



# **CAMDEN COUNCIL**

## **PLANNING PROPOSAL**

### **Amendment No. 17 – Sex Service Premises**

April 2012

Version 2 – 24 April 2012

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## **Background**

Camden Local Environmental Plan 2010 (LEP 2010) was gazetted on 3 September 2010 and became the principal planning instrument covering land use and zoning in the Camden Local Government Area (LGA). The adoption of the LEP 2010 was a 'best fit' transition from the superseded Camden LEP's in an attempt to maintain a 'status quo' from the old to the new LEP.

In Camden's superseded LEP's, Sex Service Premises were mapped to indicate eligible sites possible to accommodate this use. In the preparation and gazettal of the LEP 2010, Council was required to use a zone rather than a mapping approach. Accordingly, the IN1 – General Industrial zone was used which substantially increased the area where Sex Service Premises was permissible.

On 26 February 2012, following representation from Member for Camden - Mr Chris Patterson MP, correspondence from the Minister for Planning and Infrastructure – the Hon. Brad Hazzard MP detailed an option for Council to investigate possible mapping of eligible sites for the placement of 'Sex Service Premises' within the Camden Local Environmental Plan 2010. A copy of this correspondence is provided as **Attachment A**.

At the Ordinary Council Meeting of 10 April 2012, Camden Council considered a report on the preparation of a planning proposal to reinstate mapped areas indicating eligible sites for Sex Service Premises into LEP 2010. Council resolved it would:

- i. support the Planning Proposal for the mapping of land where Sex Service Premises will be permissible (subject to development consent);*
- ii. submit the Planning Proposal to the Department of Planning and Infrastructure for a Gateway Determination;*
- iii. upon receipt of a favourable Gateway Determination:*
  - a. consult relevant public authorities in accordance with the terms of the determination; and*
  - b. publicly exhibit the Planning Proposal in accordance with the terms of the determination and the Environmental Planning and Assessment Regulation 2000; and*
- iv. prepare a further report for Council's consideration at the conclusion of the public exhibition period.*

A copy of the Council report and resolution is included as **Attachment B**.

Following the resolution of Council, this planning proposal and associated indicative maps have been prepared so that the matter may proceed to Gateway Determination.

## ***Part 1 – Objectives or Intended Outcomes***

The planning proposal seeks to amend LEP 2010 to introduce mapped regions identifying sites where Sex Service Premises are permissible with consent. Sex Service Premises will be prohibited within the IN1 – General Industrial zone and Clause 7.6 of the LEP 2010 will allow Sex Service Premises on identified sites in accordance with the proposed maps. The amendments are proposed to reinstate the previous land use permissibilities of superseded LEP 46 and 47 providing certainty to the public and minimising potential land use conflicts.

The Planning Proposal will ensure that the planning provisions contained within LEP 2010 are consistent with those of superseded Camden LEP 46 and 47, which were in place prior to the gazettal of LEP 2010. This is consistent with the philosophy adopted by Council during the preparation of LEP 2010 where the ‘status quo’ was to be maintained as far as possible.

## **Part 2 – Explanation of provisions**

The Camden LEP 2010 currently permits the use of ‘Sex Service Premises’ within the IN1 – General Industrial zone, which are located within the Narellan and Smeaton Grange Industrial Precincts. Clause 7.6 of Camden’s LEP 2010 provides the legislative framework for the control of Sex Services Premises within this zone.

The objective of this clause is to *‘minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.’* In summary, the clause currently restricts the establishment of a Sex Service Premises that directly adjoins, is opposite to, or is separated by only a local road from:

- R1 - General Residential zone;
- R2 - Low Density Residential zone;
- R3 - Medium Density Residential zone;
- RE1 - Public Recreation zone; and
- Any land used for the purposes of:
  - a child care centre
  - a community facility
  - a school; or
  - a place of public worship.

The approach adopted in Camden LEP 2010 is different to that of LEP 46 and 47 and resulted in Sex Service Premises being permitted on a greater number of sites.

