

Planning Services

IRF18/4057

Plan Finalisation Report

Local Government Area: Camden LGA

1. NAME OF DRAFT LEP

Camden Local Environmental Plan 2010 (Amendment No. 40) (the draft LEP).

2. SITE DESCRIPTION

The planning proposal (PP_2016_CAMDE_003_00) (**Attachment B1-B2**) applies to certain land, or an issue, in the Camden local government area (LGA) that relates to local heritage items; LEP maps and clauses; the Land Use Table (LUT); and, additional permitted uses.

The planning proposal does not apply to land subject to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

3. PURPOSE OF PLAN

The draft LEP seeks to make minor amendments to the Camden Local Environmental Plan (LEP) 2010 to address matters which are of an administrative or low-impact nature, with the aim to improve the overall operation and accuracy of the LEP. The draft LEP will not facilitate any additional dwellings or jobs within the Camden LGA. The proposed amendments are as follows:

1. Land Use Table – amending the types of development permitted with consent and prohibited under the zones in Table 1 (below):

Table 1: Proposed changes to the Land Use Table (LUT)

Land Use Zone	Inclusion of an additional 'permitted with consent' use in the LUT	Inclusion of an additional 'prohibited' use in the LUT
RU1 Primary Production		<ul style="list-style-type: none"> • Exhibition villages
RU2 Rural Landscape		<ul style="list-style-type: none"> • Exhibition villages
RU4 Primary Production Small Lots		<ul style="list-style-type: none"> • Exhibition villages
R1 General Residential		<ul style="list-style-type: none"> • Industrial retail outlets • Industrial training facilities
R2 Low Density Residential	<ul style="list-style-type: none"> • Secondary dwellings • Exhibition homes • Exhibition villages 	<ul style="list-style-type: none"> • Industrial retail outlets • Industrial training facilities
R3 Medium Density Residential	<ul style="list-style-type: none"> • Exhibition homes • Exhibition villages 	<ul style="list-style-type: none"> • Industrial retail outlets • Industrial training facilities

Land Use Zone	New Permitted with Consent Uses	New Prohibited Uses
R5 Large Lot Residential		<ul style="list-style-type: none"> Industrial retail outlets Warehouse or distribution centres
B1 Neighbourhood Centre	<ul style="list-style-type: none"> Health consulting rooms 	<ul style="list-style-type: none"> Industrial retail outlets
B2 Local Centre		<ul style="list-style-type: none"> Industrial retail outlets
B4 Mixed Use		<ul style="list-style-type: none"> Industrial retail outlets Warehouse or distribution centres
B5 Business Development		<ul style="list-style-type: none"> Industrial retail outlets Stock and sale yards
IN1 General Industrial	<ul style="list-style-type: none"> Kiosks Landscaping material supplies Rural supplies 	<ul style="list-style-type: none"> Exhibition villages
IN2 Light Industrial	<ul style="list-style-type: none"> Kiosks Rural supplies 	<ul style="list-style-type: none"> Exhibition villages
SP3 Tourist	<ul style="list-style-type: none"> Car park Building identification signs Passenger transport facilities 	
RE1 Public Recreation	<ul style="list-style-type: none"> Car park 	
RE2 Private Recreation	<ul style="list-style-type: none"> Car park 	
E2 Environmental Conservation	<ul style="list-style-type: none"> Environmental facilities 	
E4 Environmental Living	<ul style="list-style-type: none"> Bed and breakfast accommodation Secondary dwellings 	

Note: There is an existing savings and transitions clause in the LEP (i.e. clause 1.8A) which will capture any currently lodged development applications that may relate to the proposed prohibited uses.

2. Clause 5.1 Relevant acquisition authority – changing the reference to the “Roads and Traffic Authority” to “Roads and Maritime Services” as the current name of this state authority.
3. Clause 7.1 Flood planning – updating the definition for “flood planning level” to be consistent with the definition for the South West Priority Growth Area under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, best practice and recent Flood Studies/Floodplain Risk Management Studies in the LGA.
4. Clause 7.2 Airspace operations – revising the wording of this clause to provide clarity for development applications to be referred to the Commonwealth body.
5. Clause 7.3 Development in areas subject to airport notice – remove the link to the Noise Exposure Forecast Contour Map in this clause as the link to the map does not sit within the LEP.
6. Clause 7.5 Centre-based child care facilitates – remove this clause as the provisions of this clause are no longer enforceable due to the gazettal of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) on 1 September 2017.

