DA/2017/1255/1 – 34 Bega Street, Gregory Hills (Partly with SEPP and CLEP area)
  - DA/2017/753/1 – 46 Bega Street, Gregory Hills (Partly within SEPP and CLEP area)
  - DA/2017/556/1 – 48 Bega Street, Gregory Hills (Partly within SEPP and CLEP area)
- The development standard has been virtually abandoned or destroyed with the granting of consents, for areas partly within CLEP 2010, where these depart from the standard.
  - The development largely complies with all other applicable development standards and Camden DCP controls.
  - Strict compliance with the development standard would not achieve any preferable outcome and would not result in any increased benefit nor better achieve the objects and purpose of the standard or objectives of the zone. The development standard was not drafted having regard to the surrounding impact and development resulting from *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.
  - Non-compliance with the development standard will not impact the objectives of the Act.
  - There are sufficient environmental planning grounds to justify contravening the development standard as the development will not negatively impact on the established residential environment; allows for a better planning outcome that will integrate with the surrounding streetscape and residential character; and be largely consistent with planning controls with the exception of the lots size standard and the location of principal private open space for dwelling B forward of the building line (to achieve suitable solar access).

A copy of the applicant's written request to contravene the minimum subdivision lot size development standard is provided as an attachment to this report.

### **Council Staff Assessment**

In assessment of the applicant's written request, Council staff have considered the matters of consideration in respect to Clause 4.6. It is considered that the objectives of Clause 4.6(1) have been met. Pursuant to Clause 4.6(4) of the LEP, it is considered that the applicant's justification adequately demonstrates the matters required to be demonstrated by Clause 4.6(3) of the LEP have been met.

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

- Despite the variation to lot size, the development can satisfy key development controls pertaining to site coverage, height, landscaping and private open space within Camden DCP 2011 and the Turner Road Growth Centres Precinct DCP;

- The variation to the minimum subdivision lot size is driven by an anomaly with the environmental planning instrument that applies to the land, where the development will satisfy the minimum subdivision lot size of 250m<sup>2</sup> of the Growth Centres SEPP (Turner Road Precinct Plan) which applies to adjoining land within the Turner Road release area;
- The proposal is similar in area and character to other subdivision applications granted consent within adjoining streets within the Turner Road Precinct;
- The variation in lot size does not result in residential amenity impacts upon surrounding properties;
- Based on the above, it is considered that compliance with the development standard is unnecessary and unreasonable in the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard in this instance.
- The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Council has the assumed concurrence of the Director General of the Department of Planning and Environment. In this regard, the contravention of the development standard does not raise any matter of significance for State or regional environmental planning. To the extent that there is any public benefit in maintaining the development standards, that benefit is not of determinative weight, noting compliance with Clause 4.6(1) and the matters raised above.

Consequently, it is recommended that the CLPP support this proposed variation to the LEP to permit the proposed development.

***(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)***

The Draft Environment SEPP has been exhibited and is under consideration. The purpose of the SEPP is to consolidate seven (7) existing SEPP's into a consolidated document to simplify the controls for a number of water catchments, waterways, urban bushland. Within this SEPP, the only relevant SEPP is Deemed State Environmental Planning Policy No. 20 Hawkesbury – Nepean River, which has been considered in relation to this application.

***(a)(iii) the provisions of any development control plan***

#### Camden Development Control Plan (CDCP) 2011

CDCP 2011 applies to the land. The proposed development substantially complies with the provisions of this DCP, except for a minor variation in relation to site coverage of upper floors and variation in relation to the location of principal private open space (PPOS) for Dwelling B.

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### DCP Variation 1 – Site cover (D2.1.5)

#### *Control*

Dwellings are to comply with the maximum site cover (as percentage of the allotment area) with two storey developments requiring maximum site cover of 50% ground floor and 30% upper floor.

#### *Variation*

Dwelling A will have an upper floor site cover of approximately 34% and Dwelling B an upper floor site cover of approximately 31%. Despite these variations, the proposed development otherwise meets the relevant DCP objectives.