Amendment of the LEP will include alterations to the Land Use Table, which will prohibit the use of a sex service premises within the IN1 – General Industrial zone. An amendment of Clause 7.6 of the LEP 2010 will also be required to include the integration of mapped areas onto the LEP 2010 maps to clearly identify potential sites for this use.

In this regard, Clause 7.6 of the LEP will be amended to read:

### **7.6 Sex services premises**

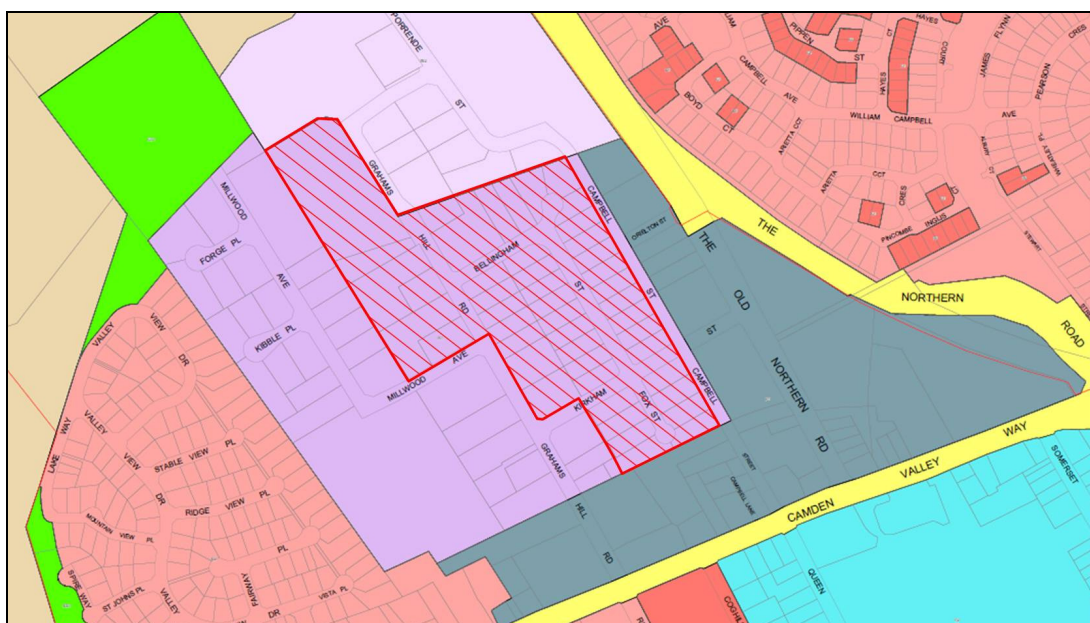
- (1) *The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.*
- (2) *This clause applies to land that is edged and hatched red on the Land Zoning map.*
- (3) *The consent authority must not grant development consent for the use of ‘Sex Service Premises’ on any land other than that which is edged and hatched red on the Land Zoning map.*

- (4) *Notwithstanding subclause 3, development consent must not be granted to development for the purposes of sex services premises if the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land:*
- (a) *in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone RE1 Public Recreation, or*
  - (b) *used for the purposes of a child care centre, a community facility, a school or a place of public worship.*
- (5) *In deciding whether to grant consent to development for the purposes of sex services premises, the consent authority must consider the impact the proposed development would have on any place likely to be regularly frequented by children.*

