



ORDINARY COUNCIL

ORD01

SUBJECT: STAGE 1 CAMDEN LEP REVIEW - POST EXHIBITION
FROM: Director Planning and Environment
TRIM #: 20/215833

PURPOSE OF REPORT

The purpose of this report is to inform Council of the outcome of the public exhibition of the Stage 1 Planning Proposal to amend the Camden Local Environmental Plan (LEP) 2010.

The report recommends that the Planning Proposal be amended to remove the Environmentally Sensitive Land (ESL) clauses and maps. The report also recommends that Council adopt the Planning Proposal (as amended) and forward it to the Department of Planning, Industry and Environment (DPIE) to make the plan.

The Planning Proposal (as amended) is provided as an **attachment** to this report.

EXECUTIVE SUMMARY

The objective of the Stage 1 of the LEP review is to align the Camden LEP with the planning priorities and actions outlined in the Western City District Plan and the Camden Local Strategic Planning Statement (LSPS). Stage 2 of the LEP review will be undertaken following the completion of various strategies including a housing strategy, centres and employment land strategy, blue and green grid analysis, heritage review, and scenic and visual analysis.

The Stage 1 Planning Proposal was recently exhibited and 408 submissions (398 community submissions and 10 public agency submissions) were received. The majority of submissions were received from landowners within the South West Growth Area (SWGA) who object to the inclusion of the ESL clauses and maps.

Whilst a number of issues were raised in the submissions, landowners are particularly concerned about the impact of the inclusion of the proposed ESL clauses and maps on their land and its future development potential under the Growth Centres SEPP.

In response to the objections received, it is recommended that the Planning Proposal be amended to remove the ESL clauses and maps. Subject to Council endorsement, the Planning Proposal (as amended) will be forwarded to the DPIE for the plan to be made.

BACKGROUND

In March 2018, the Greater Sydney Commission (GSC) released A Metropolis of Three Cities – The Greater Sydney Region Plan (the Region Plan), together with five supporting district plans to establish a clear future vision for Greater Sydney to 2056.

The Camden LGA, along with the Blue Mountains, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly form the Western City District. The Western City District Plan (the District Plan) identifies four themes to guide future planning: Infrastructure and Collaboration, Liveability, Productivity and Sustainability.

The LEP Review Process

To align local plans with the strategic directions of the Region and District Plans, all councils are required to prepare a Local Strategic Planning Statement (LSPS) and review and update their Local Environmental Plan (LEP).

The LEP review commenced in June 2018 and will be completed by December 2020. The LEP review program and schedule was developed by the GSC and DPIE and includes six phases:

- Phase 1 – LEP Review Report;
- Phase 2 – Prepare Draft LSPS;
- Phase 3 – Finalise LSPS;
- Phase 4 – Amendment to Camden LEP 2010 – Seek Gateway Determination;
- Phase 5 – Exhibition of Planning Proposal for LEP Amendment;
- Phase 6 – LEP Amendment Finalised – Plan is made.

Phase 1, to prepare a LEP Review Report, was endorsed by Council on 30 October 2018 and submitted to the GSC. The LEP Review Report provided a snapshot of how the current Camden LEP 2010 and Council's plans, policies and programs align with the priorities and actions of the District Plan. On 21 December 2018, the GSC provided confirmation that Council's LEP Review Report complied with the Phase 1 Assurance for the LEP review program.

Phase 2 of the LEP review program included the drafting and exhibition of a draft LSPS. Council exhibited its draft LSPS from 23 July to 27 August 2019. On 10 December 2019, Council resolved to endorse the draft LSPS and sought Phase 3 assurance from the GSC to make the draft LSPS. The GSC assurance letter was received by Council on 5 March 2020. On 14 April 2020, Council resolved to finalise and adopt the LSPS.

Phase 4 of the LEP Review program included the preparation of a Planning Proposal to amend the Camden LEP. On 8 October 2019, Council resolved to endorse the draft Planning Proposal to be forwarded to DPIE for Gateway Determination and subject to a favourable Gateway Determination proceed to public exhibition. A Gateway Determination was received on 28 February 2020 and a further Gateway Alteration was received on 15 May 2020. A copy of the previous Council report of 8 October 2019 is provided as an **attachment** to this report.

