



camden  
council



# Camden Council Planning Proposal

Subdivision for Road Closure as Exempt Development

Version 2

May 2022

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## Document Register

Version	Date	Detail	Council Reference
1	November 2021	Planning Proposal initiated by Council officers.	22/159856
2	May 2022	Planning Proposal for Gateway Determination prepared by Camden Council	22/217621

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## Executive Summary

The Planning Proposal seeks to amend Schedule 2 Exempt Development of the Camden Local Environmental Plan 2010 (Camden LEP 2010) by introducing a provision to permit subdivision of a public road as exempt development for the purposes of road closure.

The inclusion of Council-owned road closures within exempt development is sought to ensure the process of road closures is efficient and straightforward, especially for roads located in large lot or rural zones.

Since December 2019, the responsibility of closing roads was transferred from DPE Crown Lands to Council. Council owned roads which need to be closed must be subdivided to create a title for the specific area of road. In zones which have a large Minimum Lot Size, road closures cannot proceed through the Development Application (DA) process because the prospective closure area does not meet the Minimum Lot Size.

Council has commenced the road closure process for three different roads, two of these have encountered issues due to their location, zoning and minimum lot size. The third has not due to its location in an area that does not have a large Minimum Lot Size.

The Planning Proposal was reported to Council on the 10<sup>th</sup> of May where it was endorsed for submission to the Department of Planning and Environment (DPE) for a Gateway Determination. The Council Report and Minutes can be found within **Appendix 6**.

Given the minor nature of the Planning Proposal, no initial notification has been undertaken.

## Introduction

The Planning Proposal is proposed to apply to all land that is applicable within the Camden Local Environmental Plan 2010 (this excludes land that has been rezoned and is now subject to the Precincts SEPP).

There are two site examples that form the basis for illustrating the current issues that have necessitated the need for a Planning Proposal. This proposal highlights the situation encountered by each site and proceeds to explain the intended effect of the recommended amendment to the Camden LEP 2010 and the justification for it.



## Background

### The Road Closure Process

The current process for the closure of Council-owned roads depends on the ability to obtain consent for a subdivision certificate granted through a Development Application.

Since the responsibility of road closures was transferred to Council, issues have arisen in the closure of roads located in large lot areas. Subdivision of the road cannot occur due to its area not being able to meet the required Minimum Lot Size specified in the Camden LEP 2010. The road closure therefore cannot be conducted as the appropriate consents are unable to be obtained. This is shown in Figure 1, which is a brief outline of the road closure process to show the point where Council are unable to proceed fulfill its obligation under s38A of the *Roads Act 1993*. **Appendix 4** contains the full flow chart which was sent to Council in an information pack by DPE Crown Lands.

**Figure 1: Relevant parts of the road closure process.**



## Site Examples

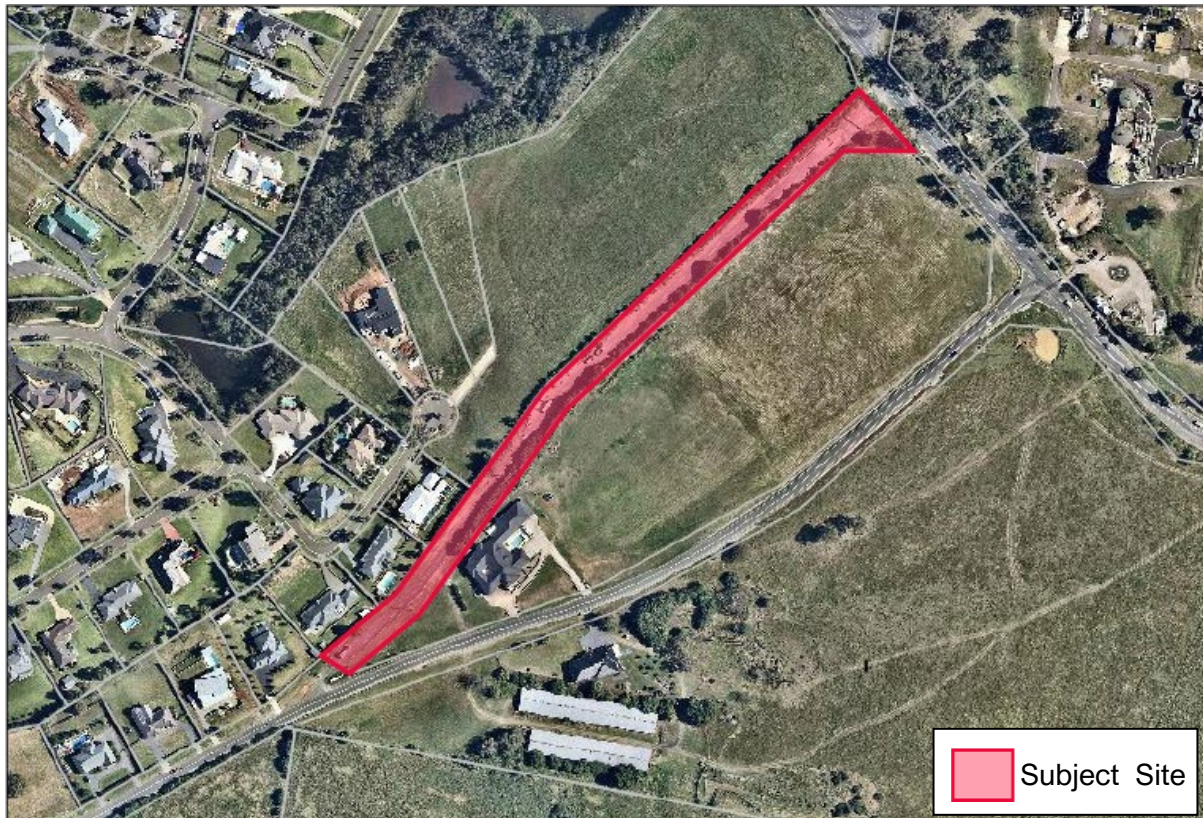
### The Old Oaks Road, Grasmere

The Old Oaks Road, Grasmere was the first attempted road closure since the responsibility of road closures was given to Council. The site is zoned RU1 Primary Production with a Minimum Lot Size of 40 hectares. The area of road to be closed is approximately 11,297m<sup>2</sup>.

