

Planning Services

Plan Finalisation Report

Local Government Area: Camden

1. NAME OF DRAFT LEP

Camden Local Environmental Plan 2010 (Amendment No.16) (draft LEP). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The planning proposal (PP_2012_CAMDE_008_00) (**Attachment B1 & B2**) applies to land at 5 Smalls Road, Grasmere (the site), also known as Carrington. The site is legally described as Lot 201 DP 734620 and has an area of approximately 27.2ha. An aerial view of the site is provided below in Figure 1 (area outlined in red).



Figure 1 – Site Context

It is also noted that the site will be an extension of the existing Carrington Centennial Care facility (i.e. retirement village) to the north of Werombi Road (outlined in blue in Figure 1 above). In addition, the Benwerrin Estate is to the south of the site (outlined in purple in Figure 1 above) and is a new residential subdivision area.

3. PURPOSE OF PLAN

The draft LEP as recommended to be amended by the Department, seeks to amend the Camden Local Environmental Plan (LEP) 2010 by rezoning the subject land from R5 Large Lot Residential to the following three (3) zones (refer to Figure 2 below):

- R2 Low Density Residential;
- B1 Neighbourhood Centre; and
- E2 Environmental Conservation.

It is noted that the planning proposal will not alter the existing 9.5m maximum building height limit and the 4,000sqm minimum lot size applying to the site.

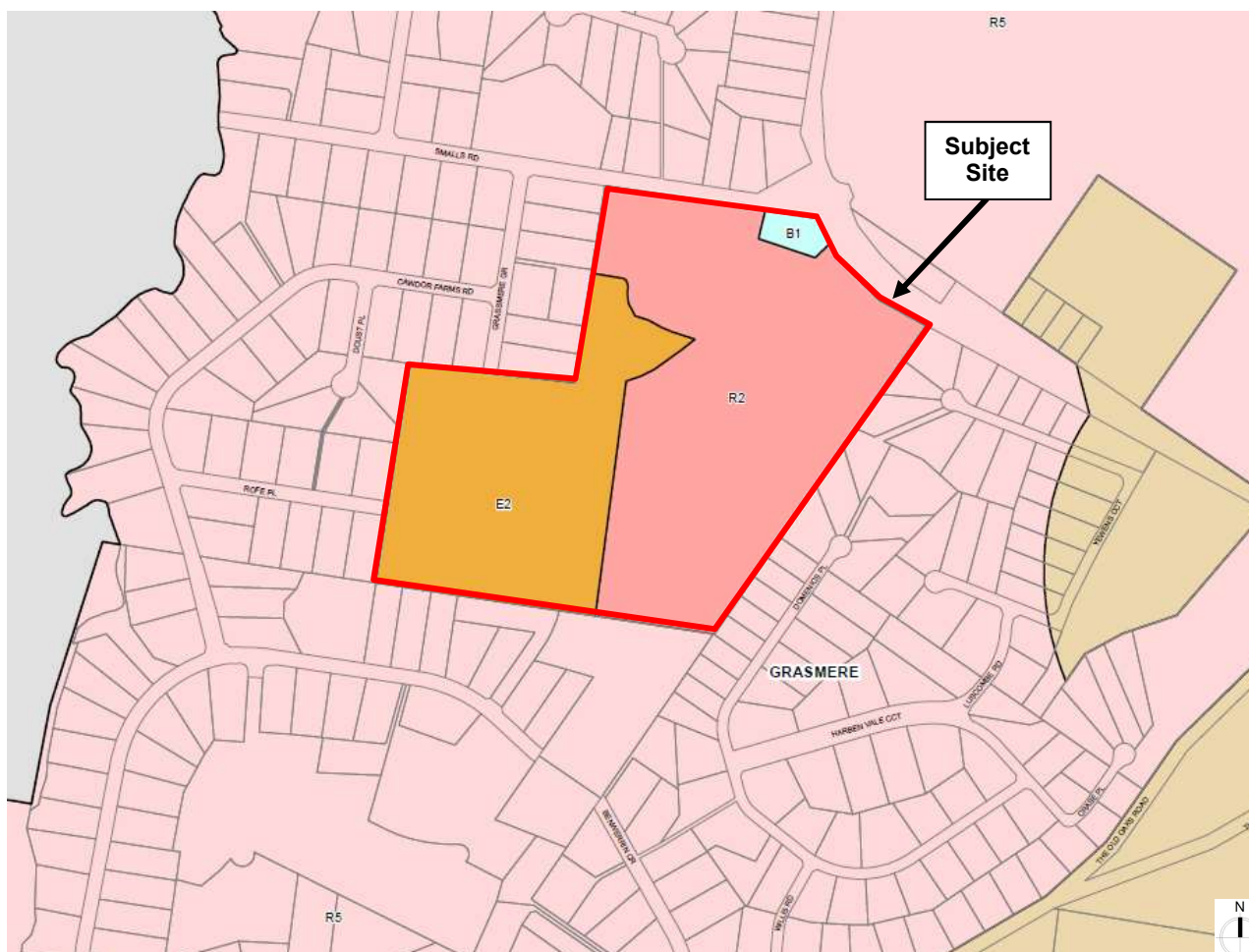


Figure 2 - Proposed Land Zoning Map

The draft LEP aims to expand the existing Carrington retirement village across the site and enable the development of the site, as follows:

- residential land for a retirement village consisting of approximately 207 seniors living dwellings (i.e. 112 independent living units and 95 apartments) and a 120-bed residential aged care facility (RACF) (refer to Figure 3 overleaf);
- a 4,000sqm neighbourhood centre which could include a medical centre/wellness centre, cafe/restaurant, pharmacy and convenience shop; and
- environmental conservation land to protect existing Cumberland Plain Woodland (CPW) and an Aboriginal heritage site. It is noted that the Department has increased the E2 zone to satisfactorily address concerns raised by OEH (refer to Part 7 of this report).