There are no significant additional adverse impacts from bulk and scale and building dominance and no significant additional impacts in relation to overshadowing and privacy.

Solar access to the principal private open space area of the dwellings will be unaffected, with these areas being located to the northern side of the site. The proposed development does not result in any unreasonable overshadowing of adjoining properties with the adjoining properties continuing to receive adequate solar access in accordance with Council requirements.

Satisfactory landscape areas are maintained along with opportunities for landscape treatment.

The upper floor site cover for Dwelling B will otherwise meet the relevant development standard in the Turner Road DCP (40% for lots up to 15m width). Requiring a reduction of the upper floor areas of the dwellings to meet the subject control is considered unnecessary and unwarranted in the circumstances of this case.

### DCP Variation 2 - Principal private open space PPOS - (D2.1.5)

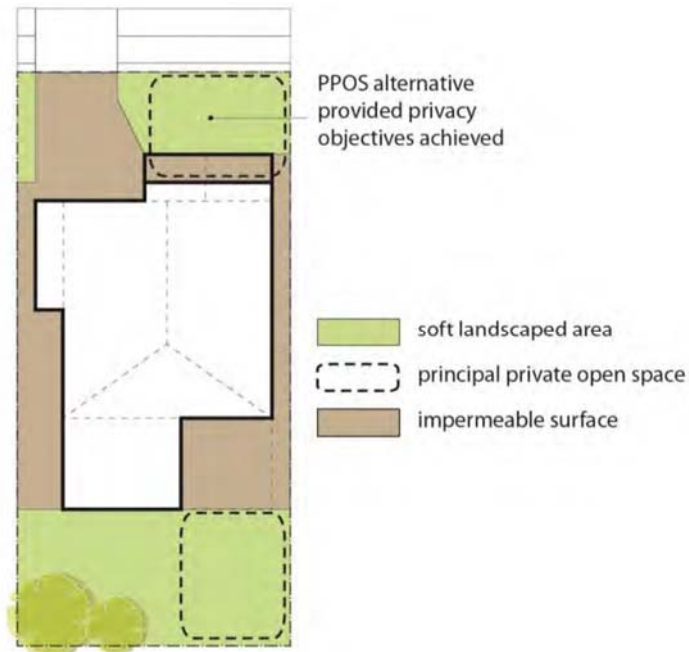
#### *Control*

The POS area of each dwelling (located behind the building line) is to have a principal private open space (PPOS) in at least one courtyard directly connected to a living zone of the dwelling with a minimum area of 20m<sup>2</sup> (dwelling B) to 24m<sup>2</sup> (dwelling A) including a minimum length of 4m and being not steeper than 1:10 gradient.

#### *Variation*

Dwelling B will have more than 20m<sup>2</sup> of PPOS provided with >4m dimensions. The primary area of PPOS will however not be part of the POS behind the building line but located in the front setback directly accessible from the living area. The lot orientation means this is the only means of achieving north facing PPOS with suitable solar access.