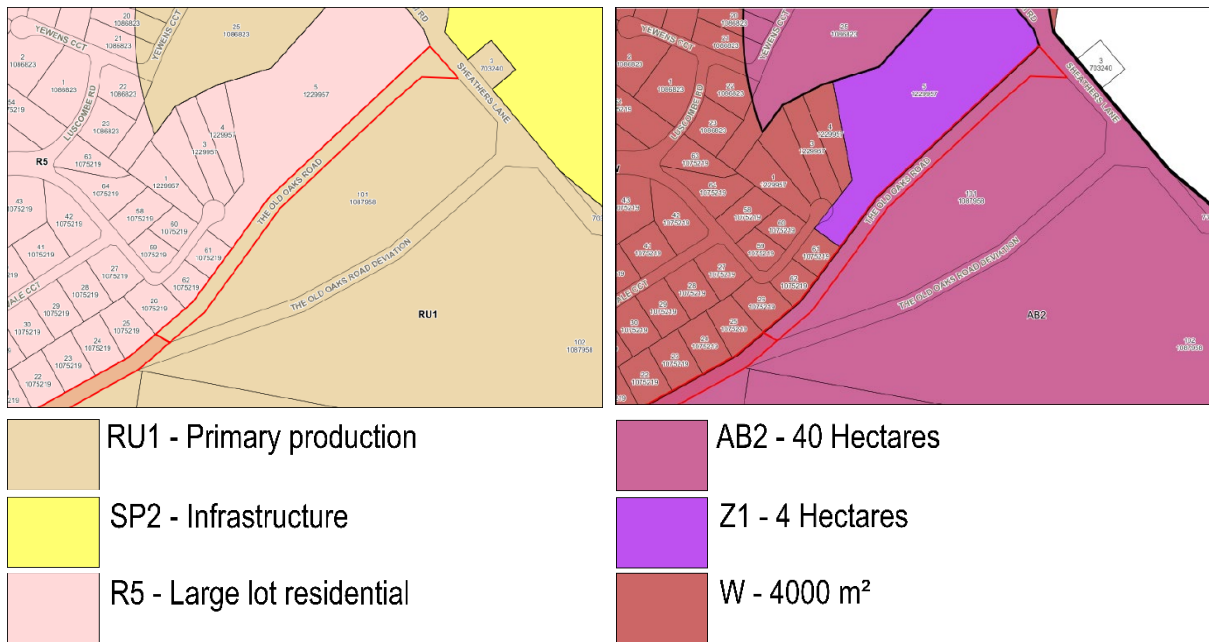
The establishment of *The Old Oaks Road Deviation* made this area of road redundant, so Council resolved to close the road. However, this has not been able to be granted due to the size of the road closure section not meeting the Minimum Lot Size required for subdivision.

This site first triggered the creation of this Planning Proposal as it was unable to go through the DA process to obtain a subdivision certificate. Furthermore, after this attempted road closure, Council investigated the legislative requirements and options to understand all possible methods of achieving the intended road closure.

Figure 2: Precedent Site 1 – The Old Oaks Road, Grasmere.



## Subdivision for Road Closure as Exempt Development Planning Proposal



Council has also undertaken another road closure which is facing a similar issue. The road is in an R5 Large Lot Residential Area with a minimum lot size of 4000m<sup>2</sup>. The portion of road that Council is seeking to close is no longer operational and not required to remain an asset of Council. However, the portion of road to be closed and subdivided is only 965m<sup>2</sup> and does not meet the required Minimum Lot Size, leaving the road closure process stalled on the same stage as Site 1.





Below is an excerpt of Section 38A of the Road Act 1993, which will be where the direct link leads to.

### **S38A Roads Act 1993**

A council may propose the closure of a council public road for which it is the roads authority if—

- (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.

## **Part 3 – Justification**

### **3.1 Section A – Need for the Planning Proposal**

#### **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. The proposed amendments to Camden LEP 2010 identified within this Planning Proposal have been identified by Council officers and considered minor in nature.

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

The proposed amendment to Camden LEP 2010 is considered to be the best means of establishing an efficient process for the subdividing and closure of Council owned roads. By adding *subdivision of Council owned roads* as an item within Schedule 2 Exempt Development, a successful process for road closures is able to be established. This is especially important for the closure of roads in areas with a large minimum Lot Size, where Council has been unable to subdivide and close roads.

Before this Planning Proposal was undertaken, Council attempted to close a portion of the Site 1 - Old Oaks Road, Grasmere. JMD Surveyors were consulted to prepare and lodge road closure plans which included deposited plans and 88B Instrument, however this was refused.

Council consulted legal advice from Bartier Perry which had been previously obtained for Site 3 – Macarthur Road, Spring Farm. The conclusion of the advice given outlined that the proposed subdivision does not constitute an exempt development under the Codes SEPP, iSEPP or the LEP. Bartier Perry were also not aware of any provisions in other legislative instruments such as Local Government Act and Roads Act that allow the proposed subdivision to be carried out as exempt development.

