



# Camden Council

## Business Paper

### Ordinary Council Meeting 12 October 2021

Please note due to COVID-19 restrictions this meeting is being held as a teleconference. The public can view the meeting via Council's webcast. A link to this webcast can be found on Council's webpage – <http://webcast.camden.nsw.gov.au/video.php>





## ORDINARY COUNCIL

**ORD04**

**SUBJECT: PLANNING PROPOSAL - REZONING OF LAND AT 2-8 KONTISTA STREET, LEPPINGTON**

**FROM:** Director Planning & Environment

**TRIM #:** 21/448138

---

**PROPERTY ADDRESS**

Lots 17-20 DP 1247517  
2-8 Kontista Street, Leppington

**PROPONENT**

Knight Frank Australia Pty Ltd

**OWNER**

Leppington 20 Pty Ltd

### PURPOSE OF REPORT

The purpose of this report is to advise Council of a draft Planning Proposal for 2-8 Kontista Street, Leppington (formerly known as 16 Heath Road, Leppington).

The report recommends that Council endorse the draft Planning Proposal (with amendments) and forward it to the Department of Planning, Industry and Environment (DPIE) for Gateway Determination. The draft Planning Proposal is provided as an **attachment** to this report.

### BACKGROUND

In December 2018, a draft Planning Proposal was lodged with Council to amend Appendix 9 Camden Growth Centres Precinct Plan of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) for land at 16 Heath Road and 1339 Camden Valley Way, Leppington.

The original proposal sought to rezone the land and allow an increase in building height for a shop top housing development which included non-residential uses on the ground floor.

On 18 February 2020, the Camden Local Planning Panel (Panel) considered the draft proposal and provided recommendations. The Panel noted that the proposal has strategic merit however required further justification to address the site-specific merit. A copy of the Panel meeting minutes is provided as an **attachment** to this report.

In June 2021, a revised draft Planning Proposal was lodged by Knight Frank Australia Pty Ltd. The revised proposal applies only to land on the corner of Kontista Street and Heath Road (2-8 Kontista Street, Leppington).

The revised draft Planning Proposal seeks to rezone the site to R3 Medium Density Residential, permit additional non-residential uses including 'retail premises' and 'business premises' and increase the building height to 16 metres.

Council officers have assessed the revised draft Planning Proposal. Whilst the proposed rezoning to R3 Medium Density is supported, the additional non-residential uses and increased building height to 16 metres is not supported. Council officers recommend the draft Planning Proposal be amended to include the rezoning of land surrounding the subject site, as detailed within this report.

Councillors were briefed on the draft Planning Proposal on 23 March 2020 and 28 September 2021.

## Locality

The site is located approximately three kilometres from Leppington Railway Station and is within Stage 1 of the Leppington Precinct (**Figure 1**). The surrounding development includes semi-rural properties to the west and low to medium density residential development to the south and east with lot sizes ranging from 300m<sup>2</sup> to 450m<sup>2</sup>. The Willowdale shopping centre is located to the south-east and includes a supermarket and specialty shops.

The site is located on the corner of Kontista Street and Heath Road, Leppington and is approximately 1,200m<sup>2</sup> in area (**Figure 2**).