7. Clause 7.8 Road widening of Camden Valley Way, Catherine Field (Lakeside) – remove this clause as the road widening is complete and this clause is no longer required.
8. Clause 7.9 Minimum lot size for secondary dwellings – insert a new clause that identifies a minimum lot size of 450sqm for secondary dwellings, excluding secondary dwellings developed in conjunction with a rear lane over a garage in Spring Farm and Elderslie.

Note: It is noted that this proposed clause is not inconsistent with the State Environmental Planning Policy (Affordable Rental Housing) 2009.

9. Schedule 1 Additional permitted uses – amend nine (9) clauses to update the property descriptions to reflect subdivisions, remove three (3) clauses that are no longer required because the existing uses have changed, and update ten (10) clauses with regard to the manner in which they refer to the applicable maps.
10. Schedule 2 Exempt development – insert two new exempt development clauses for the following:
 - to enable community and fundraising events on Council owned land, or at the Australian Botanic Gardens, to occur as exempt development; and
 - to enable commercial advertising signage on bus shelters to proceed as exempt development.

Note: These proposed exempt development clauses are not included within the current State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, nor inconsistent with the Policy.

11. Schedule 5 Environmental heritage – update the property description or the address of a heritage item and correct any disparity between LEP maps and the heritage schedule.
12. LEP Maps – amend the following maps to ensure these are accurate, aligned with cadastral boundaries, consistent with strategic intent and in line with the current Department technical mapping standards:
 - Land Application Map; Land Zoning Maps; Lot Size Maps; Height of Building Maps; FSR Maps; Heritage Maps; and Additional Permitted Uses Maps.

The details of the proposed amendments to the maps and clauses are provided at page 33 of the planning proposal (**Attachment B2**).

4. STATE ELECTORATE AND LOCAL MEMBER

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

The site falls within the Hume Federal Electorate. The 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 donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 23 August 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions.

There have been two (2) Gateway Alterations issued for the planning proposal, as follows:

- on 4 September 2017 (**Attachment D1**): for a 6-month extension; and
- on 26 March 2018 (**Attachment D2**): for an additional 6-month extension.

The proposal was due for finalisation by 29 August 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.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 29 November 2016 to 27 January 2017.

The proposal was also re-exhibited from 9 May 2017 to 9 June 2017 following the inclusion of two additional amendments (i.e. bus shelter advertising as exempt development and minimum lot size for secondary dwellings).

Council received five (5) submissions from the community during the exhibition period.

The summary of the concerns raised in the community submissions (**Attachment G**) and Council responses (**Attachment H2**) are outlined in Table 2 (below).

Table 2: Summary of community submissions and Council responses

Community Submission Concerns	Council Responses
1. Advises the symbol "F" which represents a minimum lot size of 400sqm is missing in the legend for the Lot Size Map Tile No.16.	Council advised that the planning proposal includes updating of the legends of all maps.
2. Requests that the State heritage listed item for the Gledswood Homestead is amended in the LEP to reflect the OEH state heritage curtilage, which was reduced in size by OEH on 30 August 2017. In addition, it is requested that the other relevant development controls are also amended accordingly (i.e. the building height and lot size).	Council resolved to implement the changes to the Gledswood Homestead heritage item.
3. Requests that the certain lots zoned R2 Low Density Residential and RU1 Primary production within the Australian Botanic Gardens site are rezoned to SP1 Special Activities, to be consistent with the remainder of the site.	Council resolved to include this rezoning.
4. Requests that the heritage curtilage for the State heritage item known as Raby Homestead be reduced.	Council advised that any changes to the Raby Homestead heritage curtilage will be considered as part of the Catherine Field Precinct planning process.

