

# Public Hearing Report

## Camden Council

### RECLASSIFICATION FROM 'COMMUNITY' LAND TO 'OPERATIONAL' LAND

72A John Street, Camden  
Lot 81 DP 883675



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# Report on Public Hearing

## Reclassification of Community Land to Operational Land

### 72A John Street, Camden (Lot 81 DP 883675)

#### 1 Introduction and Background

MBWA Consulting Pty Ltd was commissioned by Camden Council to independently chair a public hearing and prepare a public hearing report into the reclassification of a parcel of Council owned land from 'community' land to 'operational' land at Camden.

The reclassification is part of a Planning Proposal that proposes to amend Camden Local Environmental Plan 2010 (Camden LEP 2010).

The Planning Proposal was publicly exhibited from 27 November 2018 – 8 January 2019. No submissions were received from the community during the exhibition and one submission was received from Sydney Water raising no objection.

The public hearing was conducted on 29 January 2019 and this public hearing report has been prepared in accordance with Section 29 of the *Local Government Act 1993* and relates only to the proposed reclassification of 72A John Street, Camden (Lot 81 DP 883675).

#### 2 Statutory Context

Public land is any land that is vested in or under the control of a council. Pursuant to Section 25 of the *Local Government Act 1993*, public land must be classified as either 'community' land or 'operational' land.

Community land is generally open to the public, for example, parks, reserves or sports grounds. Under Section 45 of the *Local Government Act 1993*, community land must not be sold, exchanged or otherwise disposed of, leased or licensed unless in accordance with the provisions of the *Local Government Act 1993*.

Operational land may be used for other purposes, for example, as access, works depots or garages, or held by a council as a temporary asset.

Classification or reclassification of public land may be undertaken pursuant to Section 27(1) of the *Local Government Act 1993* via a Local Environmental Plan (LEP) made under the *Environmental Planning and Assessment Act 1979* or pursuant to Section 27(2) of the *Local Government Act 1993* via a resolution of council.

Should Council resolve to reclassify community land to operational land via a LEP, a Council is required by Section 29 of *Local Government Act 1993* to convene a public hearing and this public hearing must be held after the close of the statutory exhibition period for the LEP.

Reclassification of land does not in itself affect any estate or interest a council has in the land.

Section 47G of the *Local Government Act 1993* provides in part as follows:

*(2) The person presiding at a public hearing must not be;*

*(a) a councillor or employee of the Council holding the public hearing, or*

*(b) a person who has been a councillor or employee of that Council at any time during the five years before the date of his or her appointment.*

*(3) Not later than four days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the Council must make a copy of the report available for inspection by the public at a location within the area of the Council.*

For the purposes of Section 47G of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*, Monique Darcy has not been an employee of Camden Council within the last 5 years. Further, Monique Darcy has never been a Councillor at Camden Council.

## 3 The Site and Surrounding Development

### 3.1 The Site and Locality

72A John Street, Camden (Lot 81 DP 883675) is located at the rear of John Street between Argyle and Broughton Streets. The site is 154.7sqm in size.

The site is behind a medical practice (72 John Street) and accessed via a private driveway from John Street. The site is currently exclusively used by the medical practice as private parking.

The site is owned by Camden Council.



Figure 1: Locality Plan – 72A John Street, Camden (Source: Six Maps)



Figure 2: Locality Plan – 72A John Street - highlighted (Source: Six Maps)

A site visit of the surrounds was conducted on 15 January 2018 and 29 January 2018.



Photo 1 - View from John Street – Front of 72 John Street, Camden



Photo 2 - Rear building of 72 John Street – subject site located behind green fence



Photo 3 – 72A John Street – subject site (Source: Council)

## 4 Ownership and Land Use

The site is owned by Camden Council.

The Planning Proposal details the land use history.