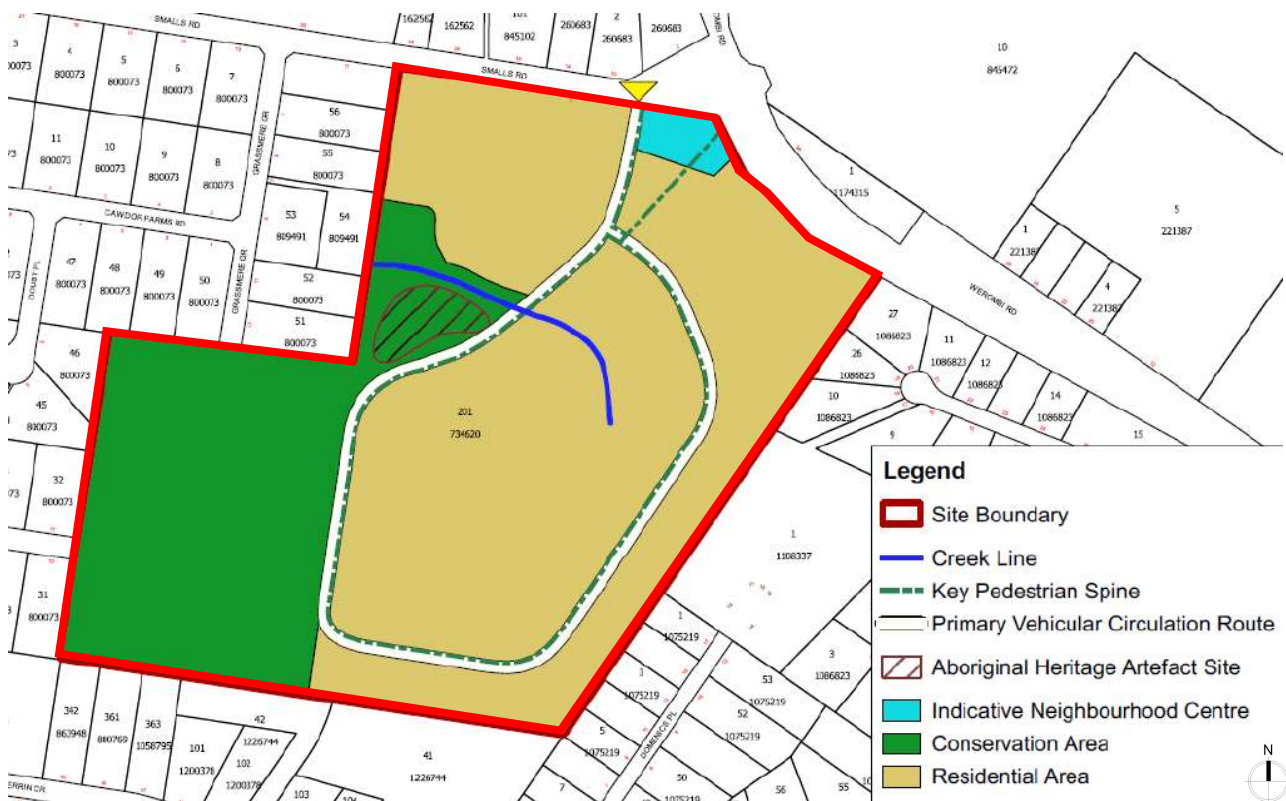


Figure 3 – Indicative Layout Plan

The draft LEP is also supported by a site-specific development control plan (DCP) (**Attachment G**) which will provide an indicative layout plan (ILP) and site-specific controls for the site. This site-specific DCP was exhibited with the planning proposal and was adopted by Council on 8 May 2018. It is noted that the endorsed site-specific DCP needs to be revised to account for the increased E2 zone as recommended by the Department.

STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Camden State Electorate. Mr Christopher Patterson MP is the State Member for Camden.

The site falls within the Hume Federal Electorate. Hon Angus Taylor MP is the Federal Member for Hume.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no known donations or gifts to disclose and a political donation disclosure is not required.

4. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 29 June 2012 (**Attachment C**) determined that the proposal should proceed subject to conditions.

There have been seven (7) Gateway Alterations issued for the planning proposal, as follows:

- on 14 May 2013 (**Attachment D1**): for a 10-month extension;

- on 20 December 2013 (**Attachment D2**): for a 6-month extension;
- on 3 September 2014 (**Attachment D3**): for an 8-month extension;
- on 6 August 2015 (**Attachment D4**): for a 5-month extension;
- on 11 April 2015 (**Attachment D5**): for a 12-month extension;
- on 11 January 2017 (**Attachment D6**): for a 6-month extension; and
- on 18 July 2017 (**Attachment D7**): for a 12-month extension.