JMD Surveyors then prepared and lodged a development application, but this also was refused as the land is subject to minimum Lot Size which the proposed road closure does not meet. Council then obtained legal advice from Lindsay Taylor Lawyers who confirmed that there are several options:

1. Amend the Camden LEP 2010 to rezone the land or change the applicable minimum lot size standard.
2. Utilise a mechanism under the *Land Acquisition (Just Terms Compensation) Act 1991* which allows Council to acquire land which it already owns. The division of the land that is caused by this is **not subdivision** for the purposes of the *Environmental Planning & Assessment Act 1979 (EPA Act)* and therefore will not need development consent.
3. Amend the Camden LEP 2010 to make subdivision of a road exempt development.

This Planning Proposal seeks to enable Option 3.

### 3.2 Section B – Relationship to Strategic Planning Framework

**Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?**

Yes.

The objectives and directions of the Greater Sydney Region Plan & Western City District Plan applicable to the Planning Proposal have been addressed in **Appendix 1** of this proposal.

**Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

The Planning Proposal is consistent with Council's local strategies as summarised below. Consistency against these strategies are provided in greater detail in **Appendix 1**.

#### Camden 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 is consistent with the relevant directions and strategies of the CSP and is assessed with the following Key Directions:

- Actively Managing Camden LGAs Growth; and
- Effective and Sustainable Transport.

The consistency against the Camden CSP is provided in greater detail in **Appendix 1**.

#### 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 is consistent against the relevant Local Priorities and Actions of the LSPS, with specific focus on the following Local Priority:

- Infrastructure Local Priority I1: Aligning infrastructure delivery with growth
- Infrastructure Local Priority I2: Connecting Camden through integrated transport solutions

- Sustainability Local Priority S3: Protecting Camden's Rural Land

The consistency against the Camden LSPS is provided in greater detail in **Appendix 1**.

#### Camden Local Housing Strategy

The Camden Local Housing Strategy (LHS) was adopted by Council on 12 October 2021. The Camden Local Housing 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 considered against are as follows:

- Priority 1, Objective 1 – There is sufficient planning capacity to meet forecast housing demand

The consistency against the Camden LHS is provided in greater detail in **Appendix 1**.

#### **Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The relevant SEPPs including deemed SEPPs have been addressed at **Appendix 2** to this proposal.

The Planning Proposal is considered consistent with these SEPPs, including deemed SEPPs.

#### **Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?**

The Section 9.1 Ministerial Directions applicable to the Planning Proposal have been addressed in **Appendix 3** of this report.

The Planning Proposal is considered consistent with the applicable Directions.

### **3.3 Section C – Environmental, Social and Economic Impact**

#### **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 that the Planning Proposal will have adverse effects on critical habitat, threatened species, populations, ecological communities, or their habitats.

Although the Planning Proposal is proposed to apply to all land within the Camden Local Environmental Plan 2010, it will only affect established council owned roads and doesn't involve new development, hence it will have no impact on these ecologically sensitive habitats.

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

The planning proposal will only affect established council owned roads and doesn't involve new development; hence it will have no environmental effects.

#### **Has the planning proposal adequately addressed any social and economic effects?**

##### Social Effects



Social effects have not been studied or addressed as the Planning Proposal is minor and procedural in nature, designed to improve the function and efficiency of road closure process.

#### Economic Effects

The chief economic effect of this Planning Proposal is the increased efficiency it will bring. Improving the process for road closures will mean less time and resources are utilised to do so. Furthermore, Council will also be able to better maintain its assets through the disposal of redundant parcels of road.

### **3.4 Section D – State and Commonwealth Interests**

#### **Is there adequate public infrastructure for the planning proposal?**

This is not considered relevant as the proposed amendments to Camden LEP 2010 identified within this Planning Proposal have been identified by Council officers and considered minor in nature.

#### **What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Due to the minor nature of this Planning Proposal, consultation with State and Commonwealth public authorities was not undertaken. Public consultation will be conducted as identified by a favourable Gateway determination, should it seek endorsement by Council.

## Part 4 – Mapping

This Planning Proposal will apply to all land within the Land Application Map for Camden LEP 2010.

No additional maps have been created for the purposes of mapping the application of this Planning Proposal.

## Part 5 – Community Consultation

The Planning Proposal will be placed on public exhibition in accordance with Council's Community Participation Plan, subject to a favourable Gateway Determination.

## Part 6 – Project Timeline

Anticipated commencement date	January 2022
Anticipated timeframe for the completion of required technical information	Not Applicable
Timeframe for government agency consultation (pre and post exhibition as required by Gateway <u>D</u> etermination)	July 2022
Commencement and completion dates for public exhibition period	August 2022
Timeframe for consideration of submissions	September 2022
Date of submission to the Department to finalise the LEP	October 2022
LEP Notification	November 2022
Adoption of LEP Amendment	November 2022

## Part 7 – Conclusion

The Planning Proposal seeks to amend the Camden Local Environmental Plan 2010 (Camden LEP 2010) to include Council-owned road closures as an item within Schedule 2 Exempt Development.

The proposal demonstrates merit by establishing an efficient process for the closure of Council-owned roads. This process is impacted by Minimum Lot Size requirements, which does not allow for roads that are in areas with a large Minimum Lot Size to be closed due to the current process requiring a subdivision via a DA. The proposal has been supported by examples of road closures within the Camden LGA where it has been demonstrated closure and subdivision of the road has not been able to occur.