*The site was dedicated for public parking purposes in 1999. At this time it was envisaged that the additional land would allow the expansion of the existing John/Hill Street Carpark. The subject site was the only site acquired for this purpose, and the surrounding properties have been subsequently been developed on, preventing their dedication for car parking.<sup>1</sup>*

## 5 The Broader Planning Proposal

The broader Planning Proposal has been prepared by Camden Council (Version 2 - November 2018). The Planning Proposal aims to reclassify the subject site from ‘community’ land to ‘operational’ land and discharge the trust applying to the site for public purpose (carparking).

The Planning Proposal does not seek to amend the current zoning being B2 Local Centre under Camden LEP 2010.

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<sup>1</sup> Camden Council Planning Proposal – Reclassification of Land at 72 John Street, Camden

The Planning Proposal states that the proposal will enable Council to consider opportunities for the disposal of the land and to provide additional carparking elsewhere in the Camden Town Centre, subject to separate processes and decisions by Council.

## 6 Public Exhibition and Public Hearing

### 6.1 Public Exhibition

The Planning Proposal to reclassify 72A John Street (Lot 81 DP 883675) was publicly exhibited from 27 November 2018 to 8 January 2019. I have been advised that advertising and notification of the proposal was undertaken by Camden Council in accordance with the relevant legislative requirements and Gateway Determination.

Interested parties were notified of the exhibition via:

- A notice posted on Council's website
- Local newspaper
- In writing to adjoining landowners
- Exhibited in Camden Council Office, Oran Park
- Libraries – Camden, Narellan and Oran Park

Note: The Gateway Determination issued 8 October 2018 did not require consultation with any public authorities.

No submissions were received from the community during the exhibition notification period.

One email submission was received from Sydney Water. Sydney Water wrote: '*We have reviewed the proposal and have no objections*'.

### 6.2 Public Hearing

Council arranged a public hearing for the proposed reclassification of the site on 29 January 2019 6pm at Camden Civic Centre. It is noted that the newspaper advertisement specified a starting time of 6pm however the Council website stated 5pm. I thank the attendees for their patience and good nature in waiting an hour for the commencement of the public hearing.

The public hearing was conducted in accordance with Clause 29 of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

Council confirmed that an advertisement was placed in the Macarthur Chronicle advising of the public hearing on multiple occasions between 27 November 2018 and 8 January 2019. A copy of the newspaper advertisement is detailed over.



Figure 3 – Copy of Newspaper Advertisement

The public hearing was chaired by Monique Darcy of MBWA Consulting.

Council were present at the public hearing in an observational role only. The following Council staff attended:

- Jema Samonte – Strategic Planner
- Josh Pownell – Acting Team Leader, Strategic Planning
- Nicole Magurren – Director Planning and Environment

4 members of the community attended the public hearing. An attendees list is provided at [Attachment 1](#).

The public hearing followed the ensuing protocol:

- welcome and introduction to hearing from chairperson
- comments from community members
- concluding remarks and comments on next steps from chairperson.

The public hearing concluded at 6:35pm.

## 7 Community Public Hearing Submissions

The public hearing was attended by 4 community members. Unlike a more traditional public hearing where each member speaks individually, this public hearing evolved in to a ‘round table’ discussion where each community member contributed, asking questions and raising issues during a 20-minute discussion. Therefore, the comments below are not attributed to the 4 individuals but combined to capture the content of the discussion as a group. I discussed this approach with the community members present at the meeting and no objection was raised to documenting the group discussion in this manner.

The issues raised have been grouped in to themes in the table below.