The proposal was due for finalisation by 4 July 2018.

The Department received the request by Council to finalise the planning proposal prior to the due date. The Department is now satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

5. PUBLIC EXHIBITION

In accordance with the Gateway determination, public exhibition was undertaken by Council from 21 November 2017 to 15 January 2018. Council received three (3) community submissions; two (2) from the public; and, one (1) from the proponent.

The two (2) community submissions were primarily concerned with: traffic and access impacts; bushfire; local contributions; and, alterations to the planning proposal, as follows:

- vehicle access to the site from the adjacent Benwerrin Estate (residential subdivision south of the site) (DA2011/30) (refer to Figure 1 of this report) and the need for a new road between the two sites;
- traffic and pedestrian access and safety issues near the intersection of Smalls Road and Werombi Road;
- the supporting traffic study is out of date and relies on data collected only at the intersection of Smalls and Werombi Roads;
- the traffic study incorrectly states that there are no buses which serve the community but there are school buses which use Smalls Road and exit at the hazardous intersection at Benwerrin Crescent and The Old Oaks Road;
- the potential extinguishment of the 10m wide emergency services track adjacent to the Bushfire Asset Protection Zone (APZ); and,
- the impact on rate revenue and whether that would impact upon other ratepayers.

Council advised that these matters will be addressed at the development application (DA) stage (**Attachment H**) and addressed these concerns, as follows:

- the road identified in Benwerrin Estate is not intended to provide access to the site, and the construction of the road is a development application matter for that land;
- the supporting traffic studies concluded that there is sufficient capacity in the existing road network to support the proposed development and the site-specific DCP requires the submission of a pedestrian access plan with the first DA to ensure that pedestrian access to the site is adequately planned;
- the traffic study was updated in April 2016 and this version was exhibited with the planning proposal;
- the intersection at Benwerrin Crescent and The Old Oaks Road is not located adjacent to the site and traffic generated from the proposed development will not impact on this intersection;

- the requirements for emergency services access in, and adjacent to, APZs is set out in the Planning for Bushfire Requirements and will be considered as part of any future DA; and
- the proposal will not impact on other ratepayers in the locality as:
 - the seniors living housing can apply for an exemption from the payment of rates and the proponent can apply for the site to be non-rateable under section 556 of the *Local Government Act 1993* if the site is developed as a seniors living village; and
 - if a non-rateable status is granted, any loss of rates is distributed across the whole Camden LGA.

The proponent's submission requested certain alterations to the proposal as follows:

- removal of references to 'critically endangered' vegetation;
- inclusion of childcare centres and wellness centres as permissible uses in the B1 and R2 zones; and,
- an increase to the upper limit of the retail component to 1,000sqm; and
- amendment to the Indicative Layout Plan (ILP) to include a uniform setback of 10m along Smalls Road.

Council noted the proponent's request and addressed the matters as follows:

- the term will be retained as the Cumberland Plain Woodland on the site is classified as critically endangered under the *Biodiversity Conservation Act 2016*;
- the desired uses are currently permissible in both the B1 and R2 zones and the proposal will be amended to reflect this;
- the 500sqm retail cap in the site-specific DCP will be retained and only apply to uses categorised as a shop (i.e. café, convenience store, hairdresser etc), and not to the wellness centre or childcare centre (the intent of this restriction is to ensure any shop uses do not have an unacceptable impact on other centres); and
- the 20m setback shown on the ILP in the site-specific DCP is reflective of the average existing setback of residential dwellings on the northern side of Smalls Road and this will ensure consistent urban form outcomes on the site.
- Further, the 10m setback closer to the Werombi Road intersection reflects the transition from residential development to the Neighbourhood Centre. therefore, these setback requirements will not be altered.

It is considered that Council has adequately addressed the issues raised within the community submissions.

6. ADVICE FROM PUBLIC AUTHORITIES

Council consulted public authorities in accordance with the Gateway determination. Council received six (6) submissions from the following authorities: NSW Rural Fire Service (RFS); Transport for NSW (TfNSW); Road and Maritime Services (RMS); Endeavour Energy; NSW Heritage Council; and, the Office of Environment and Heritage (OEH).

In 2013, Council also consulted certain public authorities prior to the public exhibition period and received ten (10) submissions from: RFS; TfNSW; RMS; NSW Heritage Council; OEH; Campbelltown Council; Liverpool Council; Wollondilly Council; Sydney Water; and the Department of Sustainability, Environment, Water, Population and Communities.

These public authorities did not raise any objections to the planning proposal, however, identified issues such as bushfire, pedestrian connectivity and safety, infrastructure, and

biodiversity and Aboriginal heritage. These matters raised by the public authorities have been considered by Council, and the Department, and are discussed as follows.

Biodiversity Issues

The Flora & Fauna, Riparian and Bushfire Study and Offsets Strategy (**Attachment I1**) identified approximately 15ha of critically endangered Cumberland Plain Woodland (CPW) on the site, which mainly consists of Grey Box Forest Red Gum Grassy Woodland (refer to Figure 4 below). It is also noted that approximately 12.2ha of the site is currently cleared.