Camden LEP review

The Camden LEP review is being undertaken in two stages:

- Stage 1 – Alignment with the key strategic documents; and
- Stage 2 – Investigations following the completion of technical strategy work.

This Planning Proposal forms Stage 1 of the LEP review and includes amendments to align the Camden LEP with the priorities and actions within the District Plan and Camden LSPS.



Stage 2 will be undertaken following the completion of various strategies being undertaken to inform the review including:

- Housing Strategy;
- Centres and Employment Land Strategy;
- Green and Blue Grid Analysis;
- Heritage Review; and
- Scenic and Visual Analysis.

The Stage 1 Planning Proposal was placed on public exhibition for 42 days from 10 June to 21 July 2020. At the time of finalising this report, 408 submissions (398 community submissions and 10 public agency submissions) were received.

In accordance with the LEP review program determined by the DPIE, the Stage 1 Planning Proposal is required to be submitted to DPIE by 31 August 2020.

A series of Councillor briefings have been provided on the LEP review and preparation of the LSPS. Councillors were briefed on the outcome of the public exhibition of the Stage 1 Planning Proposal on 28 July 2020.

MAIN REPORT

Stage 1 LEP Review Planning Proposal

The key objective of the Stage 1 Planning Proposal is to align the Camden LEP with the planning priorities and actions within the District Plan and Camden LSPS.

In summary, the amendments included in the Stage 1 Planning Proposal include:

- Introducing environmentally sensitive land (ESL) maps and two new clauses for terrestrial biodiversity and riparian land and watercourses;
- Introducing health-focused objectives into the relevant sections of the LEP;
- Amending the RU1 Primary Production and RU2 Rural Landscape zone objectives to account for non-agricultural uses (including tourism uses) that are compatible with the agricultural, environmental and conservation values of the land;
- Introducing eco-tourist facilities as a permitted use with consent in RU1 Primary Production and RU2 Rural Landscape zones;
- Strengthening the objectives of the IN2 Light Industrial zone to manage land use conflicts;
- Rezoning several sites owned by Sydney Water and used for water infrastructure to SP2 Infrastructure; and
- Updating the heritage listing of St Johns Church Camden to reflect its listing on the State heritage register (in 2018) and correct a spelling error.

Public Exhibition

In accordance with the Gateway Determination, Council was required to publicly exhibit the Planning Proposal for a minimum 28 days. The Planning Proposal was exhibited for 42 days from 10 June to 21 July 2020. Community and public agency consultation included:

- Advertising on Council's website in accordance with recent changes to the *Environmental Planning and Assessment Amendment (Public Exhibition) Regulation 2020*;
- Copies available for viewing at Council's Administration Building and Libraries;
- Interactive online mapping (social pinpoint) where residents could access the proposed environmental sensitive land maps;
- Approximately 2,800 letters sent to landowners affected by the proposed environmentally sensitive land maps and clauses;
- Notification of 10 public agencies and adjoining councils; and
- Council officers were available over the phone, via email and in person at Council offices during the public exhibition.

Due to COVID-19 restrictions, Council was unable to hold drop-in sessions off-site or public workshops, as were held during the preparation and exhibition of the LSPS.

A total of 408 submissions were received (398 general community submissions, including two form letters, with seven and eight signatures respectively, and ten public agency submissions). A copy of the submissions is provided to councillors as a **supporting document**.

Figure 1 maps the number of submissions received by suburb.