The proposal seeks to introduce a provision in Camden LEP 2010 to facilitate the subdivision of a public road that is subject to closure, as exempt development. This will ensure that any future road closure can be subdivided without the need for a DA consent, enabling the road closure process to be unaffected by the Minimum Lot Size and therefore allows Council to close roads, especially in large lot areas.

This Planning Proposal has been prepared in accordance with Section 3.33 of the EPA Act 1979. An amendment to Schedule 2 Exempt Development is the most appropriate method to achieve the objectives of this Planning Proposal. The Planning Proposal will result in better outcomes for the community as Council will have an improved road closure process which increases efficiency and function of Council procedures.

## Part 8 – Appendices

**Appendix 1:** Greater Sydney Region Plan - Directions and Objectives & Western City District Planning Priorities and Objectives

**Appendix 2:** Consistency against State Environmental Planning Policies

**Appendix 3:** Consistency against Local Strategic Planning Statement Directions

**Appendix 4:** Consistency against s9.1 Ministerial Directions

**Appendix 5:** Process for road closures



## Appendix 1: Assessment against Regional, District and Local Strategic Plans

### Greater Sydney Region Plan – Directions and Objectives

Objective	Consistency	Comment
<b>Infrastructure and Collaboration</b>		
Objective 1: Infrastructure supports the three cities	Yes.	The aim of the Proposal is to ensure the procedure for Council-owned road closure is effective and consistent with Council's functions pursuant to the Roads Act, 1993. The proposal is consistent with this objective.
Objective 2: Infrastructure aligns with forecast growth – growth infrastructure compact	Yes.	The proposal ensures that redundant roads can be closed. This can facilitate the disposal of the asset and can generate additional resources for Council. The proposal is not inconsistent with this objective.
Objective 3: Infrastructure adapts to meet future needs	Yes.	Ensuring that redundant roads can be closed is consistent with this objective.
Objective 4: Infrastructure use is optimised	Yes.	The goal of this Planning Proposal is to establish a path for the efficient closure of roads, allowing Council to optimise infrastructure by removing redundant roads.
<b>Liveability</b>		
Objective 6: Services and infrastructure meet communities changing needs	Yes.	The proposal was triggered by a need for a more efficient process for closure of Council-owned roads. Roads are closed in response to the community's changing needs. The proposal is consistent with this objective.
Objective 7: Communities are healthy, resilient and socially connected.	Yes.	The proposal is not inconsistent with this objective.
<b>Productivity</b>		
Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities	Yes.	The proposal is not inconsistent with this objective.
<b>Sustainability</b>		
Objective 29: Environmental, social and economic values in rural areas are protected and enhanced	Yes.	The proposal is not inconsistent with this objective.

### Western City District Plan – Priorities

Objective	Consistency	Comment
<b>Infrastructure and Collaboration</b>		
Planning Priority W1: Planning for a city supported by infrastructure <ul style="list-style-type: none"> <li>Objective 1 - Infrastructure supports the three cities.</li> <li>Objective 2 - Infrastructure aligns with forecast growth – growth infrastructure compact.</li> </ul>	Yes.	The aim of the proposal is to ensure the procedure for Council-owned road closure is effective, consistent with Council's functions pursuant to the Roads Act, 1993. The proposal is not inconsistent with this priority.

<ul style="list-style-type: none"> <li>Objective 3 - Infrastructure adapts to meet future needs.</li> </ul> <p>Objective 4 - Infrastructure use is optimised.</p>		
<b>Liveability</b>		
<p>Planning Priority W3: Providing services and social infrastructure to meet people's changing needs</p> <p>Objective 6 - Services and infrastructure meet communities' changing needs.</p>	Yes.	The proposal was triggered by a need for a more efficient process for closure of Council-owned roads. Roads are closed in response to the community's changing needs. The proposal is consistent with this priority.
<b>Productivity</b>		
<p>Planning Priority W7: Establishing the land use and transport structure to deliver a liveable, productive and sustainable Western Parkland City</p> <ul style="list-style-type: none"> <li>Objective 14 - <i>A Metropolis of Three Cities</i> – integrated land use and transport creates walkable and 30-minute cities.</li> <li>Objective 15 - The Eastern, GOP and Western Economic Corridors are better connected and more competitive.</li> <li>Objective 16 - Freight and logistics network is competitive and efficient.</li> </ul> <p>Objective 17 - Regional connectivity is enhanced.</p>	Yes.	The proposal is not inconsistent with this priority.
<b>Sustainability</b>		
<p>Planning Priority W16: Protecting and enhancing scenic and cultural landscapes</p> <ul style="list-style-type: none"> <li>Objective 28 - Scenic and cultural landscapes are protected.</li> </ul> <p>Planning Priority W17: Better managing rural areas</p> <p>Objective 29 - Environmental, social and economic values in rural areas are protected and enhanced.</p>	Yes.	The proposal is not inconsistent with this priority.

## Camden Community Strategic Plan

Objective	Consistency	Comment
<b>Infrastructure</b>		
<p><u>Key Direction 1</u></p> <p>Actively Managing Camden LGA's Growth</p>	Yes.	The proposal is consistent with this direction.
<p><u>Key Direction 4</u></p> <p>Effective and Sustainable Transport</p>	Yes.	The proposal is consistent with this direction.

## Camden Local Strategic Planning Statement

Local Priority	Consistency	Comment
<b>Infrastructure</b>		
Local Priority I1: Aligning infrastructure delivery with growth	Yes.	The proposal is consistent with this priority.
Local Priority I2: Connecting Camden through integrated transport solutions	Yes.	The proposal is consistent with this priority.
<b>Sustainability</b>		
Local Priority S3: Protecting Camden's Rural Land	Yes.	The proposal is not inconsistent with this priority.