Figure 4 – Existing Vegetation Map

The planning proposal will remove approximately 7.4ha of the CPW on the eastern portion of the site to enable housing (i.e. proposed to be zoned R2 Low Density Residential). In addition, approximately 7.6ha of the CPW will be retained within an E2 Environmental Conservation zone on the western portion of the site.

Council noted that in response to the recommendations of the strategy, a Conservation and Land Use Management Plan (CLUMP) (**Attachment I2**) was prepared for the site and the existing Carrington Retirement Village (to the north). The CLUMP was prepared to ensure that the conserved biodiversity was appropriately managed. In addition, the site-specific DCP includes a number of controls to address biodiversity matters including the implementation of the CLUMP; preparation of a Vegetation Management Plan; locating the APZ outside the proposed E2 zone; and the provision of a 20m riparian corridor along the retained watercourse.

The Commonwealth Department of Sustainability, Environment, Water, Population and Communities (**Attachment J3**) advised that if the proposed development will result in the removal of the critically endangered CPW, or result in significant impacts on any other matters of national environmental significance, it would need to be referred to the Commonwealth Department at the DA stage under the *Environment Protection and Biodiversity Conservation Act 1999*.

The Office of Environment and Heritage (OEH) (**Attachment J1 and J2**), however, did not support the planning proposal as concerns remained with the security and ongoing

management of the proposed E2 zoned land, and the need for potential offsets for the cleared CPW across the site. OEH recommended that the proponent prepare a biodiversity certification application which will ensure that the proposed E2 land is appropriately managed and secured.

Under the *Biodiversity Conservation Act 2016*, biodiversity certification identifies areas of high conservation value within the site to be protected and areas suitable for development. Biodiversity certification offers a range of secure options for offsetting impacts on biodiversity within a site. After a site is certified, a BioBanking agreement can be entered into that states the management actions to be carried out to improve biodiversity values on the BioBank site and thereby creating biodiversity credits to offset the loss of biodiversity values.

Department Comment:

To address OEH's concerns, the proponent has initiated the biodiversity certification process for the site and also advised that a BioBanking agreement will also be prepared after the site is certified to offset the biodiversity impacts as a result of the development. A map of the proposed BioBanking area is provided at Figure 5 (below) and it is also noted that this proposed area is larger than Council's proposed E2 zone by approximately 2ha.

The Department concludes that the biodiversity controls in the site-specific DCP and the preparation of a biodiversity certification application are sufficient to address OEH's concerns.

In addition, to ensure that the proposed BioBanking area is secured and protected from future development, the Department has arranged for the extent of the proposed E2 zone to be increased by 2ha to be consistent with the proposed BioBanking area. This will result in the retention of 10ha of vegetation across the site and the removal of only 5ha of vegetation. Refer to Part 8 of this report for further information about this post-exhibition change.



Figure 5 – Proposed BioBanking Area

European Heritage Issues

The Historical Archaeological Assessment (**Attachment I3**) identified the remains of an underground cistern c.1882, and the potential archaeological remains of a cottage on the site. The NSW Heritage Council (**Attachment J4 and J5**) advised that prior to works commencing, the proponent must obtain an appropriate approval under the *Heritage Act 1977* to disturb any archaeological remains within the site.

The assessment, however, considers that due to the level of disturbance on the site the cistern provides little or no research potential, therefore meeting the exception criteria under the *Heritage Act 1977*. In addition, the site-specific DCP includes a control requiring an assessment report be provided to consider the potential impact on the archaeological remains of the cottage, and the provision of an archival photographic record of the cistern.

The NSW Heritage Council (**Attachment J5**) also noted that the proposal has not considered the impacts on the nearby local listed heritage items (i.e. Carrington Hospital – I118 and WW II Transmitter Bunker – I117) located on the existing Carrington retirement village to the north of the site. Council advised that the existing 9.5m maximum building height limit across the site will be retained, therefore there will be no additional impact.

Department Comment:

The Department notes that Council has adequately addressed this matter and any impacts on any archaeological remains within the site will be considered in the DA stage as required by the site-specific DCP.

Aboriginal Heritage Issues

The Aboriginal Heritage Preliminary Assessment (**Attachment I4**) identified eight (8) artefact locations across the site. Prior to public exhibition, OEH (**Attachment J1**) requested that the E2 zone be extended to include the CR4 area which contains five (5) Aboriginal artefacts (refer to Figure 6 below). Council amended the E2 zone in accordance with OEH's comments.