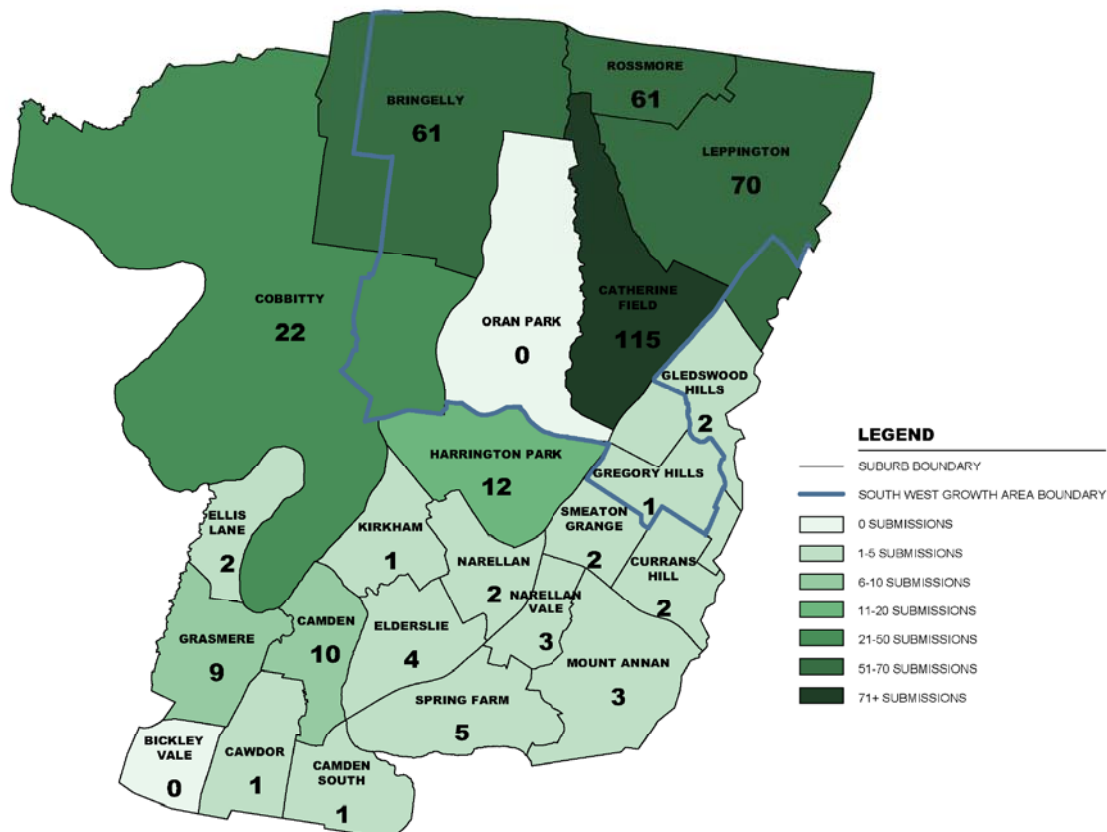


Figure 1 – Number of submissions by suburb

Summary of Key Themes

A summary and consideration of the key issues raised in the submissions, including recommended changes to the Planning Proposal, is provided below. A more detailed list and consideration of key issues is provided as an **attachment** to this report.

Community Submissions

The majority of submissions were received from landowners within the SWGA in precincts that have not yet been rezoned or released under the Growth Centres SEPP. The majority of these submissions object to the proposed inclusion of the ESL maps and associated clauses.

The common themes raised in community submissions are summarised below:

- The proposed environmentally sensitive lands clauses and maps result in properties being devalued and limits future development potential;
- The validity and extensiveness of the terrestrial biodiversity and riparian lands and watercourse mapping is questioned, including identified watercourses not existing on submitters' land;
- Proposed mapping does not correspond with DA approvals and established subdivision layouts;
- It is unclear how environmentally sensitive land mapping will impact on future rezoning within the South West Growth Area;
- Previous development has not been required to account for environmentally sensitive land, and unclear why these provisions are being introduced now;
- Lack of community consultation and concern about restrictions due to COVID-19 pandemic; and
- Support for the intent of the ESL mapping and provisions to protect Camden's significant environment and waterways but identifying the need for accurate mapping to be used.

Officer Comment:

It is recommended that the Stage 1 Planning Proposal be amended to delete the proposed environmentally sensitive lands clauses and maps for terrestrial biodiversity and riparian land and watercourses.