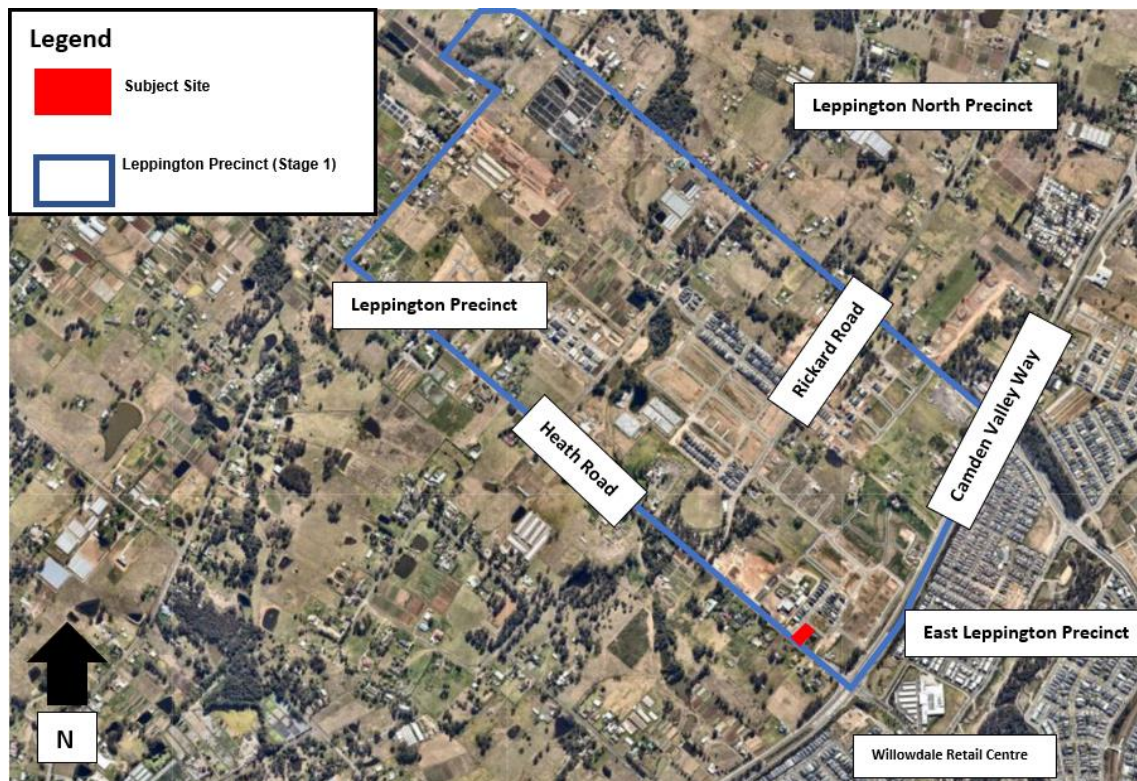


Figure 1: Local Context





Figure 2: Site Location Map (Source: draft Planning Proposal)

### Development History

The site has been recently subdivided (DA/2017/1135/1) into four residential lots (each lot is approximately 300m<sup>2</sup>). The site was previously part of a larger land holding which has been subdivided as illustrated in **Figure 3**. The relevant development history for the site is provided as an **attachment** to this report.

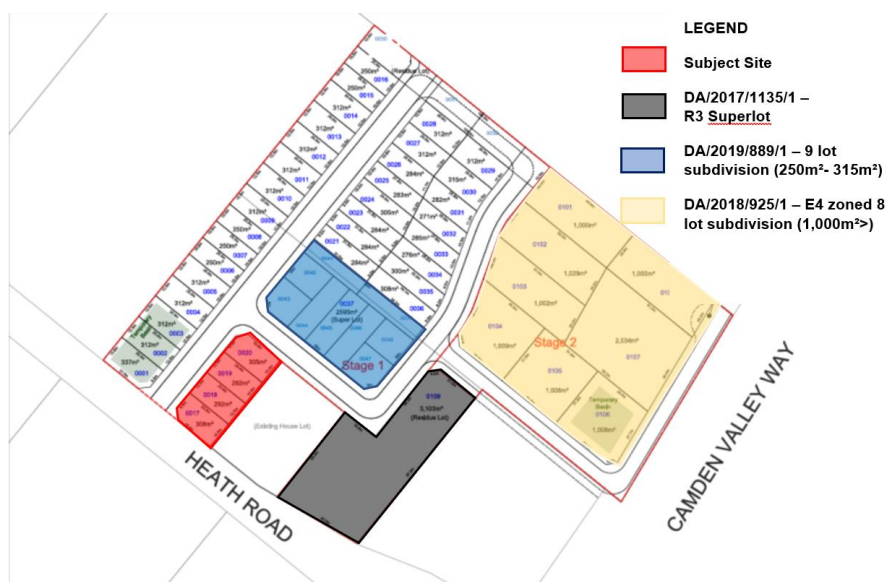


Figure 3: Subdivision Layout Plan (DA/2017/1135/3)

---

## **MAIN REPORT**

### **Draft Proposal Planning**

In summary, the revised draft Planning Proposal seeks to:

- Amend the R3 Medium Density zone boundary to extend over the entire site (and amend the associated height and density controls) by replacing the current R2 Low Density Residential zoning.
- Amend the Growth Centres SEPP to:
  - enable shop top housing, with ground floor retail and business uses by including 'retail premises' and 'business premises' as additional permitted uses consistent with the definition of shop top housing; and
  - increase the building height to 16 metres in order to support retail and commercial premises on the ground floor.

The proposal is seeking an increase in building height to facilitate non-residential uses on the ground floor. It is proposed that the top floor would be recessed three metres to minimise amenity and privacy impacts for neighbouring properties.

### **Zoning**

The site is currently zoned part R3 Medium Density Residential and part R2 Low Density Residential under the Growth Centres SEPP. Approximately 300m<sup>2</sup> of the site is zoned R3 Medium Density and the remaining 900m<sup>2</sup> is zoned R2 Low Density. The proposal will result in an additional 900m<sup>2</sup> of R3 Medium Density zoned land, corresponding to a loss of 900m<sup>2</sup> of R2 Low Density zoned land.

Rezoning the site to R3 Medium Density Residential will rationalise the zoning and provide a logical extension of the existing R3 Medium Density zone that aligns with the approved subdivision and road layout.

Rezoning the site to R3 Medium Density will amend the range of permissible uses on the site and increase the maximum building height from nine metres to 12 metres. The existing and proposed zoning are shown in **Figures 4 and 5**.