## Camden Local Housing Strategy

Objective	Consistency	Comment
<b>Infrastructure</b>		
Priority 1: Providing housing capacity and coordinating growth with infrastructure <ul style="list-style-type: none"> <li>Objective 1 – There is sufficient planning capacity to meet forecast housing demand.</li> </ul>	Yes.	The proposal is not inconsistent with this priority. Council officers propose to investigate inclusion of a similar exempt development provision for road closure in the Growth Centres SEPP, as part of a future review.

## Appendix 2: Consistency against State Environmental Planning Policies

SEPP Title	Consistency	Comment
SEPP (Transport and Infrastructure) 2021	Yes	Chapter 2 Infrastructure The proposal does not impede on the delivery of this SEPP nor seek to amend the SEPP.
SEPP (Biodiversity and Conservation) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Primary Production) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Resilience and Hazards) 2021	Yes	Chapter 4 Remediation of land While this Planning Proposal does not propose any development, it has the potential to create opportunity for development. Any future DA to develop land that has been subdivided due to road closure will need to consider this SEPP.
SEPP (Industry and Employment) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Resources and Energy) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Planning Systems) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Precincts - Western Parkland City) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Design and Place) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Housing) 2021	N/A	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.
SEPP (Codes) 2021	Yes	The proposal does not impede on the delivery of this SEPP or affect the application of this SEPP.



## Appendix 3: Section 9.1 Ministerial Directions

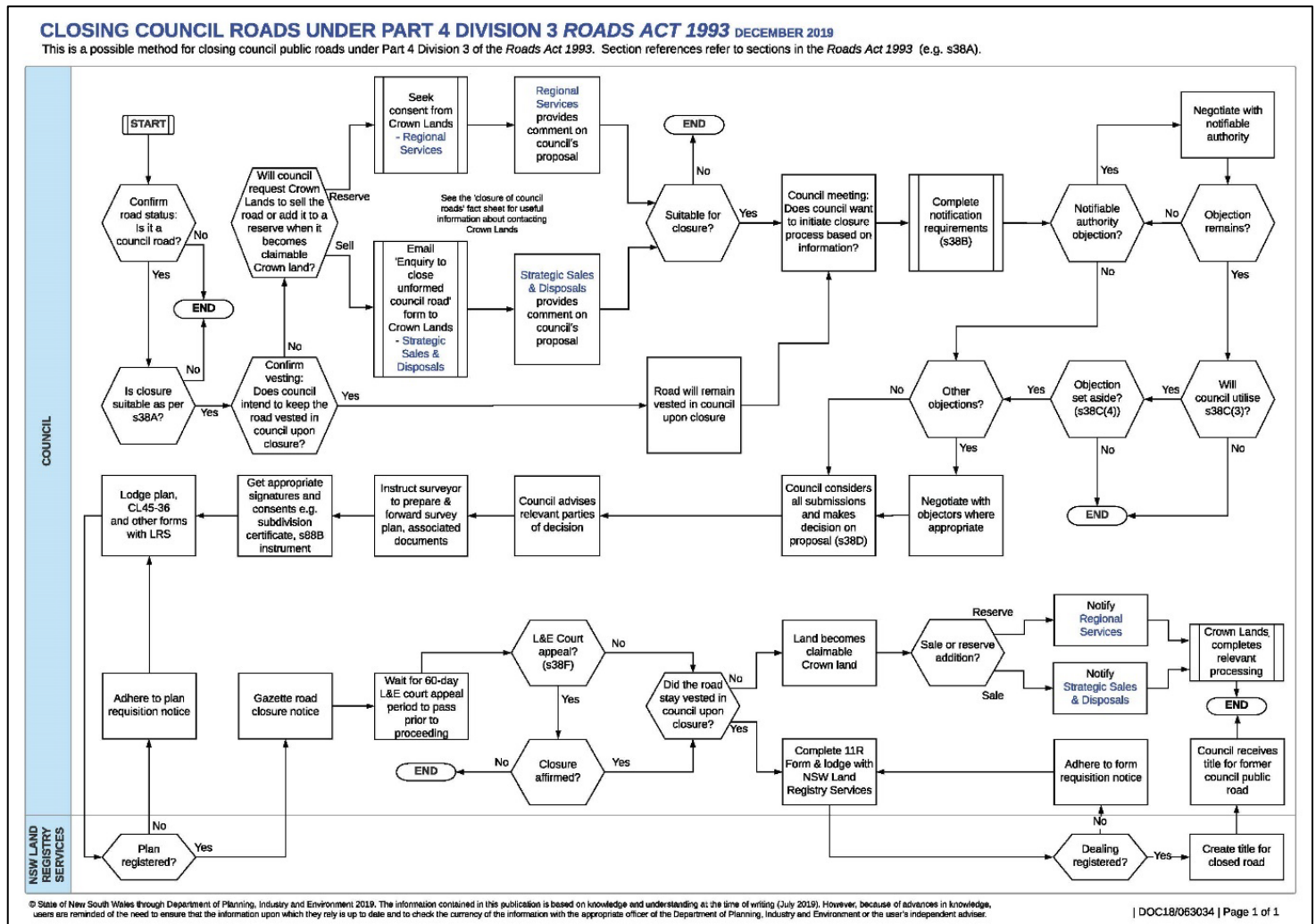
S9.1 Direction Title	Consistency	Comment
<b>1.0 Planning Systems</b>		
1.1 Implementation of Regional Plans	N/A	
1.2 Development of Aboriginal Land Council land	N/A	
1.3 Approval and Referral Requirements	Yes	<p>This Direction applies when a Planning Proposal is prepared. The Direction states that a Planning Proposal must minimise provisions relating to the concurrence, consultation or referral of development applications to a Minister or public authority and not identify development as designated development unless the development is likely to have a significant impact on the environment.</p> <p>Due to the minor nature of the proposed amendments, the Planning Proposal is not likely to require the concurrence, consultation, or referral of development applications to a Minister or public authority and is not considered to have significant impacts on the environment. The Planning Proposal is consistent with this Direction.</p>
1.4 Site Specific Provisions	N/A	
1.5 Parramatta Road Corridor Urban Transformation Strategy	N/A	Does not apply to the Camden LGA.
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A	Does not apply to the Camden LGA.
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	Does not apply to the Camden LGA.
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation	N/A	Does not apply to the Camden LGA.
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A	Does not apply to the Camden LGA.
1.10 Implementation of the Western Sydney Aerotropolis Plan	N/A	
1.11 Implementation of Bayside West Precincts 2036 Plan	N/A	Does not apply to the Camden LGA
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N/A	Does not apply to the Camden LGA
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N/A	Does not apply to the Camden LGA