Significant objection was received from landowners within the SWGA to the inclusion of the proposed ESL clauses and maps. There was however general support for the introduction of appropriate non-agricultural uses, such as eco-tourist facilities within the RU1 and RU2 zones. **Figure 2** shows the extent of the SWGA (identified hatched in red) within the Camden LGA.

The ESL clauses and maps do not rezone land or change the type of development that is currently permissible on land. The clauses provide criteria for Council to consider when assessing DAs and require development to try and avoid, minimise, mitigate and offset impacts to terrestrial biodiversity, watercourses and riparian lands.

Currently, when assessing DAs, the environmental impacts of the development are considered through the provisions of various legislation and policies, including the Integrated Development provisions of the *Environmental Planning & Assessment Act 1979* (EP&A Act), the provisions of the *Biodiversity Conservation Act 2016*, the controls within the Camden DCP 2019 and Council's Biodiversity Strategy.

When land within the SWGA is rezoned in the future under the Growth Centres SEPP, the provisions within the Camden LEP will no longer apply. For land within the SWGA that has not undergone precinct planning, detailed studies will be prepared to inform the zoning and indicative layout plans (ILPs) that will be incorporated into a future amendment to the Growth Centres SEPP. It can be expected that this will include controls for riparian and native vegetation, similar to those already provided where precinct planning has been undertaken.

The Stage 1 Planning Proposal will not affect the timing of the precinct planning within the SWGA. Notwithstanding this, the objections received from landowners within the SWGA in relation to the potential impacts on the future development potential of their land are acknowledged.

In relation to the ESL maps, the data used in preparing these maps was derived from existing publicly available data from various government sources and strategies. It is acknowledged that in some areas (including recently developed areas), the maps do not accurately reflect all current developments and approvals.

If Council adopts the recommended amendment to the Stage 1 Planning Proposal to delete the ESL clauses and maps, Council officers will continue to consider environmental impacts when assessing DAs through existing criteria including the Integrated Development provisions in the EP&A Act, the provisions of the *Biodiversity Conservation Act 2016*, the Camden DCP 2019 and Council's Biodiversity Strategy.

In relation to the public exhibition process, the planned community engagement strategy was altered due to COVID-19 restrictions. However, the exhibition was undertaken in accordance with the *Environmental Planning and Assessment Amendment (Public Exhibition) Regulation 2020* and the Gateway Determination issued by DPIE.

The Gateway Determination required Council to publicly exhibit the Planning Proposal for a minimum 28 days. The Planning Proposal was on public exhibition for 42 days. During that time, Council officers were available over the phone, via email and also in person at Council offices. In accordance with the DPIE schedule, the Stage 1 Planning Proposal is required to be submitted to the DPIE by 31 August 2020.