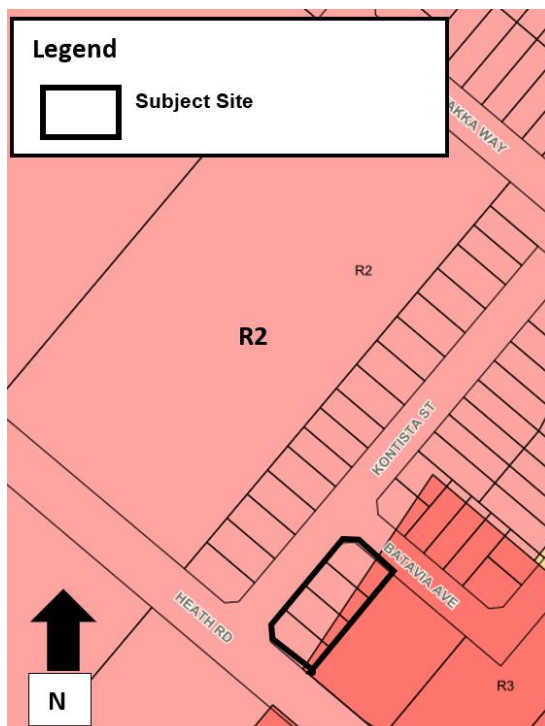


Figure 4: Existing zoning

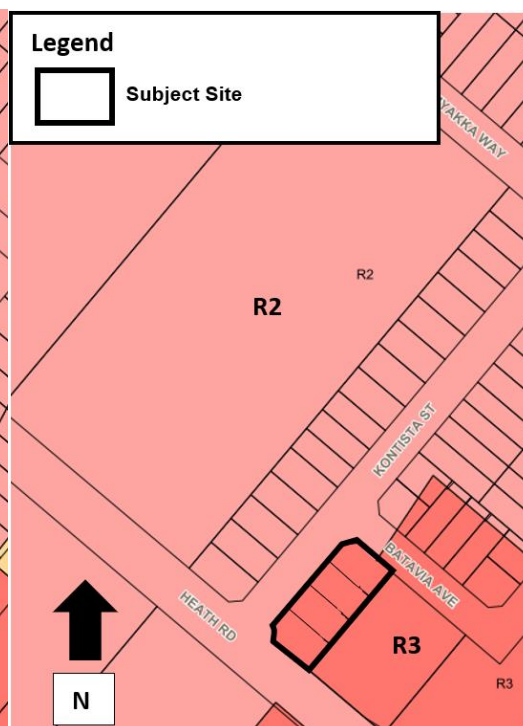


Figure 5: Proposed zoning

### Specialist Studies

The draft Planning Proposal includes the following studies, provided as **attachments** to this report.

- Urban Design Review prepared by Architects Johannsen + Associates, July 2019;
- Economic Assessment prepared by Hill PDA, August 2019; and
- Development Feasibility Assessment prepared by Hill PDA, revised July 2021.

The findings of the specialist studies and Council officer's assessment are provided as an **attachment** to this report.

### Key Issues

Council officers have assessed the draft Planning Proposal and a summary of key issues is provided below.

#### Zoning

The draft Planning Proposal proposes to rezone approximately 900m<sup>2</sup> of land to R3 Medium Density Residential. The proposal notes that the additional R3 Medium Density land is offset by land to the north, across Batavia Avenue. This land is zoned primarily R3 Medium Density however has been subdivided and developed for the purpose of low-density dwellings, consistent with a R2 Low Density Residential zone.

#### *Officer Comment*

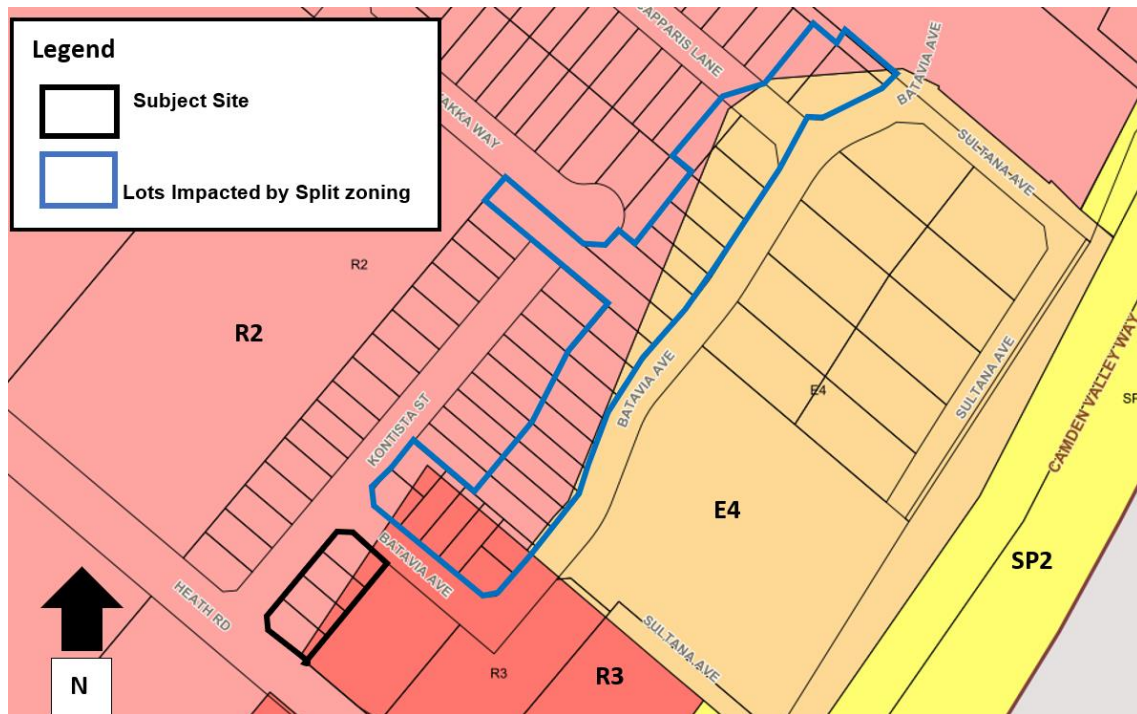
The proposed rezoning to R3 Medium Density is supported. Rezoning the site to R3 Medium Density will rationalise the zoning and provide a logical extension of the existing R3 zone that aligns with the approved subdivision and road layout.