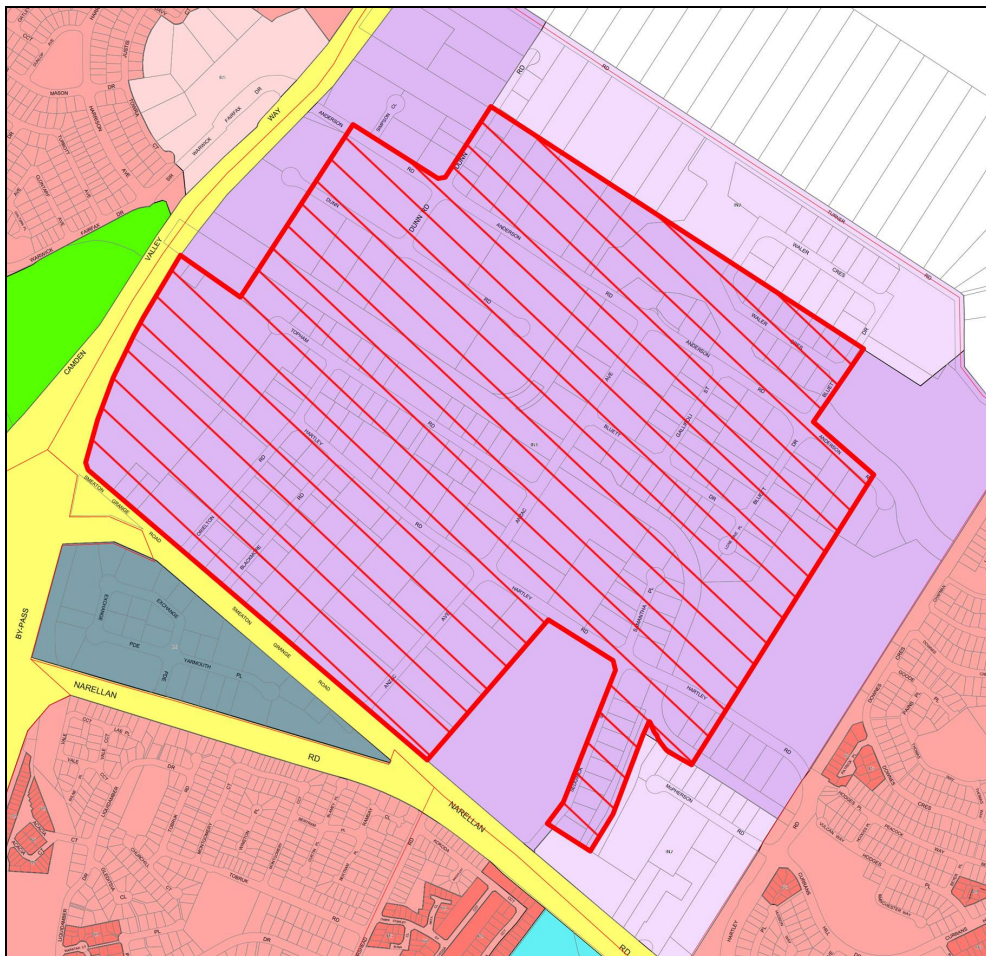
The following Land Zoning maps of the LEP 2010 will be amended to include an edged and hatched area indicating the sites where Sex Service Premises are permissible with consent:

- Land Zoning Map – Sheet LZN\_012
- Land Zoning Map – Sheet LZN\_017

In accordance with the proposed LEP framework, **Figure 1** and **Figure 2** (on the following page) outline potential permissible areas within the LGA for Sex Service Premises:



**Figure 1 – Narellan Proposed Mapped Areas**



**Figure 2 – Smeaton Grange Proposed Mapped Areas**

## ***Part 3 – Justification***

### **Section A – Need for the planning proposal.**

**1. Is the planning proposal a result of any strategic study or report?**

The planning proposal is not a result of any strategic study or report. However, as previously stated, the Planning Proposal is made to provide certainty to the public and indicate areas to minimise potential land use conflicts. This proposal has been prepared in accordance with the correspondence received from the Minister of Planning and Infrastructure – the Hon. Brad Hazzard and reinstates previous land use provisions of Camden LEP 46 and 47.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

It is considered that the planning proposal provides the best way of achieving the objectives and intended outcomes.

**3. Is there a net community benefit?**

Given the minor nature of the matters contained within this planning proposal, it is not considered that a Net Community Benefit Test is required. The matters addressed by this planning proposal will strengthen the Camden LEP 2010 by ensuring that it is up-to-date and robust, thereby providing the community with greater certainty.

### **Section B – Relationship to strategic planning framework.**

**4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The planning proposal is consistent with both the draft South Western Regional strategy and the Sydney Metro Strategy.

**5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

The planning proposal is consistent with Camden Council's Strategic Plan Camden 2040.

**6. Is the planning proposal consistent with applicable state environmental planning policies?**

The planning proposal is consistent with applicable state planning policies.