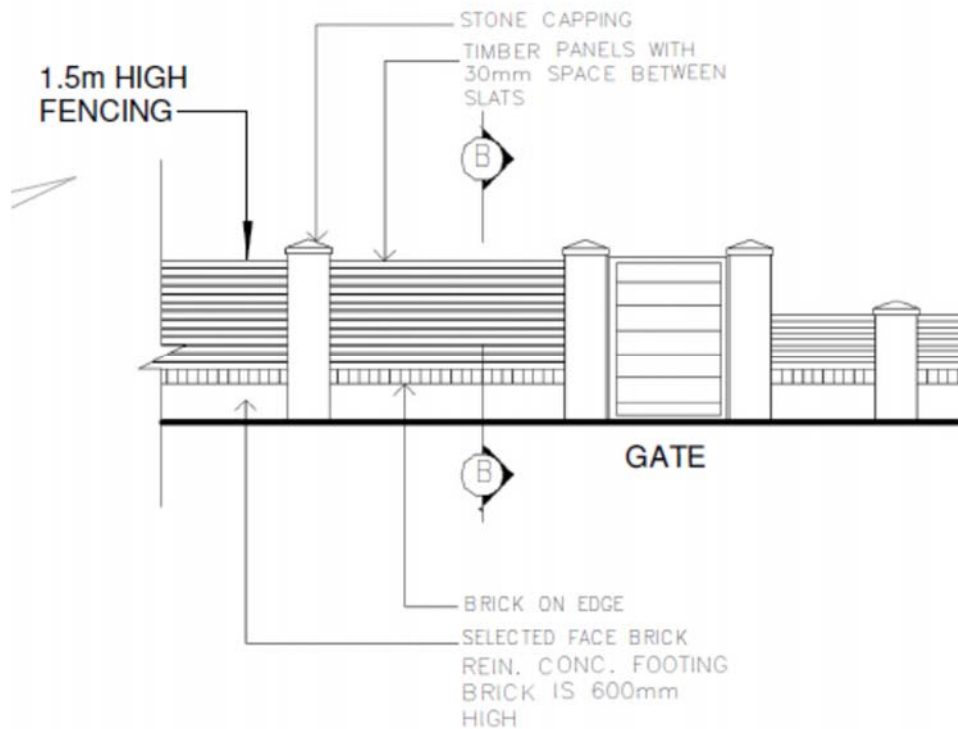
While this is inconsistent with the CDCP 2011, it is not inconsistent with the provisions of the Turner Road DCP (Section 7.4.7). Under the provisions of the Turner Road DCP, open space at the front of the dwelling can be defined as PPOS where this is the only means of achieving the solar access requirements (refer to [Image 5](#)). This is to be designed to maintain appropriate privacy, such as raised levels or fencing or hedging and be consistent with the streetscape design controls.



**Image 5 – Figure 45 Turner Road DCP – soft landscaped area and principal private open space**

#### Proposed landscaping and fencing

Landscaping and fencing treatment to the PPOS areas is proposed to provide for suitable privacy for these areas fronting the street. To ensure that effective privacy can be provided, 1.5m fencing is proposed along the northern side of the PPOS for Dwelling A and along the street frontage of the PPOS for Dwelling B, Image 6.



**Image 6 – Proposed 1.5m high fencing to PPOS areas**

While this type of fencing for part of the front yard is not generally typical for residential development in Camden and its release areas, the Turner Road DCP allows the use of fencing in relation to privacy where private open space is provided at the front of a dwelling to achieve solar access.