Rezoning the land to R3 Medium Density will amend the range of permissible uses and include attached dwellings and multi dwelling housing. The rezoning to R3 Medium Density will also increase the maximum building height from nine to 12 metres.

In addition to rezoning the subject site, Council officers recommend the draft Planning Proposal be extended to include other land within the vicinity of the site, where irregular zoning patterns exist.

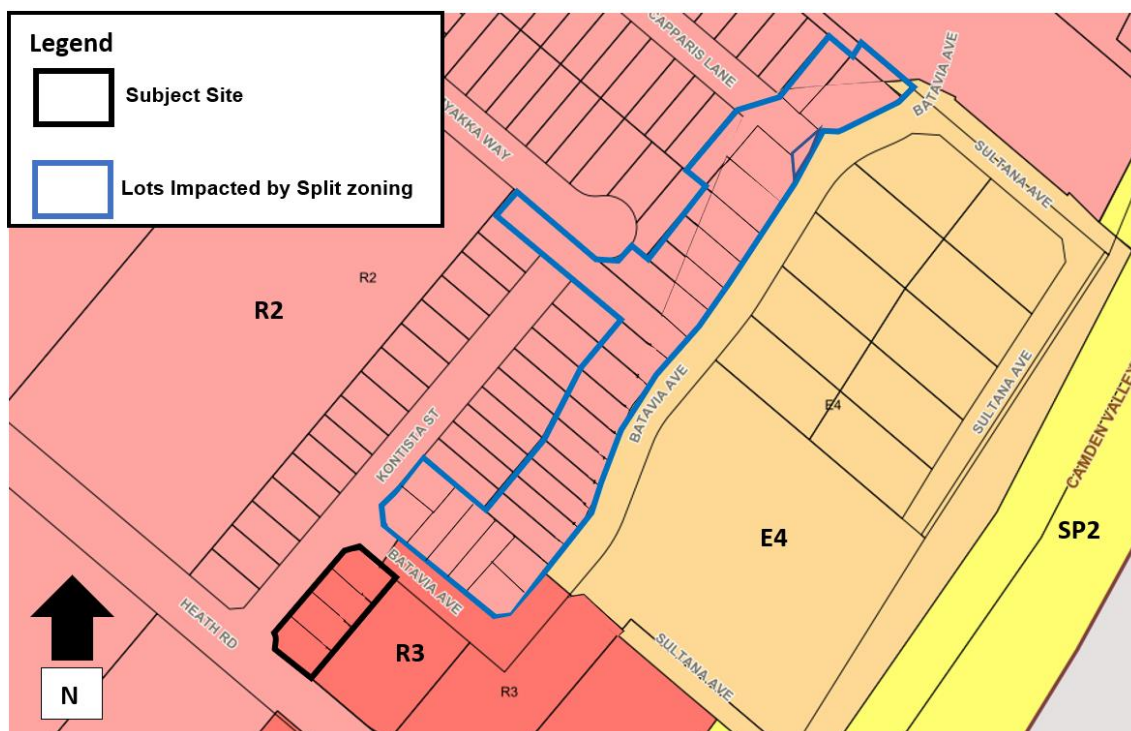
As shown in **Figure 6**, lots fronting Kontista Street, Batavia Avenue and Capparis Lane are zoned a mix of part R2 Low Density, R3 Medium Density and E4 Environmental Living. It is proposed to rezone these lots to R2 Low Density Residential, consistent with the approved subdivision and road layouts.

**Figure 7** shows the proposed zoning for land in Kontista Street, Batavia Avenue and Capparis Lane, Leppington.



**Figure 6: Existing zoning across the locality**





**Figure 7: Proposed zoning across the locality**

### Building Height

Rezoning the site to R3 Medium Density Residential will increase the maximum building height from nine metres to 12 metres, consistent with the adjoining R3 Medium Density zoned land.

The draft Planning Proposal seeks to further increase the building height to 16 metres, where retail, commercial or health services are provided at ground floor level. According to the proponent, it is not commercially viable to deliver shop top housing on the site without an increase in building height. The additional height would encourage the use of the site for shop top housing to deliver local services and businesses.

The draft Planning Proposal is accompanied by a concept design that includes a transition to the adjoining R2 Low Density area, including a three-metre setback for the top floor, which will recess the built form and minimise amenity impacts for neighbouring properties.