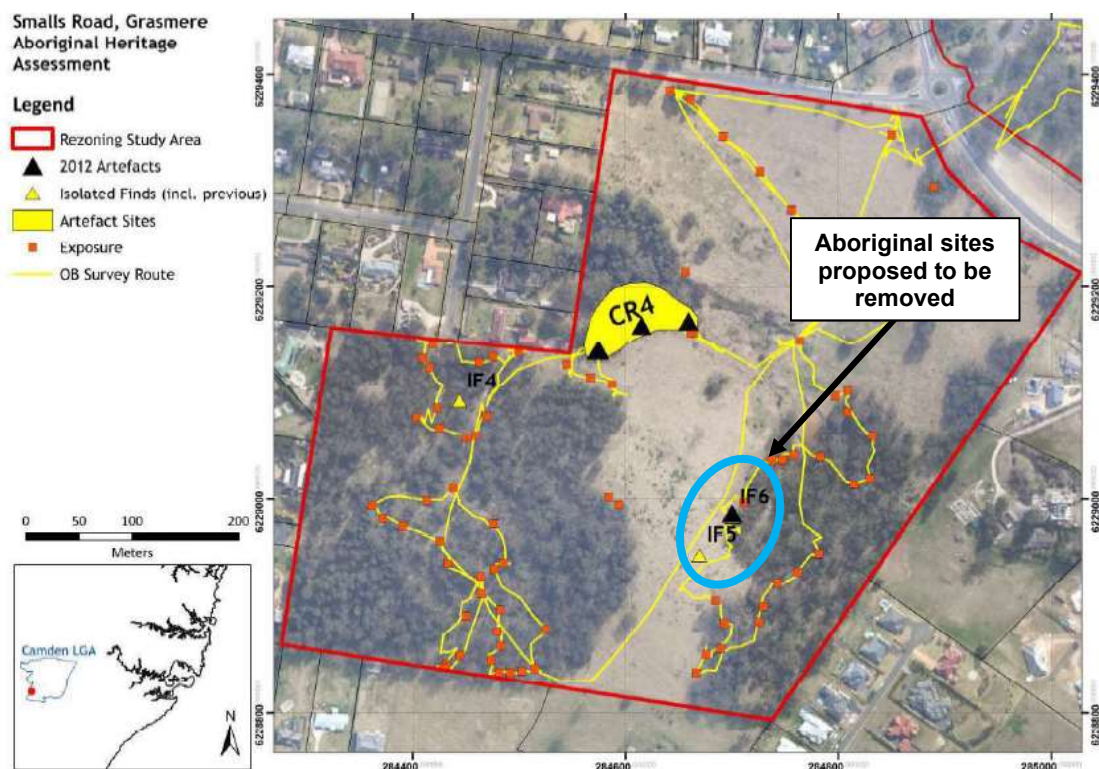


Figure 6 – Location of Aboriginal Artefacts

Therefore, six (6) Aboriginal artefacts will be protected within the E2 zone, however, two (2) of the isolated artefacts will be impacted as these are located within the R2 zone. Council notes that if the DA proposes to disturb or destroy any identified artefacts on the site, it will need to comply with the relevant legislation.

Department Comment:

The Department concludes that Council has adequately addressed OEH's comments in relation to this matter and that further consideration on Aboriginal heritage would occur at the DA stage.

Traffic Issues

The Traffic and Access Assessment (**Attachment I5**) concluded that the proposed development will result in minimal traffic and pedestrian impacts on the surrounding road network. There is adequate capacity for parking within the site and the internal low volume vehicle circulation and manoeuvring is considered satisfactory.

RMS (**Attachment J6 and J7**) and TfNSW (**Attachment J8-J10**) did not raise any objections with the planning proposal and provided recommendations for pedestrian safety. Council advised that a Pedestrian Mobility Plan will be required at the DA stage and the ILP illustrates the site entrance point, internal circulation road and key pedestrian spine.

Department Comment:

It is considered that Council has adequately addressed this matter in the site-specific DCP.

Flooding Issues

The site contains two existing watercourses through the site (refer to Figure 7 below). The top portion of the northern watercourse will be retained within the E2 zone as this part of the channel has some significant environmental value, however, the bottom portion has "little to no environmental value and appropriate to be removed for urban development". It is also noted that the southern watercourse is also generally located within the E2 zone.