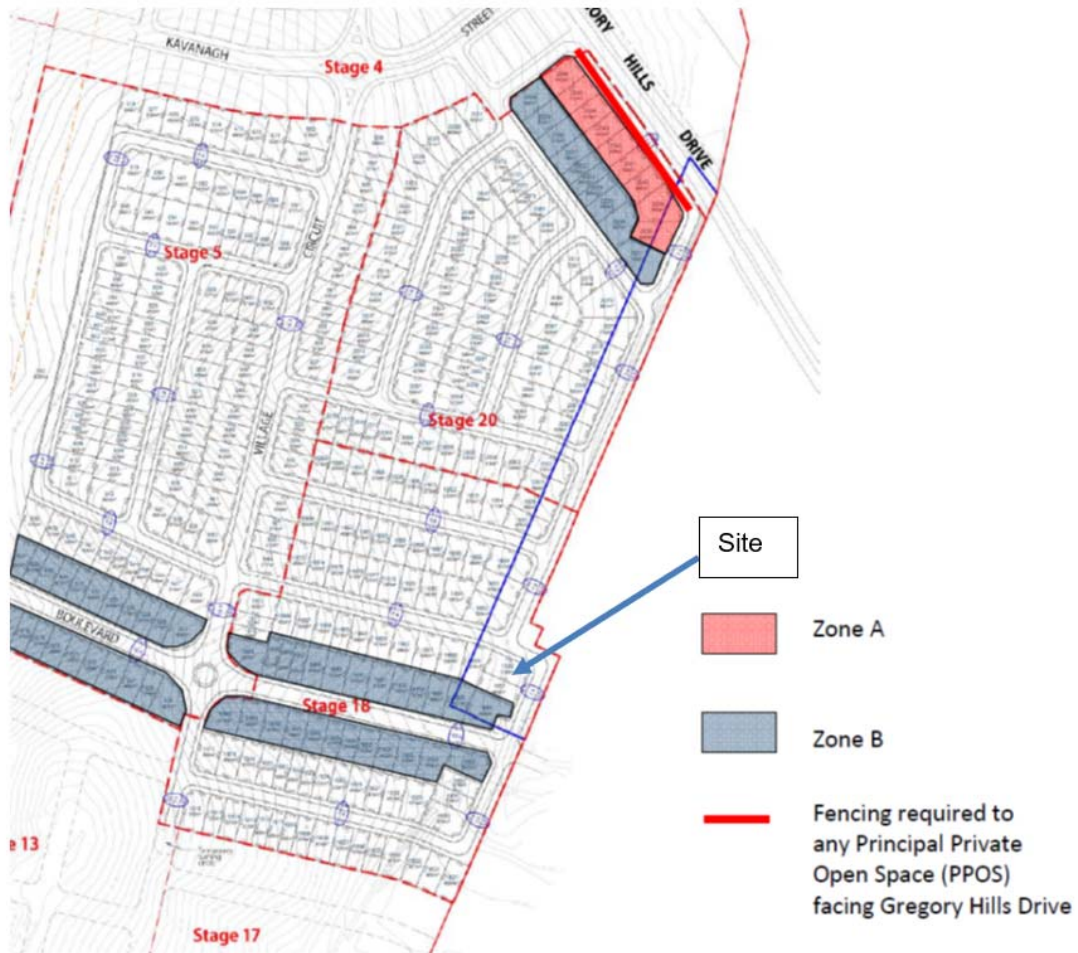
Provision of 1.5m high fencing, with landscaping/hedging to the rear, would provide a suitable streetscape presentation. It will ensure appropriately designed fencing is established as part of the development for this PPOS, while still maintaining an open front setback area to the remaining portion of the street frontages of the dwellings.

### Road Traffic Noise

There is a restriction on title applying to the land which requires that PPOS is located away from the road traffic noise source with Council empowered to release, vary or modify the restriction. The site is located on a local road. This matter has been reviewed by Council's Environmental Health Officers in relation to the relevant Acoustic report submitted and considered with the development application (DA/2015/133/1) for the subdivision of this part of the Gregory Hills release area, *Gregory Hills – Stages 5, 18 & 20 Noise Impacts Assessment, prepared by Acoustic Logic, revision 1 dated 8 January 2015, project no. 20141499.1 (Acoustic Logic report)*.

The land at 24 Cape York Street falls outside of the lots requiring attenuation for road traffic noise (refer to Image 7 from Acoustic Logic report). Therefore, no road traffic noise issues arise with the proposed location of the PPOS for the proposed dwellings and no specific fencing requirements for noise attenuation would be required.





Subject site outside zones requiring acoustic treatment for road traffic noise.

### [Image 7 - Zones requiring acoustic treatment for road traffic noise – Acoustic Logic report](#)

#### Turner Road Growth Centre Precincts Development Control Plan 2016

The proposed development has also been considered in relation to Turner Road Growth Centre Precincts Development Control Plan 2007 (Turner Road DCP), as the site is within the Gregory Hills release area, and immediately adjoins land where this DCP applies.

The land is included in the Turner Road masterplan as shown in [Image 2](#) and included in the Turner Road DCP land application map as shown in [Image 8](#).



Figure 1: Land to which this DCP Applies

### **Image 8 – Land Application Map – Turner Road Growth Centres Precincts DCP**

The proposed development substantially complies with the provisions of the Turner Road DCP, except for a variation in the upper floor site coverage for Dwelling A (34% in lieu of 30%) which has been addressed above in this report. The variation is considered minor and the proposal is assessed to meet the objective of the control.

An assessment table in which the proposed development is considered against these DCPs is provided as an attachment to this report.