Community Submission Concerns	Council Responses
5. Requests that the Australian Botanic Gardens site is included in the proposed exempt development clause for community events.	Council resolved to include this site in the proposed clause.
6. Concerned with the proposed minimum lot size of 450m ² for secondary dwellings in the R1 General Residential zone as it would restrict housing diversity and existing approved development applications.	Council resolved to include the 450m ² minimum lot size for secondary dwellings, excluding secondary dwellings developed in conjunction with a rear lane over a garage in Spring Farm and Elderslie. In addition, the provisions for secondary dwellings are proposed to be reviewed in the next review of the Camden LEP by Council.

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

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult Office of Environment and Heritage (OEH); Roads and Maritime Services (RMS); Department of Infrastructure and Regional Development; Civil Aviation Safety Authority; and Sydney Metro Airports in accordance with the Gateway determination.

Council consulted these authorities and received seven (7) submissions (**Attachment G**). it is noted that a submission was not received from RMS. The concerns raised by the authorities are summarised below.

Airspace Issues

The aviation public authorities (i.e. Sydney Metro Airports, Airservices Australia, Department of Infrastructure and Regional Development, and the Civil Aviation Safety Authority) support the planning proposal, subject to minor alterations being made to Clause 7.2 Airspace Operations.

The Department notes that Council has considered and adopted the suggested wording in the clause.

Bushfire Issues

The NSW Rural Fire Service (RFS) requested that the proposed exempt development clause for community events be revised to address the following matters:

- a bushfire emergency management and evacuation plan be prepared in accordance with RFS guidelines and consideration to be given to the need for appropriate bush fire protection measures;
- events not be held on days with an extreme or catastrophic bush fire danger rating for the local area; and
- no camping be allowed.

Council resolved to include the RFS's recommendations in the planning proposal.

Flooding Issues

OEH notes the intent to amend the definition of "flood planning level" to be consistent with the recent flood studies for the LGA and raises no concerns with the proposed change.

Heritage Issues

On 30 August 2017, OEH gazetted an amendment to the State Heritage Register curtilage for the Gledswood State heritage item, which reduced the identified heritage area. Refer to Figure 1 (below) for a comparison of the existing heritage item area under the Camden LEP (outlined in red in Figure 1) and the existing State Heritage Register curtilage (shaded in blue in Figure 1). Accordingly, Council has reduced the heritage listing for the Gledswood State heritage item as part of this proposal.



Figure 1 – Gledswood State heritage item

The NSW Heritage Council supports the administrative review of heritage items and the review of heritage maps as part of the planning proposal and requests that Council supply its heritage mapping database to OEH. Council agreed to provide the heritage mapping database to OEH.

However, Council also resolved to retain the heritage listing across a small portion of land as a local heritage item (refer to Figure 2 below - item I81A). This will ensure that the intended 7m building height for this land is retained and that complying development which enables the development of buildings up to 8.5m is not permissible on this land. It is noted that the landowner has agreed to the inclusion of this local heritage item (Submission 5a in **Attachment G**).

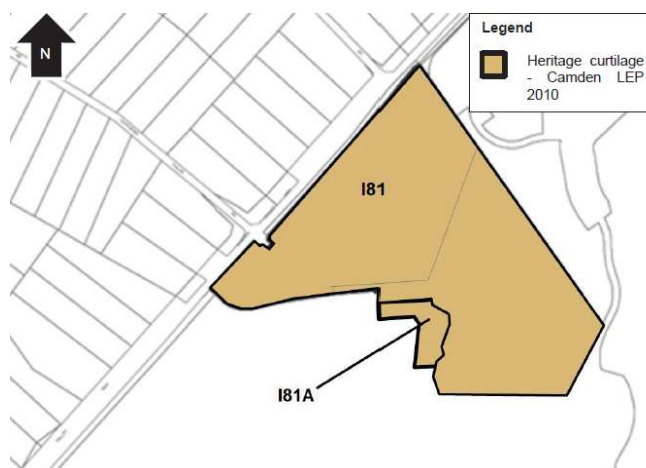


Figure 2 – Proposed Gledswood State and local heritage item

Department Comment

The Department considers that Council has adequately considered the comments submitted by the consulted public authorities.