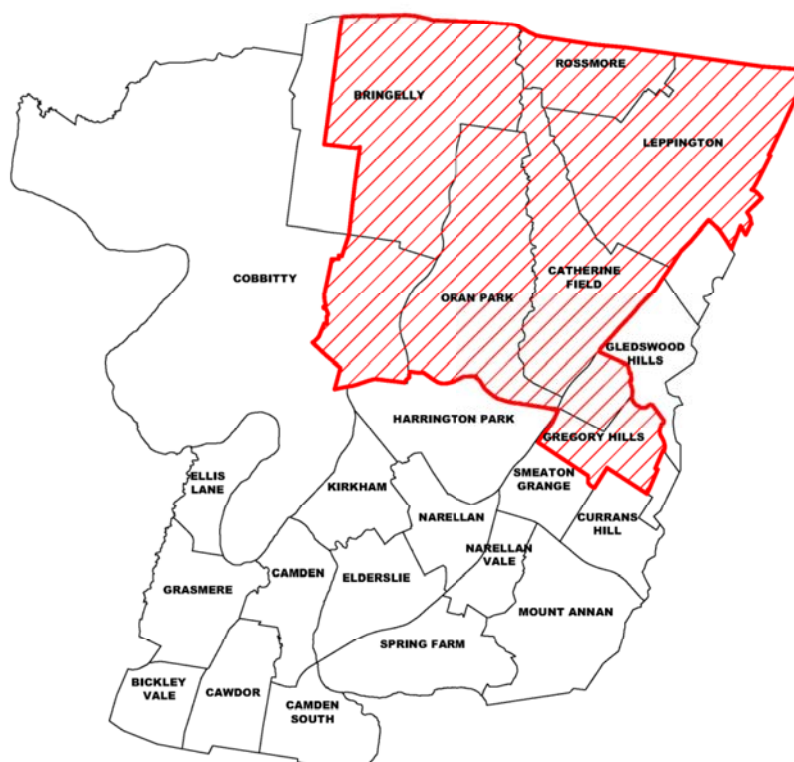


Figure 2 – SWGA area

Recommended Post Exhibition Amendment:

It is recommended that the Planning Proposal be amended to delete the ESL clauses and maps for terrestrial biodiversity and riparian land and watercourses.

The ESL maps will be reviewed, validated and updated with further ground truthing to reflect current developments and approvals, along with any changes that may arise following the finalisation of the Blue and Green Grid Analysis and a review of Council's Biodiversity Strategy.

For land outside the SWGA, the need to include ESL provisions into a future Planning Proposal will be considered at the completion of this work. For land within the SWGA that has not yet undergone precinct planning, detailed studies will be prepared to inform the zoning and indicative layout plans (ILPs) that will be incorporated into a future amendment to the Growth Centres SEPP.

Further Councillor briefings will be provided as this work progresses.

Public Agency Submissions

- *Concern over the proposed changes to the RU1 zone objectives weakening the intent of the current objectives which requires agricultural land uses to support primary production* – Department of Primary Industries (DPI) – Agriculture.

Officer Comment:

The LSPS identifies that Council will investigate opportunities to build on Camden's natural and cultural assets to promote local agricultural production and increase tourism and the local visitor economy.

Amending the RU1 Primary Production and RU2 Rural Landscape zone objectives to include non-agricultural uses (including tourism uses) that are compatible with the agricultural, environmental and conservation values of the land is consistent with the LSPS.

The intent of this amendment is to consider appropriate non-agricultural uses that are compatible with the existing agricultural value of the land within RU1 Primary Production and RU2 Rural Landscape zones.

This proposed amendment is not considered to weaken the current objectives but rather allow for agricultural production to remain viable and sustainable with the inclusion of eco-tourism facilities and uses with minimal impacts.

Recommended Post Exhibition Amendment:

No change to the Planning Proposal is recommended as a result of this submission.

- *Objection to the inclusion of 'eco-tourism facilities' as a permitted use in the RU1 zone, however no objection is raised to the inclusion of the use in the RU2 zone. Considers that the proposal is inconsistent with the Camden LSPS and the Camden Rural Lands Strategy (RLS) – DPI – Agriculture.*

Officer Comment:

As noted above, the Camden LSPS identifies that Council will investigate opportunities to increase tourism and the local visitor economy. The introduction of 'eco-tourism facilities' in the RU1 Primary Production zone is consistent with this action. Furthermore, whilst the Rural Lands Strategy recognises the importance of Camden's rural land and its role in producing fresh food, it also acknowledges other benefits such as tourism.

Recommended Post Exhibition Amendment:

No change to the Planning Proposal is recommended as a result of this submission.

- *The DPI Fisheries Policy and Guidelines for Fish Habitat Conservation and Management identifies that riverbank/watercourse buffer varies related to type and class of waterway, ranging from 10m to 100m. Therefore, the proposed LEP clause of a standard 40m may not necessarily meet the DPI Fisheries requirements – DPI – Fisheries.*

Officer Comment:

The submission from DPI-Fisheries is noted. It is recommended that the ESL clauses and maps be deleted from the Stage 1 Planning Proposal. The DPI Fisheries Policy and Guidelines will be further consulted to inform appropriate riparian land buffers.

Recommended Post Exhibition Amendment:

It is recommended that the Planning Proposal be amended to delete the ESL clauses and maps.