**Table 1: Issues raised by the community at the public hearing**

Theme	Community Comments	Comments from Chairperson
The site	<ul style="list-style-type: none"> <li>• If the site is classified community why has it been fenced and used exclusively for the medical practice and not open to the public?</li> <li>• Why hasn't there been a sign to say it is public land?</li> <li>• Why was the Planning Proposal prepared by Council and not the owner?</li> <li>• When the doctor's practice started were they required to provide parking or S.94 Contributions?</li> <li>• Is 72 John Street and 72A John Street owned by different people?</li> </ul>	<ul style="list-style-type: none"> <li>• The subject site is currently used exclusively for parking for the medical practice at 72 John Street. As to the length of time this has been occurring it is difficult to know however it is likely that this may have been the case since the dedication in 1999.</li> <li>• There is no requirement to erect a sign to say that the land is public land.</li> <li>• The Planning Proposal was prepared by Council and certainly not unusual in the case of a planning proposal for reclassification. Further in this case, Council require a trust for public purpose (carparking) to be discharged.</li> <li>• The original DA (180/97) required 2 carparking spaces being provided at 72 John Street in a stacked formation (Condition 8) and the dedication of Lot 81 for public carparking purposes (now known as 72A John Street Camden).</li> <li>• 72 John Street and 72A John Street are owned by different entities. Council owns 72A John Street and 72 John Street is privately owned.</li> </ul>
Future of the site	<ul style="list-style-type: none"> <li>• There is no information about the future of the site following reclassification</li> <li>• Are Council going to sell it?</li> <li>• Has the owner approached Council to purchase?</li> </ul>	<ul style="list-style-type: none"> <li>• There is no legislative requirement to detail what will happen to the land in the future.</li> <li>• The Planning Proposal deals with the classification of the land from 'community' to</li> </ul>

Theme	Community Comments	Comments from Chairperson
	<ul style="list-style-type: none"> <li>• The site is only useful to the owners of 72 John Street and therefore has nominal value. If anyone else purchases it would be landlocked or would require an easement over 72 John Street.</li> <li>• Will the vehicular easement (right of way) remain?</li> <li>• Concern 72A John Street could develop as a separate building as it is a individual lot and may develop as a 2 or 3 storey development. This would mean that the doctors surgery loses the parking and the new development would not be able to provide parking on-site. Therefore, demand for parking in the Camden Town Centre increases.</li> </ul>	<p>‘operational’. Community land cannot be sold. Operational land can be sold or disposed of. The classification of the land to operational therefore results in Council being able to sell the land if they decide. However, whether Council decides to sell the subject site, and who they decide to sell to, is a separate process to the reclassification.</p> <ul style="list-style-type: none"> <li>• The Planning Proposal states that ‘the previous owners have requested that, if Council has no intention to use the land, the land be transferred back to them’<sup>2</sup>.</li> <li>• Any future development of the site would be subject to a future application for example, a development application or complying development certificate etc, depending on what was proposed. Carparking demand would be one issue considered.</li> <li>• There is a driveway leading to the rear carparking area. I have confirmed with Council that there is no easement or right-of-way to 72A John Street.</li> </ul>
Council processes and the process of reclassification	<ul style="list-style-type: none"> <li>• Very little information was available about the public hearing meeting.</li> <li>• The notice on the public hearing should have had a link to the proposal on the Council website</li> <li>• General lack of information from Council around the classification process. Council’s website is not sufficiently transparent. Council may not be aware of what the community needs in terms of information.</li> </ul>	<ul style="list-style-type: none"> <li>• I have viewed the public exhibition package and consider that the information more than sufficiently covers the legislative requirements of exhibiting a Planning Proposal. Further Council has an informative general section on Planning Proposal on their website. There may be scope to expand this section and add detail on the general process of reclassifications. I have noted this suggestion in my recommendations at the end of the report.</li> </ul>
Other matters	<ul style="list-style-type: none"> <li>• Camden Town Farm went from a community land classification to operational land. Concern that this means that the Camden Town Farm could be sold if there is a change of Council.</li> </ul>	<ul style="list-style-type: none"> <li>• These issues are all noted however are outside the scope of the current reclassification proposal.</li> </ul>

Theme	Community Comments	Comments from Chairperson
	<ul style="list-style-type: none"> <li>• People are disappearing from Camden. Offices and businesses are moving out.</li> <li>• The 'Tin Shed' development is an eye sore.</li> </ul>	

## 8 Planning Discussion on the Reclassification

The subject site is owned by Camden Council and located at the rear of John Street between Argyle and Broughton Streets. The site is 154.7sqm in size and regular in shape.