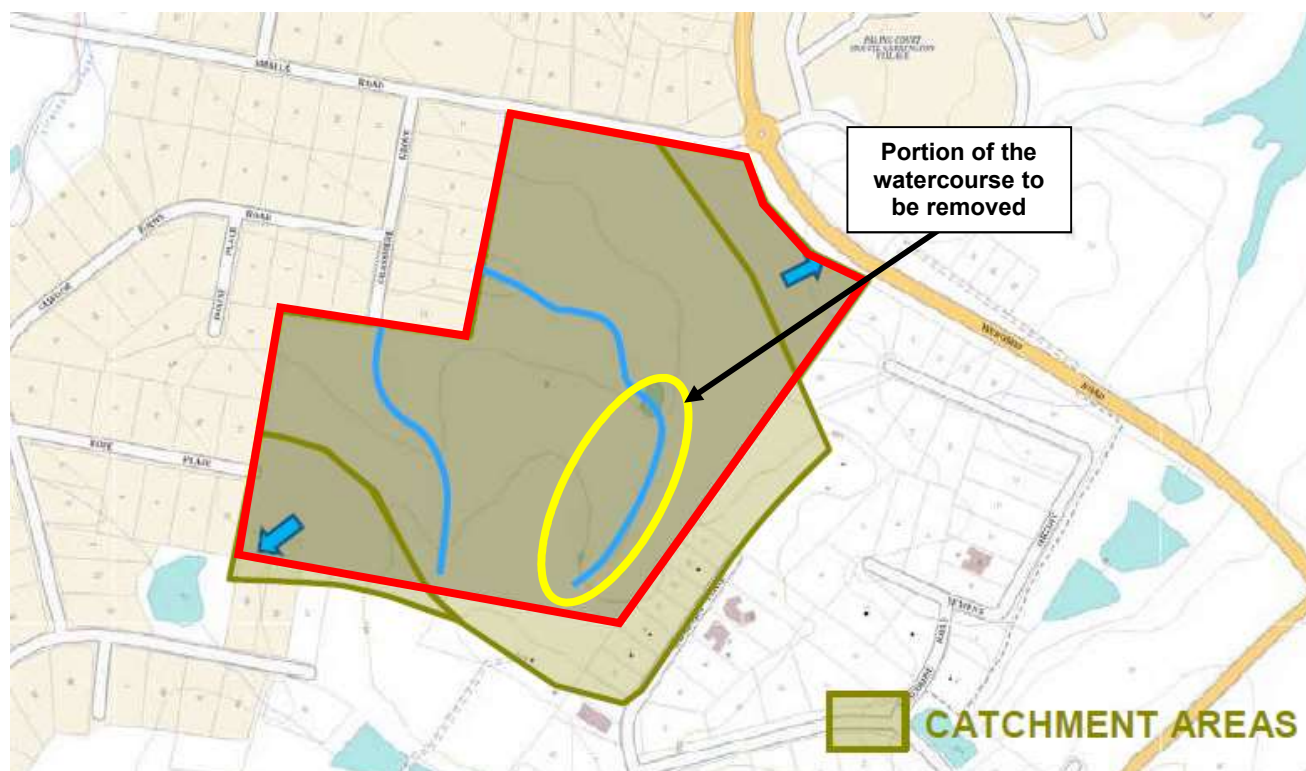


Figure 7 – Existing Watercourses on the Site

The Flood Risk Management Review (**Attachment I6**) notes that the site is located outside all regional flood events up to and including the Probable Maximum Flood (PMF) extent, therefore, is suitable for the proposed development subject to detailed analysis and planning of flood risk and construction of suitable mitigations measures at the DA stage.

OEH (**Attachment J1**) raised concerns with the potential for overland flooding across the site and requested a hydrological and hydraulic assessment be prepared to provide an understanding on flood risk, impact of the proposed development on potential flooding and adjacent areas, and a sensitivity analysis to determine the potential impacts from climate change.

Council also advises that further analysis of the local watercourses including detailed design of onsite water management and retention systems are required at a DA stage to determine local flood impacts up to the PMF event. It is also noted that Council's flood mapping and information derived from these studies currently indicates that the site sits outside all regional flood events up to and including the PMF.

Department Comment:

The Department notes that the site is not identified as flood prone land and suitable consideration of any flooding issues would be undertaken at the DA stage.

Bushfire Issues

The Flora & Fauna, Riparian and Bushfire Study (**Attachment I1**) concludes that the site is considered capable of meeting the requirements of Planning for Bushfire Protection 2006, subject to appropriate urban design and provision of required infrastructure, including: Asset Protection Zones (APZs); emergency access/egress plans; adequate and dependable supply of water - such as reticulated water; and, complying with building construction standards. Council also advised that future DAs will be required to demonstrate compliance with the Planning for Bushfire requirements, including necessary identified APZs.

In addition, the planning proposal is consistent with this direction as the NSW Rural Fire Service did not raise any objections to the planning proposal (**Attachment J17**).

Department Comment:

It is considered that Council has adequately addressed this matter. In addition, it is noted that the proponent has identified potential APZs outside the E2 zone as requested by OEH and as shown in Figure 5 (page 7 of this report) as part of the BioBanking application.

7. POST-EXHIBITION CHANGES

Changes by Council

On 8 May 2018 (**Attachment H**) at Council's Ordinary Meeting, Council resolved to proceed with the planning proposal with the following minor post-exhibition changes:

- amend the ILP to remove the APZs and setbacks to address OEH's comment that this does not contribute to the conservation of the E2 zone;
- amend the planning proposal to include reference to a wellness centre and childcare centre as permissible uses in the R2 Zone, as well as, in the B1 Zone to address the proponent's comment; and
 - update the planning proposal to reflect the adoption of the Western City District Plan,
 - reflect that the exhibition has taken place (i.e. Sections 4.4.6 Community Consultation and 4.7 Project Timeline), and

- update the consistencies with the SEPPs and section 9.1 Directions (i.e. Appendices 1 and 2).

Council also resolved to amend the draft DCP as follows:

- remove reference to a two-storey height limit in the DCP, as height is controlled by the LEP;
- amend the Carrington Planning Principles to ensure a degree of flexibility;
- amend the ILP; and
- insert: water management and riparian corridor controls; a water management plan; development setback controls; historical archaeology controls; and, an additional vegetation conservation control.

Recommended changes proposed by the Department

As noted in Part 6 of this report, OEH requested the preparation of a biodiversity certification application to ensure that the proposed E2 land is appropriately managed and secured. In response, the proponent has initiated the biodiversity certification process for the site and identified a potential BioBanking site on the land (refer to Figure 5 on page of this report).

The proposed BioBanking area is larger than Council's proposed and exhibited E2 zone by approximately 2ha. This post-exhibition change was instigated following the Department's further discussions with the proponent and OEH in relation to the adequate protection of biodiversity on the site. The proponent has agreed to this amendment and Council officers have raised no objections.

Therefore, the Department has recommended that the extent of the proposed E2 zone be increased by an additional 2ha to be consistent with the proposed BioBanking area. This would result in the conservation of approximately 10ha of vegetation across the site and the removal of approximately 5ha to enable the proposed development of the site. Refer to Figure 8 and 9 (below) for an illustration of this post-exhibition change.