The existing and proposed height of building maps for the site and adjoining area is provided in **Figures 8 and 9**.



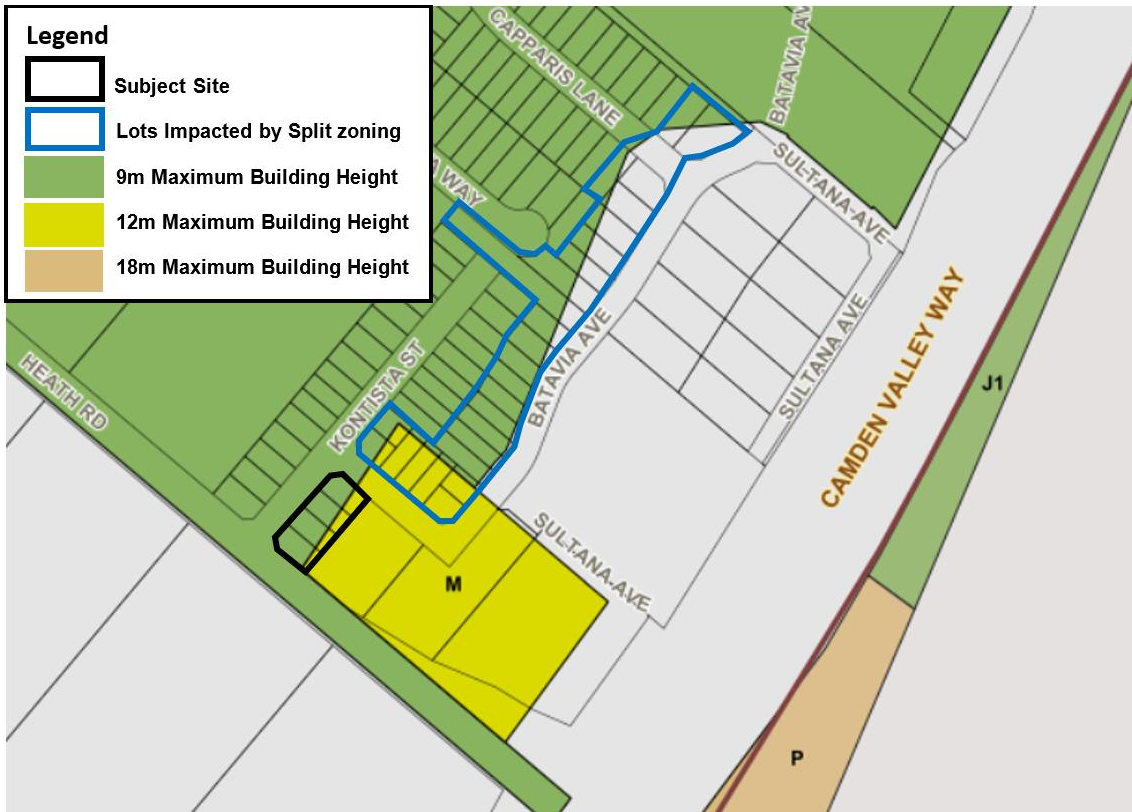


Figure 8: Existing Height of Building



Figure 9: Proposed Height of Building

### *Officer Comment*

Rezoning the land to R3 Medium Density will increase the maximum building height to 12 metres, consistent with the building height for the adjoining R3 Medium Density land. A further height increase to 16 metres is not supported, as the proposal has not demonstrated site specific merit to justify this increase in isolation of other land in the locality.

### Non-Residential Uses

According to the proponent, the basis for the rezoning and additional height to 16 metres is to enable a shop top housing development involving a mix of retail and business activities and residential on the site. The non-residential uses are proposed to complement the existing retail uses in Leppington and Willowdale.

The proposal is accompanied by an economic assessment which found that the site is suitable for non-residential uses such as neighbourhood shops, commercial and health services. The assessment notes that the additional building height will assist in maximising the economic potential of the site.

### *Officer Comment*

Under the proposed R3 Medium Density zoning, limited non-residential uses are permitted, including neighbourhood shops. Whilst the local demand for non-residential uses is noted, the proposal has not demonstrated site-specific merit to support the inclusion of broader retail and business premises on this site, in isolation of other land within the locality.

Consideration on the broader demand for non-residential uses within the Leppington area and the centres hierarchy is required prior to supporting additional retail and business uses on specific sites. This aligns with the direction of Council's draft Centres and Employment Lands Strategy (June 2021), whereby out of centre development should complement existing and identified centres and be considered in terms of the broader centres hierarchy.

### **Initial Notification**

The original draft Planning Proposal was notified for a period of 14 days from 12 March to 26 March 2019. No submissions were received regarding the draft Planning Proposal.

### **Camden Local Planning Panel**

On 18 February 2020, the Camden Local Planning Panel (Panel) considered the original draft Planning Proposal. The Panel noted the strategic merit for the draft Planning Proposal however considered further justification was needed to address the site-specific merit. The Panel's recommendations include:

- Some non-residential uses on the site offering local services has planning merit and also notes this outcome is already possible under existing planning controls;
- The proposal lacks sufficient information regarding the development feasibility;
- An increase in the allowable building height may be appropriate but the proposal does not provide certainty regarding acceptable design outcomes on the site;

- That a site specific DCP be prepared, along with numerical standards such as a maximum overall FSR, a maximum FSR for residential development and a minimum FSR for non-residential development.
- The concept demonstrates strategic merit but has not demonstrated site specific merit.