8. POST-EXHIBITION CHANGES

Changes by Council

On 10 April 2018 (**Attachment H1**) at Council's Ordinary Meeting, Council resolved to proceed with the planning proposal with the following post-exhibition changes:

- amend the proposed clause 7.2 Airspace operations in accordance with the suggested wording from the aviation authorities;
- amend the legend for Lot Size Map (LSZ_016) to include the lot size category "F = 400sqm" in accordance with the community submission recommendation;
- amend the proposed exempt development clause for special events and temporary uses in accordance with the comments from RFS and the Australian Botanic Gardens;
- insert a local heritage listing for part of the Gledswood heritage item site in the Heritage Map;
- amend the proposed clause for a minimum lot size for secondary dwellings to exclude its application for land in Spring Farm and Elderslie;
- include an exempt development clause for advertising signage on bus shelters; and
- rezone land within the Australian Botanic Gardens from R2 Low Density Residential to SP1 Special Activities (Environmental Facility) to be consistent with the zoning for the majority of the site (refer to Figure 3 below).

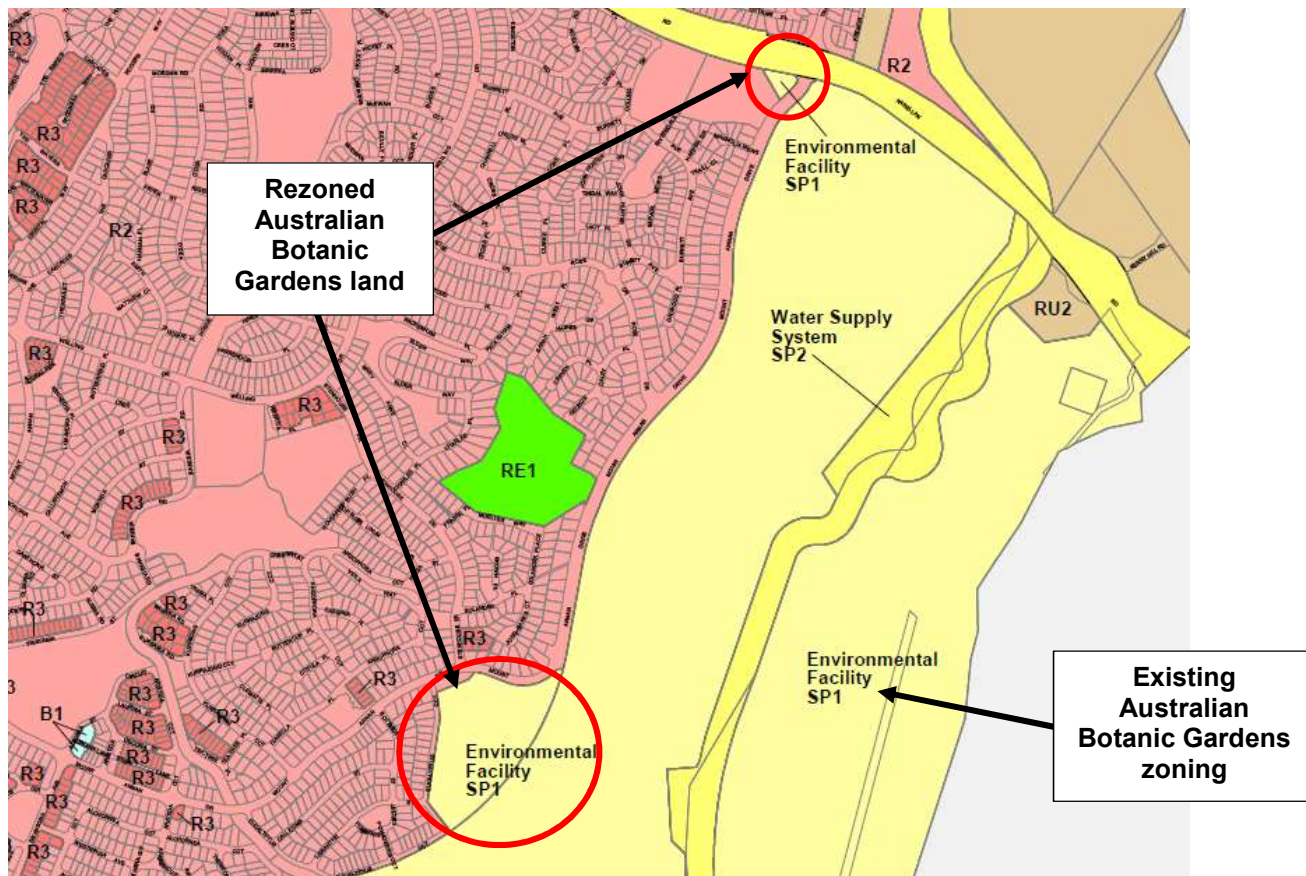


Figure 3 – Rezoned Australian Botanic Gardens land

Recommended changes proposed by the Department

In addition, the Department has undertaken some minor post-exhibition changes to the planning proposal in relation to correctly identifying current land descriptions (i.e. addresses or allotments) for certain sites proposed to be amended in the LEP, aligning the polygons of mapped areas with the cadastre in certain map tiles for consistency, and amending the proposed clauses.

The recommended changes are as follows:

- retain the 0.6m freeboard measurement in the definition of flood planning level within clause 7.1 as a freeboard is not specifically defined in Council's current flood policy;
- amend the property description for certain additional permitted use sites and heritage items as they have changed since the proposal was exhibited due to recent subdivisions; and
- remove the pre-approval requirement of the content of the proposed exempt advertising sign.

Further, apply the maximum building height of 9.5m for land zoned E4 Environmental Living and remove the building height for land zoned E2 Environmental Conservation. It is noted that the current E2 and E4 zoned land will not change but the intention is to realign the maximum building height, so it corresponds with the relevant environmental zone to be consistent with other E2 and E4 zones in the area. In addition, this change will not have any adverse impacts on the current housing development within the E2 and E4 zoned area as the current buildings are less than 9.5m building height. Refer to Figure 3 (below) for the unaligned building height and zone areas, and refer to Figure 4 (overleaf) for the proposed height of building map.

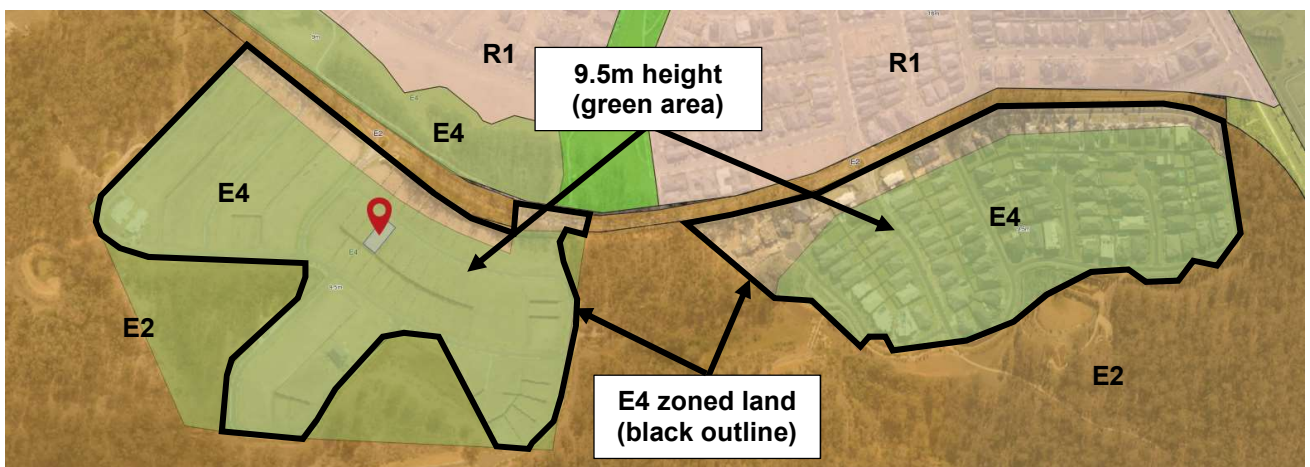


Figure 3 – Misalignment of the building height with the corresponding zones



Figure 4 – Proposed height of building map

Council has noted the above changes recommended by the Department and requests that the finalisation proceeds (**Attachment I**). In providing this advice, the council officer also advised it is preferable for the freeboard matter and pre-approval requirement to remain as proposed by Council. It was explained that these changes are necessary for legal drafting reasons and could not be implemented for this reason. The council officer accepted this situation.