- Council's proposed clauses for ESL Terrestrial Biodiversity as well as Riparian lands and Watercourses and associated mapping should be amended to not apply to the land subject to the Growth Centres SEPP. The proposal is inconsistent with the Growth Centres SEPP, Part 6 and the Biocertification Order 2007 Relevant Biodiversity Measures (RBMs), which affords greater protection to Existing Native Vegetation and Part 5 of the Growth Centres SEPP 2006 which currently applies to flood prone and major creeks lands - DPIE - Environment, Energy and Science Group.

Officer Comment:

The submission from DPI-Environment, Energy and Science Group, the existing provisions of the Growth Centres SEPP and the Biocertification Order 2007 to protect existing native vegetation and flood prone and major creeks are noted. Whilst these provisions do not apply to all land within the SWGA, it is recommended that the ESL clauses and maps be deleted from the Stage 1 Planning Proposal.

Recommended Post Exhibition Amendment:

It is recommended that the Planning Proposal be amended to delete the ESL clauses and maps.

- General support for the environmentally sensitive land provisions however clarification and ground truthing should be provided regarding the environmentally sensitive land, to ensure the proposed clauses will not undermine existing and future operations of infrastructure – Department of Education, WaterNSW, Transport for NSW.

Officer Comment:

These agencies have requested that the proposed ESL maps be reviewed and updated to consider all existing and proposed future infrastructure. It is recommended that the proposed ESL clauses and maps be deleted from the Stage 1 Planning Proposal. This will enable the ESL maps to be reviewed and updated to reflect current developments and approvals, along with any recent and future infrastructure projects.

Recommended Post Exhibition Amendment:

It is recommended that the Planning Proposal be amended to delete the ESL clauses and maps.

- Support for the amendment to the land use tables in the LEP to embed health considerations around walking and cycling into the zone objectives for B1 neighbourhood centres – South Western Sydney Local Health District.

Officer Comment:

The support of SWSLHD is noted and Council will continue to consult and collaborate with SWSLHD to improve the health and wellbeing of residents.

Recommended Post Exhibition Amendment:

No change to the Planning Proposal is recommended as a result of this submission.

- *General support for the intention of the draft Planning Proposal to give effect to the actions within the District Plan and local priorities in the Camden LSPS, including the proposed ESL provisions to protect environmentally significant land - DPI Fisheries, Department of Education, Sydney Water, WaterNSW and Transport for NSW.*

Officer Comment:

It is noted that several agencies have provided general support for the intention of the Planning Proposal to protect Camden's environmentally sensitive lands. Whilst the importance of considering and protecting environmentally sensitive land is acknowledged, further work to review and validate the ESL maps is required to reflect current development and approvals.

Recommended Post Exhibition Amendment:

No change to the Planning Proposal is recommended as a result of these submissions. It is however recommended that the Planning Proposal be amended to delete the ESL clauses and maps.

Summary of Post Exhibition Amendments

Following consideration of submissions received to the public exhibition, the Planning Proposal has been amended to remove the ESL clauses and maps. The proposed amendments do not change the intent of the exhibited version therefore re-exhibition is not required.

Next Steps

Subject to Council endorsement, the Planning Proposal (as amended) will be forwarded to DPIE for the plan to be made. The DPIE is the State Government agency responsible to determine and finalise the Planning Proposal.

It is recommended that Council write to the Minister for Planning and Public Spaces, the Hon. Rob Stokes MP requesting his support for the amended Planning Proposal.

Council will also write to all landowners notified of the Stage 1 Planning Proposal to inform them of Council's decision along with all submitters and public agencies.

FINANCIAL IMPLICATIONS

The LEP Review is funded by the \$2.5 million Accelerated LEP Review Program Funding Agreement from the DPIE.

CONCLUSION

The Stage 1 Planning Proposal seeks to align the Camden LEP with the planning priorities and actions outlined in the Western City District Plan and the Camden LSPS.

The Planning Proposal was publicly exhibited for 42 days from 10 June to 21 July 2020 and 408 submissions (398 general community submissions and ten public agency submissions) were received.

In response to objection from the community and issues raised by public agencies, it is recommended that the Planning Proposal be amended to remove the ESL clauses and maps. Subject to Council endorsement, the Planning Proposal (as amended) will be forwarded to the DPIE for the plan to be made.