#### Post-Panel Amendments

In response to the Panel's recommendations and Council officer's assessment of the original proposal, the draft Planning Proposal has been revised. This includes a development feasibility assessment in support of the proposed height increase requested to support the additional permitted uses.

As the increase in building height and additional non-residential uses is not supported, a site specific DCP has not been prepared. Should Council resolve to endorse the revised draft Planning Proposal as lodged, a site specific DCP will be prepared.

#### Assessment against Key Strategic Documents

An assessment of the draft Planning Proposal against the key strategic documents is provided as an **attachment** to this report and is summarised below.

#### Greater Sydney Region Plan

The Greater Sydney Region Plan (the Region Plan) was released by the Greater Sydney Commission (GSC) on 18 March 2018. The Region Plan has a vision and plan to manage growth and change for Greater Sydney in the context of economic, social and environmental matters.

The proposal is assessed against Direction 4 - Liveability of the Region Plan.

#### Western City District Plan

On 18 March 2018, the Western Sydney District Plan (the District Plan) was released by the GSC. The District Plan guides the 20-year growth of the district to improve its social, economic and environmental assets.

The proposal has been assessed against the relevant priorities and actions of the District Plan including:

- Planning Priority W3: Providing services and social infrastructure to meet people's changing needs;
- Planning Priority W4: Fostering healthy, creative, culturally rich and socially connected communities;
- Planning Priority W5: Providing housing supply, choice and affordability, with access to jobs, services and public transport; and
- Planning Priority W6: Creating and renewing great places and local centres and respecting the District's heritage.

#### Community Strategic Plan

The Community Strategic Plan (CSP) seeks to actively manage growth by retaining Camden's heritage sites, scenic vistas and cultural landscapes.



The proposal has been assessed against the relevant directions and strategies of the CSP and is assessed with the following Key Directions:

- Actively Managing Camden LGAs Growth;
- A Prosperous Economy;
- An Enriched and Connected Community;

#### Camden Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) was adopted by Council on 14 April 2020. The LSPS is a 20-year planning vision, and includes land use, transport and sustainability objectives to demonstrate how the Camden LGA will change to meet the community's needs over the next 20 years.

The proposal has been assessed against the relevant Local Priorities and Actions of the LSPS, with specific focus on the following Local Priorities:

- Liveability Local Priority L1: Providing housing choice and affordability for Camden's growing and changing population;
- Liveability Local Priority L3: Providing services and facilities to foster a healthy and socially connected community;
- Liveability Local Priority L4: Encouraging vibrant and connected centres which reflect Camden's evolving character;
- Productivity Local Priority P1: Increasing the quantity and diversity of local jobs, and improving access to jobs across the Western City District; and
- Productivity Local Priority P2: Encouraging successful centres through a clearly defined centres hierarchy.

#### Draft Camden Housing Strategy

The draft Camden Local Housing Strategy (draft Strategy) sets out a plan for housing in the Camden LGA over the next 10 to 20 years. The proposal has been assessed against the Priorities, Objectives and Actions of the draft Strategy. The specific priorities this proposal is assessed against are as follows:

- Delivering resilient, healthy and connected communities.
- Delivering the right housing in the right location; and
- Increasing housing choice and diversity.

#### Draft Camden Centres and Employment Lands Strategy

The draft Camden Centres and Employment Lands Strategy (draft CELS) sets out a plan for the development of centres and employment lands in the Camden LGA over the next 10 to 20 years.

The proposal has been assessed against the following relevant directions, principles and actions of the draft CELS:

- Direction 1: A network of successful and attractive centres;
- Direction 3: Agribusiness, tourism and health care that support the local economy; and
- Action 18: Work with the Department to ensure an adequate supply of industrial and urban services land through South West Growth Area land use planning, with a focus on locating these land uses close to transport corridors.



## Assessment of Planning Merit

The draft Planning Proposal has been assessed against key strategic documents including the Greater Sydney Region Plan, Western City District Plan, Community Strategic Plan, Camden Local Strategic Planning Statement, draft Camden Local Housing Strategy and draft Camden Centres and Employment Lands Strategy.

The proposed additional uses (retail premises and business premises) and increased building height to 16 metres does not demonstrate planning merit and is not supported for the following reasons:

- The proposed height increase has the potential to create a precedent for other land in the surrounding area; and
- Further investigation on the broader demand for non-residential uses within the Leppington area and impacts on the centres hierarchy is required.

The proposed zoning amendment to rationalise the current zoning along with the corresponding height increase to 12 metres has planning merit and is supported for the following reasons:

- The amendments will rationalise the zoning and associated maps of the Growth Centres SEPP to deliver better urban design outcomes by ensuring the intent of the controls are clear and provide certainty for future DAs;
- Rezoning the site to R3 Medium Density Residential and the adjoining land to R2 Low Density Residential is logical and aligns with the existing subdivision and road layout; and
- The proposal will allow greater housing diversity and affordability, aligning with the strategic directions and objectives of the Greater Sydney Region and Western City District Plans, Camden Community Strategic Plan, and Camden Local Strategic Planning Statement.