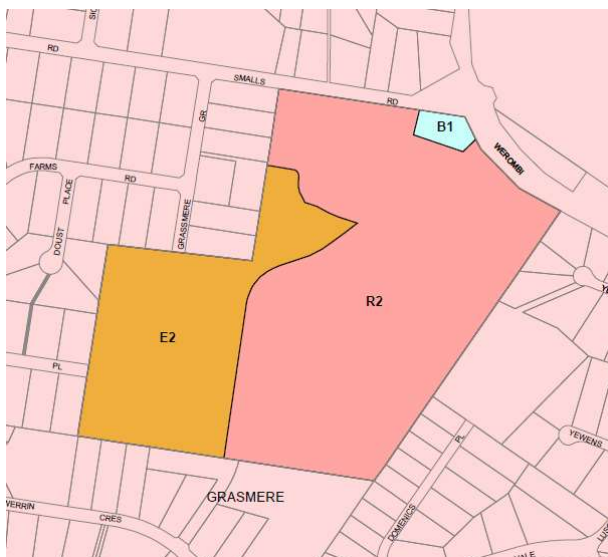


Figure 8 – Original Zoning Map

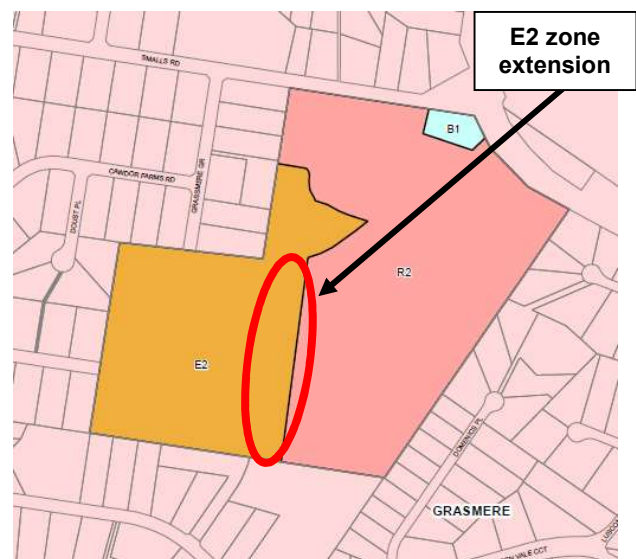


Figure 9 – Post-exhibition Change

The Department concludes that increasing the proposed E2 zone is a suitable biodiversity outcome for the site and will provide some certainty for OEH that the proposed BioBanking area will be protected. Any offsets required for the removal of vegetation on site will be considered through the biodiversity certification and the DA process.

Consideration

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- are a reasonable response to comments provided by the community and public agencies;
- would result in a better biodiversity outcome for the site, agreed to by the proponent; and
- do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

8. ASSESSMENT

Section 9.1 Directions

At the time of the determination (**Attachment C**), the delegate of the Secretary agreed that the planning proposal's inconsistency with section 9.1 Directions: 3.4 Integrating Land Use and Transport; 6.3 Site Specific Provisions; and, 7.1 A Plan for Growing Sydney, are justified in accordance with the terms of the Directions. Therefore, no further approval is required in relation to these directions.

Inconsistent: The inconsistency of the planning proposal with the following section 9.1 Directions is addressed below.

Direction 1.1 Business and Industrial Zones

The objectives of this Direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres. This direction applies to the planning proposal as it will rezone land within the site to B1 Neighbourhood Centre.

The planning proposal is inconsistent with this direction as the proposed new employment area is not in accordance with a strategy that is approved by the Department.

The inconsistency of the planning proposal with this direction is considered to be justified on the basis of minor significance as:

- the neighbourhood centre floor area will be limited and will support employment in a localised area; and
- the retail impact assessment (**Attachment I3**) concludes that the small neighbourhood centre is not of a size to impact on any existing employment lands in the LGA or upon the viability of identified centres.

Direction 2.1 Environment Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas. This direction applies to the planning proposal as it will rezone land to E2 Environmental Conservation and the site contains approximately 15ha of Cumberland Plain Woodland (CPW).

The planning proposal is inconsistent with the Direction as it proposes to remove approximately 5ha of the CPW on site for housing purposes i.e. zoned R2 Low Density Residential.

Approximately 10ha of the CPW, however, will be retained within the proposed E2 zone. Further, the DCP includes the requirement to implement a Conservation and Land Use Management Plan (CLUMP); the preparation of a detailed Vegetation Management Plan (VMP); and, a Section 88 instrument registered on title requiring compliance with the CLUMP and VMP. In addition, APZs will be required to be located outside the E2 zone.

As noted previously, the proponent is preparing a biodiversity certification application to protect areas of high conservation value on the site which will address OEH's concerns about biodiversity impacts. Once complete, a BioBanking agreement will be prepared to offset the biodiversity impacts as a result of any clearing of vegetation that would be required as part of developing the land.

Therefore, the inconsistency of the planning proposal with Direction 2.1 Environment Protection Zones is considered to be justified as of a minor significance, as there is adequate protection of biodiversity on the site and sufficient measures to address any vegetation removal on the site.

Consistent: The consistency of the planning proposal with the following section 9.1 Directions are addressed below.