The ESL maps will be reviewed, validated and updated to reflect current developments and approvals, along with any changes that may arise following the finalisation of the Blue and Green Grid Analysis and a review of Council's Biodiversity Strategy. Further Councillor briefings will be provided as this work progresses.

RECOMMENDED

That Council:

- i. **endorse the Planning Proposal (as amended to remove the Environmentally Sensitive Land maps and local clauses) and forward to the Department of Planning, Industry and Environment for the plan to be made;**
- ii. **write to the Hon. Rob Stokes, Minister for Planning and Public Spaces, requesting his support to the Planning Proposal (as amended);**
- iii. **write to Mr Peter Sidgreaves MP, Member for Camden, requesting his support to the Planning Proposal (as amended); and**
- iv. **write to all landowners who were notified of the Planning Proposal, along with all submitters and public agencies to inform them of Council's decision.**

ATTACHMENTS

1. Draft Planning Proposal - Stage 1 Camden LEP 2010 LEP Review - Post Exhibition
2. Stage 1 LEP Review - Council Report 8 October 2019
3. Agency Submission Response Table
4. LEP Review Stage 1 General Submission Issues Table
5. LEP Review Stage 1 - Public Agency Submissions
6. Submissions LEP Review Stage 1 - under separate cover - *Supporting Document*

Resolution: Moved Councillor A Cagney, Seconded Councillor C Cagney that Mr Symkowiak be granted a further two minute extension.

ORD109/20 THE MOTION ON BEING PUT WAS CARRIED

(Councillors Sidgreaves, Campbell, Fedeli, C Cagney, A Cagney, Farrow, Mills and Morrison voted in favour of the Motion. No Councillors voted against the Motion.)

Resolution: Moved Councillor C Cagney, Seconded Councillor Campbell that the public addresses be noted.

ORD110/20 THE MOTION ON BEING PUT WAS CARRIED

(Councillors Sidgreaves, Campbell, Fedeli, C Cagney, A Cagney, Farrow, Mills and Morrison voted in favour of the Motion. No Councillors voted against the Motion.)

CONFIRMATION OF MINUTES

Resolution: Moved Councillor C Cagney, Seconded Councillor Farrow that the Minutes of the Ordinary Council Meeting held 28 July 2020, copies of which have been circulated, be confirmed and adopted.

ORD111/20 THE MOTION ON BEING PUT WAS CARRIED

(Councillors Sidgreaves, Campbell, Fedeli, C Cagney, A Cagney, Farrow, Mills and Morrison voted in favour of the Motion. No Councillors voted against the Motion.)

ORD01 STAGE 1 CAMDEN LEP REVIEW - POST EXHIBITION

Resolution: Moved Councillor Sidgreaves, Seconded Councillor C Cagney that Councillor Campbell be granted consent to speak longer than five minutes in relation to ORD01.

ORD112/20 THE MOTION ON BEING PUT WAS CARRIED

(Councillors Sidgreaves, Campbell, Fedeli, C Cagney, A Cagney, Farrow, Mills and Morrison voted in favour of the Motion. No Councillors voted against the Motion.)

Resolution: Moved Councillor Sidgreaves, Seconded Councillor C Cagney that Council:

- i. endorse the Planning Proposal (as amended to remove the Environmentally Sensitive Land maps and local clauses) and forward to the Department of Planning, Industry and Environment for the plan to be made;
- ii. write to the Hon. Rob Stokes, Minister for Planning and Public Spaces, requesting his support to the Planning Proposal (as amended);
- iii. write to Mr Peter Sidgreaves MP, Member for Camden, requesting his support to the Planning Proposal (as amended); and
- iv. write to all landowners who were notified of the Planning Proposal, along with all submitters and public agencies to inform them of Council's decision.

ORD113/20 THE MOTION ON BEING PUT WAS CARRIED

(Councillors Sidgreaves, Campbell, Fedeli, C Cagney, A Cagney, Farrow, Mills and Morrison voted in favour of the Motion. No Councillors voted against the Motion.)