It is recommended that the draft Planning Proposal be amended to rationalise the zoning and accompanying development standards.

## Summary of Proposed Changes to the draft Planning Proposal

It is recommended the draft Planning Proposal be amended for reasons outlined in this report and supporting attachments as follows:

- Remove the proposed amendment to include ground floor retail and business uses as additional permissible uses;
- Remove the proposed amendment to increase the building height to 16 metres;
- Include the rezoning of properties in Kontista Street, Batavia Avenue and Capparis Lane to R2 Low Density Residential, including amending the corresponding minimum lot size, residential density and height of buildings map.

## Next Steps

Subject to Council endorsement, the draft Planning Proposal (as amended) will be submitted to DPIE for a Gateway Determination. Should Council wish to support the proposal as submitted, a draft site specific DCP will be prepared.

Subject to a favourable Gateway Determination, the draft Planning Proposal will be placed on public exhibition. If unresolved submissions are received, a further report to Council will be prepared. If no unresolved submissions are received, the draft Planning Proposal will be submitted to DPIE for finalisation.

#### Recommended Community Participation Methods

On 14 September 2021, Council endorsed the Camden Community Participation Plan 2021 (CPP). The CPP identifies that where a draft Planning Proposal demonstrates strategic merit, the Gateway report to Council will recommend the community participation methods for the public exhibition period.

Subject to Council endorsement and a favourable Gateway Determination, it is recommended that the following community engagement methods be undertaken at public exhibition of the draft Planning Proposal:

- Notification letters to impacted and surrounding properties. The extent of the notification area is provided as an **attachment** to this report;
- Site signage to be provided at the Kontista Street, Batavia Avenue and Capparis Lane advising that the proposal is on exhibition; and
- Social media posts directing the community to Council's website for further information on the proposal.

#### FINANCIAL IMPLICATIONS

There are no direct financial implications as a result of this report.

#### CONCLUSION

Following consideration of the draft Planning Proposal and assessment against key strategic documents and planning merit, it is recommended that the draft Planning Proposal be amended as outlined in the report.

The proposed zoning amendment to R3 Medium Density Residential to rationalise the current zoning and the corresponding height increase to 12 metres is supported. However, the proposed additional non-residential uses (retail premises and business premises) and increased building height to 16 metres is not supported.

It is recommended that the draft Planning Proposal be amended to rationalise the zoning and accompanying development standards for the subject and adjoining sites, as discussed within this report.

#### RECOMMENDED

**That Council:**

- i. **endorse the draft Planning Proposal for land at 2-8 Kontista Street, Leppington to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following amendments:**
  - a. **remove the proposed site-specific provision to increase the building height and enable additional permitted non-uses for land at 2-8 Kontista Street, Leppington; and**

- b. include the rezoning of the properties along Kontista Street, Batavia Avenue and Capparis Lane, Leppington to R2 Low Density Residential (2-8, 10, 12 and 33 Kontista Street, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43 and 47 Batavia Avenue and 53, 55 and 56 Capparis Lane, Leppington) to correct a split zoning.**
- ii. subject to receiving a favourable response from the Department of Planning, Industry and Environment, proceed to public exhibition for the draft Planning Proposal in accordance with the requirements of the Gateway Determination and the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*;**
- iii. subject to no unresolved submissions being received, forward the draft Planning Proposal to the Department of Planning, Industry and Environment for the plan to be made;**
- iv. if unresolved submissions are received, consider a further report outlining the results of the public exhibition; or**
- v. should the draft Planning Proposal not receive Gateway Approval, notify the proponent that the draft Planning Proposal will not proceed.**

#### ATTACHMENTS

1. Planning Proposal - 2-8 Kontista Street, Leppington (formerly 16 Heath Road)
2. Camden Local Planning Panel Minutes - 18 February 2020
3. Relevant Development History - 2-8 Kontista Street, Leppington
4. Key Strategic Documents - Kontista Street, Leppington
5. Assessment of Specialist Studies - Kontista Street, Leppington
6. Concept Plans - Kontista Street, Leppington
7. Appendix 2 Urban Design Review
8. Appendix 3 Economic Assessment
9. 2-8 Kontista Street, Leppington (formerly 16 Heath Rd) Revised Development Feasibility - June 2021
10. Notification Area - 2-8 Kontista Street, Leppington