**7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The planning proposal is consistent with applicable Ministerial Directions as explained in **Attachment C**.

**Section C – Environmental, social and economic impact.**

- 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

There is no likelihood of any adverse affect on any critical habitat or threatened species, populations or ecological communities, or their habitats, as a result of this planning proposal.

- 9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

There are no likely environmental effects as a result of this planning proposal.

- 10. How has the planning proposal adequately addressed any social and economic affects?**

There are no likely social or economic effects as a result of this planning proposal.

**Section D – State and Commonwealth interests.**

- 11. Is there adequate public infrastructure for the planning proposal?**

Not applicable.

- 12. What are the views of state and Commonwealth public authorities consulted in accordance with the gateway determination?**

Not applicable.

## ***Part 4 – Community Consultation***

The matters dealt with in this planning proposal are of a sensitive and highly political nature, with the amendment of Clause 7.6 and the proposed insertion of mapped areas into the LEP maps. Accordingly, it is considered that an exhibition period of 28 days is appropriate for this planning proposal.

During the public consultation, it is recommended that the Planning Proposal be referred to the Crime Prevention Team of the NSW Police – Narellan Local Area Command for consultation and comment.

## Attachment A – Minister for Planning and Infrastructure Correspondence



**The Hon Brad Hazzard MP**  
Minister for Planning and Infrastructure  
Minister Assisting the Premier on Infrastructure NSW

Mr Chris Patterson MP  
Member for Camden  
66 John Street  
CAMDEN NSW 2570

12/02111

RECEIVED  
28 FEB 2012

Chris

Dear Mr Patterson

I refer to your letter concerning the approval of a development application for sex services premises at 1 Kibble Place, Narellan.

You will be aware *Camden Local Environmental Plan 2010* (the 'LEP') provides that sex services premises are permitted with consent on the subject site in the IN1 General Industrial zone. This is subject to the provisions of Clause 7.6 of the LEP, which was a model local clause at the time the LEP was made.

I have been advised by the Department of Planning and Infrastructure there are a number of examples of other councils proceeding with mapped areas permitting sex services within Standard Instrument LEPs. In this light, I suggest Camden Council consider the submission of a Planning Proposal to amend the current approach to sex services permissibility to provide mapping of the areas in which such premises are to be permitted.

If your office or Council have any questions on this matter, I have arranged for Mr Peter Goth, the Department's Regional Director, Sydney West Regional Office, who can be contacted on 9873 8589 or [peter.goth@planning.nsw.gov.au](mailto:peter.goth@planning.nsw.gov.au) to provide assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brad Hazzard'.

**HON BRAD HAZZARD MP**  
Minister

26.2.12

## ***Attachment B – Council Report and Resolution***

## ***Attachment C – Applicable section 117 directions***

| <b>Direction</b>                  | <b>Objective</b>                                                                                                                                                                                                                                                                                       | <b>Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 Business and Industrial Zones | <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) encourage employment growth in suitable location,</li> <li>(b) protect employment land in business and industrial zones, and</li> <li>(c) support the viability of identified strategic centres.</li> </ul> | <p>The proposal is of minor significance and is consistent with all regional and local strategies. The amended mapping retains all existing industrial uses and maintains the potential development floor space for industrial uses within this existing industrial zone.</p> <p>The proposed mapping of areas capable of accommodating 'sex service premises' provides certainty to the public indicating an appropriate buffer is maintained from sensitive land uses in accordance with the proposed requirements of the LEP 2010.</p> |
| 6.3 Site Specific Provisions      | <p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p>                                                                                                                                                                                     | <p>This Planning Proposal seeks to prohibit the use of Sex Service Premises within the IN1 – General Industrial zone, however, the amendment of Clause 7.6 will refer to mapped areas to be inserted into the Land Zoning Maps. The maps will define areas capable of accommodating this use. This does not pose any additional development standards on top of those currently in force.</p>                                                                                                                                             |

| Direction                                       | Objective                                                                                                                                                        | Response                                                                                                    |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| 7.1 Implementation of the Metropolitan Strategy | The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy. | The proposal is compatible with the NSW Government's Metropolitan Strategy 2036 published in December 2010. |