Direction 3.1 Residential Zones

This Direction aims to encourage a variety and choice of housing types, make efficient use of existing infrastructure, and minimise the impact of residential development on the environment and resource lands. This Direction applies as the planning proposal will rezone land to R2 Low Density Residential.

The planning proposal is consistent with this direction as it will retain the residential zoning for part of the site, i.e. R5 Large Lot Residential to R2 Low Density Residential. In addition, it will broaden housing choice within the area by providing additional seniors living dwellings and a residential aged care facility, without consuming rural land.

It is noted that the adjoining Councils: Campbelltown Council (**Attachment J6**), Liverpool Council (**Attachment J7**), and Wollondilly Council (**Attachment J8**), did not object to the proposed density increase on the site. In addition, the relevant utility providers Sydney Water (**Attachment J9**) and Endeavour Energy (**Attachment J10**) indicated that any amplifications required to current services as a result of the development of the site would be resolved through the DA process.

Direction 3.5 Development Near Licensed Aerodromes

The objective of this direction is to ensure the effective and safe operation of aerodromes, and their operation is not compromised by future development. While, Camden Airport is located approximately 1.5km northwest of the site, the land is not located within the Australian Noise Exposure Forecast (ANEF) 20. Therefore, the planning proposal is consistent with this Direction.

The site is located within the 'Inner Horizontal Surface' on the Camden Airport Obstacle Limitations Surfaces map. The site, however, is not located on the direct approach to the runway and there is no change proposed to the existing maximum building height for the site.

Therefore, the planning proposal will not have an increased impact on the airspace for the Camden Airport. It is also noted that Council will consult with the appropriate airport authorities at the DA stage in accordance with clause 7.2 of the LEP.

Direction 4.1 Acid Sulfate Soils

This direction aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

An Acid Sulphate Soil Assessment (**Attachment I7**) was prepared for the planning proposal and concluded that the site is not known to be affected by acid sulfate soils, therefore, an Acid Sulfate Soils Assessment is not required.

State Environmental Planning Policies

State Environmental Planning Policy No 19—Bushland in Urban Areas

This Policy aims to protect and preserve bushland within the urban areas because of its value to the community as part of the natural heritage, its aesthetic value, and its value as a recreational, educational and scientific resource.

The planning proposal is inconsistent with this Policy as it would remove approximately 5ha of CPW across the site. However, this inconsistency is justified as the proponent is preparing a biodiversity certification application for the site which would address OEH's concerns and detail offset requirements in relation to the removal of a significant area of CPW on the site.

State, Regional and District Plans

Greater Sydney Region Plan

The planning proposal is generally consistent with the Greater Sydney Region Plan (March 2018) as it will provide additional housing (Objective 10) and diversify housing choice in the vicinity (Objective 11).

The proposed amendment is inconsistent Objective 27 'Biodiversity is protected, urban bushland and remnant vegetation is enhanced' as it will remove a portion of vegetation on the site. This inconsistency is justified, however, as the proponent is preparing a biodiversity certification application for the site.

Western City District Plan

The site is located within the Western City District, therefore the Western City District Plan (the Plan) (March 2018) applies to the site. The planning proposal is generally consistent with the Plan as it will provide appropriate, additional housing.

The site is identified as metropolitan rural area (MRA). The proposal will retain the large lot residential nature of the area and preserve significant vegetation on site. Accordingly, it is considered that the proposal is consistent with the intent of the MRA.

9. MAPPING

There is one (1) map associated with this planning proposal (**Attachment Map**) which has been submitted via the ePlanning Portal. This map has been examined by GIS staff and meet the technical requirements.

10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment E**).

Council confirmed on 24 August 2018 that it supported the draft and that the plan should be made (**Attachment F**), provided that the outstanding objection from OEH was resolved.

The Department considers that the OEH concern is resolved. The proponent has agreed to prepare a biodiversity certification application for the site, satisfying the issue raised by OEH. Further, the applicant has agreed to increase the proposed E2 zone by an additional 2ha to be consistent with the proposed BioBanking area.

11. PARLIAMENTARY COUNSEL OPINION

On 27 August 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

12. RECOMMENDATION

It is recommended that the Minister for Planning's delegate as the local plan-making authority determine to make the draft LEP, with the post-exhibition change under clause 3.36(2)(a) of the Act because:

- the post-exhibition changes are considered to be justified and are of a minor nature, which do not adversely impact upon the community and relevant authorities and, consequently, do not require re-exhibition;
- the proposed rezoning has strategic merit as it is generally consistent with the Greater Sydney Region Plan and the Western City District Plan;
- the inconsistency with section 9.1 Directions 1.1 Business and Industrial Zones and 2.1 Environment Protection are justified in accordance with the terms of these Directions;
- the proposed rezoning will provide additional housing and jobs in the local area, whilst protecting areas of biodiversity and heritage on the site; and
- the OEH objection is resolved as the proponent is preparing a biodiversity certification application for the site to protect areas of high conservation value across the site and the E2 zone is recommended to be increased to be consistent with the proposed BioBanking area.



7/12/18

Terry Doran
Team Leader, Sydney Region West



19/12/2018

Ann-Maree Carruthers
Director, Sydney Region West
Planning Services

Contact Officer: Chantelle Chow
Senior Planner, Sydney Region West
Phone: 9860 1548