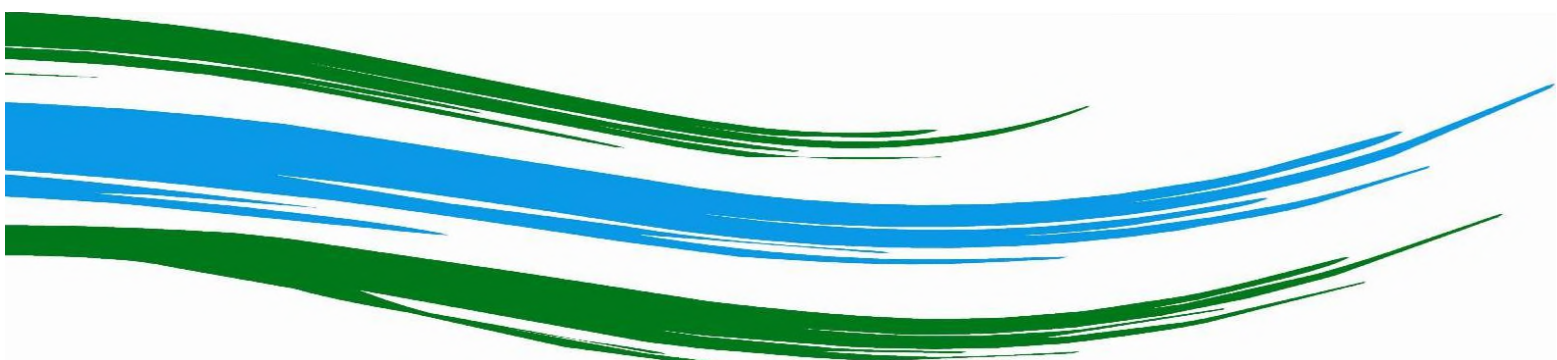
# Camden Council

## Minutes

**Ordinary Council Meeting**  
**12 October 2021**

---

Please note that due to COVID-19 restrictions this meeting was held as a teleconference. The public can view the meeting via Council's website.





## **MEETING COMMENCED AT 6.30PM**

### **PRESENT**

Cr Fedeli (Mayor/Chairperson), Cr A Cagney, Cr C Cagney, Cr Farrow, Cr Morrison, Cr Symkowiak.

### **STAFF**

General Manager, Director Customer & Corporate Strategy, Director Planning & Environment, Director Community Assets, Director Sport, Community & Activation, Chief Financial Officer, Manager Legal & Governance, Manager Strategic Planning, Acting Manager Assets & Design Services, Manager Open Space & Sustainability, Manager Public Affairs, Manager Sport & Community Services, Manager Economic Development & Activation, Internal Audit Coordinator, Senior Governance Officer, Governance Officer, Governance Administration Officer, Assistant Governance Officer.

### **LEAVES OF ABSENCE**

Resolution: Moved Councillor Farrow, Seconded Councillor Symkowiak that Councillor Mills and Councillor Campbell be granted leaves of absence.

ORD130/21 THE MOTION ON BEING PUT WAS **CARRIED**

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

### **DECLARATIONS OF INTEREST**

There were no declarations to be noted.

### **PUBLIC ADDRESSES**

There were no public addresses to be noted.

### **CONFIRMATION OF MINUTES**

Resolution: Moved Councillor C Cagney, Seconded Councillor A Cagney that the Minutes of the Ordinary Council Meeting held 14 September 2021, copies of which have been circulated, be confirmed and adopted.

ORD131/21 THE MOTION ON BEING PUT WAS **CARRIED**

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

### **MAYORAL MINUTE - CAMDEN TAKES OUT THE GUINNESS WORLD RECORDS™ TITLE**

Resolution: Moved Councillor Fedeli that Council note the information.

ORD132/21 THE MOTION ON BEING PUT WAS **CARRIED**

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

**ORD04 PLANNING PROPOSAL - REZONING OF LAND AT 2-8 KONTISTA STREET, LEPPINGTON**

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

- i. endorse the draft Planning Proposal for land at 2-8 Kontista Street, Leppington to be forwarded to the Department of Planning, Industry and Environment for Gateway Determination, subject to the following amendments:
  - a. remove the proposed site-specific provision to increase the building height and enable additional permitted non-uses for land at 2-8 Kontista Street, Leppington; and
  - b. include the rezoning of the properties along Kontista Street, Batavia Avenue and Capparis Lane, Leppington to R2 Low Density Residential (2-8, 10, 12 and 33 Kontista Street, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43 and 47 Batavia Avenue and 53, 55 and 56 Capparis Lane, Leppington) to correct a split zoning.
- ii. subject to receiving a favourable response from the Department of Planning, Industry and Environment, proceed to public exhibition for the draft Planning Proposal in accordance with the requirements of the Gateway Determination and the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*;
- iii. subject to no unresolved submissions being received, forward the draft Planning Proposal to the Department of Planning, Industry and Environment for the plan to be made;
- iv. if unresolved submissions are received, consider a further report outlining the results of the public exhibition; or
- v. should the draft Planning Proposal not receive Gateway Approval, notify the proponent that the draft Planning Proposal will not proceed.

ORD136/21 THE MOTION ON BEING PUT WAS **CARRIED**

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

**ORD05 ENDORSEMENT OF THE DRAFT CAMDEN LOCAL HOUSING STRATEGY**

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

- i. endorse the draft Camden Local Housing Strategy (as amended);
- ii. forward the Camden Local Housing Strategy to the Department of Planning, Industry and Environment to be published on the planning portal; and
- iii. notify submitters and public agencies of Council's decision.

ORD137/21 THE MOTION ON BEING PUT WAS **CARRIED**

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