1.14	Implementation of Greater Macarthur 2040	N/A	
1.15	Implementation of the Pyrmont Peninsula Place Strategy	N/A	Does not apply to the Camden LGA
1.16	North West Rail Link Corridor Strategy	N/A	Does not apply to the Camden LGA.
1.17	Implementation of the Bays West Place Strategy	N/A	Does not apply to the Camden LGA.
<b>2.0 Design and Place</b>			
<b>3.0 Biodiversity and Conservation</b>			
3.1	Conservation Zones	Yes	The proposal does not recommend the amendment of existing provisions that facilitate the protection and conservation of environmentally sensitive areas.
3.2	Heritage Conservation	Yes	The proposal is consistent with this direction as it does not recommend amendment of heritage items or places listed in Camden LEP 2010 or the amendment of existing provisions that facilitate the conservation of heritage items and places.
3.3	Sydney Drinking Water Catchments	N/A	Does not apply to the Camden LGA.
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N/A	Does not apply to the Camden LGA.
3.5	Recreation Vehicle Areas	N/A	
<b>4.0 Resilience and Hazards</b>			
4.1	Conservation Zones	N/A	
4.2	Coastal Management	N/A	Does not apply to the Camden LGA.
4.3	Planning for Bushfire Protection	N/A	
4.4	Remediation of Contaminated Land	N/A	
4.5	Acid Sulfate Soils	N/A	Does not apply to the Camden LGA.
4.6	Mine Subsidence and Unstable Land	N/A	Does not apply to the Camden LGA.
<b>5.0 Transport and Infrastructure</b>			
5.1	Integrating Land Use and Transport	N/A	
5.2	Reserving Land for Public Purposes	N/A	
5.3	Development Near Regulated Airports and Defence Airfields	N/A	
5.4	Shooting Ranges	N/A	
<b>6.0 Housing</b>			
6.1	Residential Zones	N/A	
6.2	Caravan Parks and Manufactured Home Estates	N/A	
<b>7.0 Industry and Employment</b>			
7.1	Business and Industrial Zones	N/A	

7.2 Reduction in non-hosted short-term rental accommodation period	N/A	
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	Does not apply to the Camden LGA.
<b>8.0 Resources and Energy</b>		
8.1 Mining, Petroleum Production and Extractive Industries	N/A	
<b>9.0 Primary Production</b>		
9.1 Rural Zones	Yes	The proposal is consistent with this direction as the proposed amendment does not seek to rezone rural land or increase the permissible density of land within a rural zone.
9.2 Rural Lands	N/A	Does not apply to the Camden LGA.
9.3 Oyster Aquaculture	N/A	Does not apply to the Camden LGA.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	Does not apply to the Camden LGA.

## Appendix 4: Process for Road Closures

This diagram was provided by Department crown lands to provide guidance and explain the process for road closures.





## Appendix 5: Council Report and Minutes – Ordinary Council Meeting – 10<sup>th</sup> May 2022

# Business Paper

## Ordinary Council Meeting

Camden Council  
Administration Centre  
70 Central Avenue  
Oran Park

10 May 2022



The public can also 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>

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## ORD01

**SUBJECT: PLANNING PROPOSAL - SUBDIVISION FOR ROAD CLOSURE AS EXEMPT DEVELOPMENT**

**FROM:** Director Planning & Environment

**EDMS #:** 22/164818

ORD01

### PURPOSE OF REPORT

The purpose of this report is to advise Council of a draft Planning Proposal that seeks to permit the subdivision of a public road that is subject to closure as exempt development.

The report recommends that Council endorse the draft Planning Proposal and forward the proposal to the Department of Planning and Environment (DPE) for Gateway Determination. The draft Planning Proposal is provided as an **attachment** to this report.

### BACKGROUND

The Camden Local Environmental Plan 2010 (Camden LEP 2010) was prepared in accordance with the Department of Planning and Environment's (DPE) Standard Instrument LEP (SI LEP), with the approach taken to zone local roads. As roads are zoned, the Camden LEP 2010 development standards, including minimum lot size, apply to roads.

In December 2019, the responsibility for road closures was transferred from the Department of Planning Industry and Environment (DPIE) Crown Lands (now DPE Crown Lands) to Council.