The site is behind a medical practice (72 John Street) and accessed via a driveway from John Street. The site is currently exclusively used by the medical practice as private parking and there is no vehicular access from the Hill Street carpark as the site is fenced.

The site is zoned B2 - Local Centre with a Maximum Building Height of 7m under the Camden LEP 2010. The zoning of the site remains unchanged under the Planning Proposal.

The site is surrounded by carparking and commercial premises fronting John Street. The adjoining John and Hill Street carpark offers parking for up to 87 cars.

The subject site was dedicated in 1999 with a broader view of acquiring the rear of multiple properties fronting John Street to add to the larger car park. The subject site was the only site acquired and a number of surrounding sites have since been developed.

Council states in the Planning Proposal that the Council's strategic view of carparking has evolved overtime from at-grade carparking to multi deck structures and that there is currently 'no strategy or funding in place for the expansion of the John/Hill Street Carpark'<sup>3</sup>. The subject site has therefore become surplus to the Council's needs. Since this time Council has added a deck to the existing Oxley Street carpark bringing the carparking capacity to approximately 150 spaces.

Section 7 of this report details the issues raised by the 4 community members that attended the public hearing. Below is a broad discussion of the issues directly pertinent to the reclassification.

Much of the concern from the community attendees surrounded the future of the site and the transparency of the process. Will Council sell the site, who to and what will be developed on the land? It is acknowledged that these issues were very important to the community members but they are not issues that are revealed through the reclassification process. As detailed in Section 7 above, the Planning Proposal deals with the classification of the land from 'community' to 'operational'. Community land cannot be sold. Operational land can be sold or disposed of. The classification of the land to operational would therefore result in Council having the option to sell the land. However, whether Council decides to sell the subject site, who they decide to sell to and for how much, is a separate process to the reclassification.

The lack of transparency in the process highlighted by community members may have been the result of a lack of understanding of the classification process. The exhibition package more

<sup>3</sup> Camden Council Planning Proposal – Reclassification of Land at 72 John Street, Camden (Version 1) page 15

than sufficiently covers the legislative requirements. Council may however, consider providing a fact sheet on reclassifications to help the community better understand the process.

The reclassification at its core, must determine whether the site reflects the importance of the land to the community because of its use or special features<sup>4</sup>.

Whilst Council had plans to acquire the rear of multiple properties along John Street, the subject site is the only site to have been dedicated. A number of other sites have now been developed and Council's strategic view of carparking has changed. There is therefore, little public benefit in retaining the subject site as public carparking.

In conclusion, I have carefully considered the issues surrounding the reclassification of 72A John Street, Camden (Lot 81 DP 883675) and following a detailed analysis of all the issues raised I am satisfied that having regard to the circumstances and merits of the case as well as the broader public benefit, the proposed reclassification of 72A John Street, Camden is appropriate.

## 9 Recommendation

Having regard to the issues raised in this report I recommend the following:

- a) Council proceed with the reclassification 72A John Street, Camden (Lot 81 DP 883675) from 'community' to 'operational' land.
- b) Council consider preparing a *Fact Sheet – Reclassification Process* to be placed on Council's website to assist the community's understanding of the reclassification process.
- c) A copy of this report be made available to the public within four (4) business days in accordance with Section 47(G)(3) of the *Local Government Act 1993*.

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<sup>4</sup> Practice Note 1 May 2000 *Public Land Management* Department of Local Government page 2

**Attendees – Public Hearing**

Community

Charles Cowell

Helen Cowell

Carla Hill

Lorraine Iddon

Council staff

Jema Samonte – Strategic Planner

Josh Pownell – Acting Team Leader, Strategic Planning

Nicole Magurren – Director Planning and Environment