***(a)(iii) the provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4***

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

***(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***



The *Environmental Planning and Assessment Regulation 2000* prescribes several matters that are addressed in the conditions attached to this report.

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

As demonstrated by the above assessment, the proposed development is unlikely to have a significant negative impact on either the natural or built environments, or the social and economic conditions in the locality.

**(c) *the suitability of the site for the development***

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development.

**(d) *any submissions made in accordance with this Act or the regulations***

The DA was publicly exhibited for a period of 14 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 29/01/2018 to 12/02/2018. No submissions were received. Revisions to the design of the development have reduced the bulk and building footprints, including increased setbacks to the southern boundary, and therefore not resulted in any additional potential impacts.

**(e) *the public interest***

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments, development control plans and policies. Based on the above assessment, the proposed development is consistent with the public interest.

**EXTERNAL REFERRALS**

External referrals undertaken for this DA are summarised in the following table:

External Referral	Response
Water NSW	<p>Water NSW have advised that whilst the proposed development is in close proximity to the WaterNSW Upper Canal, the nature of the development and the separation of the site from the Canal corridor by the street means the likelihood of the proposal impacting the Upper Canal is very low. Therefore, no specific requirements have been recommended, other than ensuring that construction waste is covered or removed to prevent windblown debris entering the canal corridor.</p> <p>WaterNSW requests that it continues to be notified of all DAs on land adjacent to the Upper Canal corridor due to the potential impact development could have on water quality and the water supply infrastructure in the corridor.</p>

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## **FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

## **ADDENDUM REPORT INFORMATION**

### ***Environmental Planning and Assessment Act 1979 – Section 4.15(1)***

Prior to determining the DA, the consent authority is to take into consideration the following additional matters that are relevant to the development the subject of the DA:

#### ***(a)(i) the provisions of any environmental planning instrument***

The additional environmental planning instrument that applies to the proposed development is:

- State Environmental Planning Policy No. 55 – Remediation of Land

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

SEPP 55 requires the consent authority to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

DA/2015/132/1 approved bulk earthworks and remediation of land for the subject site prior to the granting of consent for the parent subdivision (DA/2015/133/1) which created the subject lot. A Site Audit Statement (No. RS 043) prepared by Ramboll Environ Australia Pty Ltd was submitted for the purpose of determining land use suitability. The Site Audit Statement ultimately certified that the site is suitable for residential development with accessible soil, including garden (along with other land uses such as schools, day care centres, parks, etc).

As such it is considered that the site is suitable for its intended use.

## **CONCLUSION**

The DA has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. The DA is recommended for approval subject to the conditions attached to this report.

## **RECOMMENDED**

**That the Panel:**

- support the written request lodged pursuant to Clause 4.6 of Camden Local Environmental Plan 2010 to vary the minimum subdivision lot size, and**
- approve DA/2018/22/1 for the Torren's title subdivision at 24 Cape York Street, Gregory Hills and construction of 2 x two storey dwellings, subject to the conditions attached to this report.**

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## **REASONS FOR DETERMINATION**

1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River and Camden Local Environmental Plan 2010.
2. The proposed minimum subdivision lot size development standard variation to Camden Local Environmental Plan 2010 is considered acceptable in the circumstances of this case due to the anomaly of the environmental planning instrument applying to the land.
3. The proposed variation to Camden Development Control Plan 2011 relating to site cover, is considered acceptable in the circumstances of this case as the variation will not generate any amenity impacts upon adjoining development. There are no significant additional adverse impacts from bulk and scale and building dominance and no significant additional impacts in relation to overshadowing and privacy.
4. The proposed variation to Camden Development Control Plan 2011 relating to the location of the Principal Private Open Space, forward of the building line, is considered acceptable in the circumstances of this case as the variation will not generate any amenity impacts upon adjoining development, and results in open space that achieves satisfactory solar access.
5. Subject to the recommended conditions the proposed development will be provided with adequate services.
6. The proposed development is of an appropriate scale and form for the site and the character of the locality.
7. The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments.
8. In consideration of the above-mentioned reasons, the proposed development is a suitable and planned use of the site and its approval is within the public interest.