Council is currently in the process of closing two roads where the minimum lot size for subdivision cannot be complied with. As a result, the proposed subdivision is unable to obtain development consent to allow the issue of a subdivision certificate to finalise the road closure. Details of the road closures are outlined in a **supporting document** and summarised in the draft Planning Proposal, provided as an **attachment** to this report.

Road closures do not currently constitute 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development) 2008 Exempt and Complying (SEPP), State Environmental Planning Policy (Infrastructure) (Infrastructure SEPP) and Camden LEP 2010.

Councillors were briefed on the draft Planning Proposal on 26 April 2022.

### MAIN REPORT

The draft Planning Proposal seeks to introduce a provision to permit subdivision of a public road as exempt development for the purpose of road closure. This will occur through an amendment to Schedule 2 Exempt Development of the Camden LEP 2010.



ORD01

Proposals to initiate a road closure will continue to be reported to Council for determination. Where Council resolves to proceed with a road closure, the draft Planning Proposal will streamline the process by removing the need for a development application to subdivide the road.

#### The Proposal's Objective

The objective of the draft Planning Proposal is to facilitate road closure consistent with Council's functions under the *Roads Act 1993*.

#### Road Closure Scenarios – Summary

Council is currently in the process of closing two roads where the minimum lot size for subdivision cannot be complied with.

In one example, the site is zoned RU1 Primary Production with a minimum lot size of 40 hectares under the Camden LEP 2010. The area of road to be closed is approximately 11,297m<sup>2</sup>, meaning development consent for subdivision is unable to be granted.

In another example, the site is zoned R5 Large Lot Residential with a minimum lot size of 4,000m<sup>2</sup> under the Camden LEP 2010. The area of road to be closed is approximately 965m<sup>2</sup>, meaning development consent for subdivision is unable to be granted.

Under the draft Planning Proposal, these sites would not need to go through the DA process to gain a subdivision certificate, allowing the road closure process to proceed to finalisation.

#### Assessment against Key Strategic Documents

The draft Planning Proposal has been assessed against key strategic documents including the Greater Sydney Region Plan, the Western City District Plan, the Camden Community Strategic Plan, Camden Local Strategic Planning Statement and Camden Local Housing Strategy. The proposal is generally consistent with the objectives of these key strategic documents, with a detailed assessment provided as an **attachment** to this report.

#### Camden Local Planning Panel

On 19 April 2022, the Camden Local Planning Panel (Panel) considered the draft Planning Proposal. The Panel was supportive of the proposal proceeding to Gateway Determination and recommended the current road closure matters outlined in this report be dealt with via a DA and application of LEP Clause 4.6 to vary the minimum lot size development standard. A copy of the Panel's meeting minutes is provided as an **attachment** to this report.

#### Officer comment

Council officers have considered the application of LEP Clause 4.6 against the current road closure scenarios and are satisfied the clause does not permit variation of the minimum lot size development standard to the extent that is required. The draft Planning Proposal has been prepared to facilitate the current road closure scenarios outlined in this report.





### Assessment of Planning Merit

It is considered the proposal demonstrates sufficient planning merit to proceed to Gateway Determination. The proposal:

- Enables public road closure consistent with Council's role under the *Roads Act 1993*; and
- Facilitates Council's ability to provide for the changing needs of the community by removing redundant infrastructure.

### Next Steps

Subject to Council endorsement, the draft Planning Proposal will be submitted to the DPE for a Gateway Determination.

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

- Social media posts directing the community to Council's website for further information on the proposal.

### FINANCIAL IMPLICATIONS

There are no direct financial implications for Council as a result of the draft Planning Proposal. It is noted the road closures may lead to the disposal of land however land disposal is a separate matter for Council's determination.

### CONCLUSION

The draft Planning Proposal seeks to amend the Camden LEP 2010 to facilitate the subdivision of a public road that is subject to closure as exempt development.

Council officers have assessed the draft Planning Proposal and consider the proposal demonstrates planning merit to proceed to Gateway Determination as outlined in this report.



ORD01

**RECOMMENDED**

That Council:

- i. endorse the draft Planning Proposal for subdivision of a public road as exempt development, to be forwarded to the Department of Planning and Environment for Gateway Determination;
- ii. subject to receiving a favourable response from the Department of Planning and Environment, proceed to public exhibition for the draft Planning Proposal in accordance with the requirement of the Gateway Determination and the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2021*;
- iii. subject to no unresolved submissions being received, forward the draft Planning Proposal to the Department of Planning and Environment for the plan to be made; or
- iv. if unresolved submissions are received, consider a further report outlining the results of the public exhibition.