Consideration

The Department notes that the above 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 authorities;
- do not alter the intent of the planning proposal; and
- are minor amendments to the planning proposal.

9. 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 1.1 Business and Industrial Zones, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport; 4.1 Acid Sulfate Soils, and 6.3 Site Specific Provisions, 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 Directions are further addressed as follows.

Direction 1.2 Rural Zones

The objective of this Direction is to protect the agricultural production value of rural land. The planning proposal is inconsistent with this Direction as it proposes to rezone Lot 1001 DP 734435 from RU1 Primary Production to SP1 Special Activities.

The inconsistency is considered to be justified as the current RU1 zone is a mapping anomaly as the site is within the Australian Botanic Gardens which is primarily zoned SP1.

Therefore, taking into consideration the above, the inconsistency of the planning proposal with Direction 1.2 Rural Zones is considered to be of minor significance.

Direction 4.4 Planning for Bushfire Protection

The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.

The planning proposal is inconsistent with this Direction as it does not introduce new controls that avoid placing inappropriate developments in hazardous areas as prescribed by the Direction.

The inconsistency is justified as consultation was undertaken with RFS (**Attachment G**) and no objections to the planning proposal were raised. Council also adopted the recommendations from RFS.

Direction 6.2 Reserving Land for Public Purposes

This Direction aims to facilitate the provision of public services and facilities by reserving land for public purposes, and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. The planning proposal is

inconsistent with this Direction as it seeks to amend the boundaries of the RE1 zone for Hilder Reserve, Elderslie.

The inconsistency is considered to be justified as the proposed amendment seeks to realign the boundaries of the RE1 zone to follow the current cadastre and correctly identify land within the open space area.

It is recommended that the inconsistency of this planning proposal with Direction 6.2 Reserving Land for Public Purposes is justified as it is of minor significance.

Consistent: The consistency of the planning proposal with the following Directions are further addressed as follows.

Direction 3.5 Development Near Licensed Aerodromes

The objectives of this direction are to ensure the effective and safe operation of aerodromes. The planning proposal seeks to amend Clause 7.2 Airspace Operations to provide clearer controls for proposed development that requires referral to the relevant commonwealth body.

The planning proposal is considered to be consistent with this Direction as Council has consulted the relevant authorities in relation to the proposed clause and included the recommendations from these authorities.

Direction 4.3 Flood Prone Land

This Direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

The planning proposal is consistent with this Direction as Council intends to amend the definition of flood planning level in clause 7.1 Flood Planning to align with Priority Growth Areas best practice and recent Flood Studies / Floodplain Risk Management Studies in the LGA. In addition, Council consulted OEH on this matter and that authority did not raise any concerns.

State environmental planning policies

The planning proposal is consistent with all State Policies given the nature of the proposal which seeks to implement minor amendments to Camden LEP 2010.

State, regional and district plans

The planning proposal is consistent with the objectives and actions of the Greater Sydney Region Plan (March 2018) and the Western City West District Plan (March 2018) as it only proposes minor amendments to the Camden LEP 2010.

10. MAPPING

There are thirty-nine (39) maps associated with this planning proposal (**Attachment Map**) which have been submitted via the ePlanning Portal. These maps have been examined by GIS staff and meet the technical requirements.

11. 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 27 February 2019 that it was generally happy with the draft and that the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 27 February 2019, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because it would implement minor amendments to the Camden LEP 2010 to address issues that have arisen as a result of drafting errors or to respond to issues in the application of the LEP provisions.

In addition, it is consistent with the Greater Sydney Region Plan and the Western City West District Plan.



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