ATTACHMENTS

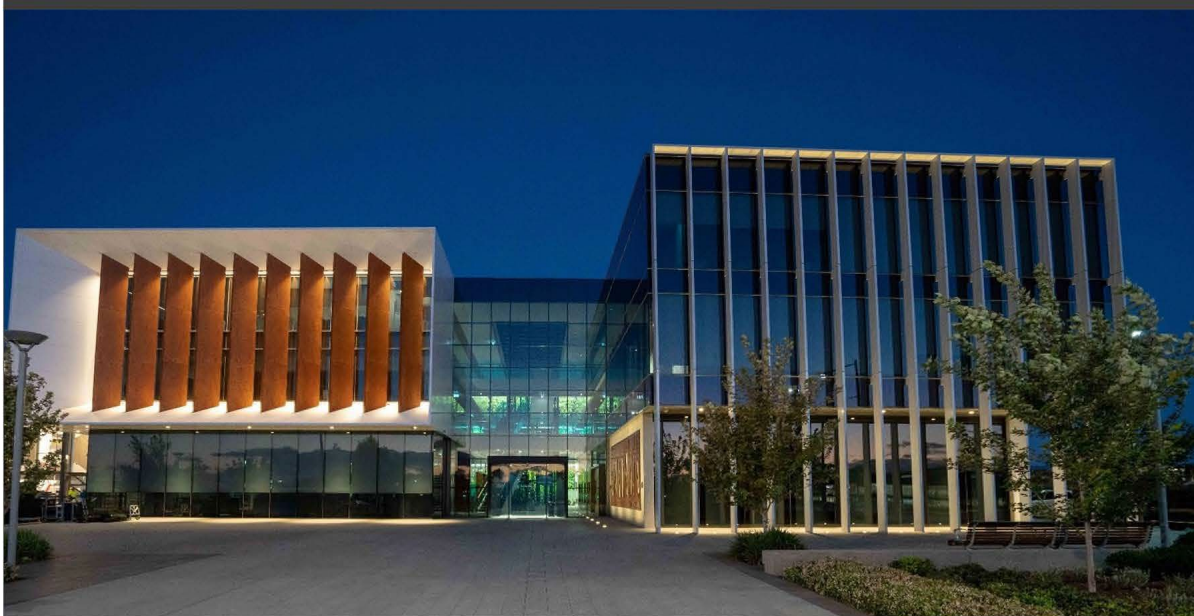
1. Draft Planning Proposal - Subdivision for Road Closure as Exempt Development
2. Assessment of Planning Proposal Against Key Region, District and Local Strategic Documents, State Environmental Planning Policies and Ministerial Directions
3. Minutes - Camden Local Planning Panel - 19 April 2022
4. Council Report - Subdivision for Road Closure as Exempt Development - *Supporting Document*

# Minutes

## Ordinary Council Meeting

Camden Council  
Administration Centre  
70 Central Avenue  
Oran Park

10 May 2022



camden  
council





**MEETING COMMENCED AT 6.31PM**

**PRESENT**

**In person:**

Cr Farrow (Deputy Mayor/Chairperson)  
Cr C Cagney  
Cr Campbell  
Cr Dommaraju  
Cr McLean  
Cr Symkowiak

**Remote:**

Cr Zammit

**STAFF**

General Manager  
Director Customer & Corporate Strategy  
Director Planning & Environment  
Director Community Assets  
Director Sport, Community & Activation  
Chief Financial Officer  
Manager Legal & Governance  
Manager Waste & City Presentation  
Manager Open Space & Sustainability  
Manager Public Affairs  
Manager Economic Development & Activation  
Manager Community Outcomes  
Internal Audit Coordinator  
Media Advisor  
Senior Governance Officer  
Governance Officer  
Governance Administration Officer

**LEAVES OF ABSENCE**

Motion: Moved Councillor Campbell, Seconded Councillor C Cagney that Councillor Fedeli and Councillor A Cagney be granted leaves of absence.

ORD50/22 THE MOTION ON BEING PUT WAS **CARRIED**

Councillors Symkowiak, Campbell, C Cagney, Farrow, Dommaraju, Zammit and McLean voted in favour of the Motion.

No Councillors voted against the Motion.

**DECLARATIONS OF INTEREST**

Councillor Campbell declared a pecuniary interest in relation to ORD07 - Acceptance of Grant Funding - NSW Department of Planning and Environment - Streets as Shared Spaces (Round 2) - Larkin Place Activation Pilot, advising that her husband has property on Argyle Street, Camden that abuts the carpark and that she would vacate the chamber and not take part in discussion or debate on the matter.



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ORD53/22 THE MOTION ON BEING PUT WAS **CARRIED**

Councillors Symkowiak, Campbell, C Cagney, Farrow, Dommaraju, Zammit and McLean voted in favour of the Motion.

No Councillors voted against the Motion.

**ORD02 PLANNING PROPOSAL - INCREASED MINIMUM LOT SIZE AND ZONE BOUNDARY ADJUSTMENT FOR LAND AT ABERCROMBIE PLACE, HARRINGTON PARK**

Motion: Moved Councillor Symkowiak, Seconded Councillor Zammit that Council:

- i. endorse the draft Planning Proposal for land at Abercrombie Place, Harrington Park (Lots 1 to 12 DP 280059), to be forwarded to the Department of Planning and Environment for Gateway Determination;
- ii. subject to receiving favourable response from the Department of Planning and Environment, proceed to public exhibition for the draft Planning Proposal in accordance with the requirement of the Gateway Determination and the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2021*;
- iii. subject to no unresolved submissions being received, forward the draft Planning Proposal to the Department of Planning and Environment for the plan to be made; or
- 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.

ORD54/22 THE MOTION ON BEING PUT WAS **CARRIED**

Councillors Symkowiak, Campbell, C Cagney, Farrow, Dommaraju, Zammit and McLean voted in favour of the Motion.

No Councillors voted against the Motion.

**ORD03 MARCH QUARTERLY REVIEW OF THE 2021/22 BUDGET**

Motion: Moved Councillor Zammit, Seconded Councillor Symkowiak that Council:

- i. adopt the budget variations contained within this report and confirm the allocation of the March Quarterly Review Surplus of \$302,494 to the Capital Works Reserve;
- ii. allocate the funding secured in the third round of the Local Roads and Community Infrastructure (LRCI) program of \$1,749,384 to roof rectification works at the Mount Annan Leisure Centre and that the funds be allocated to the 2022/23 Budget;
- iii. accept grant funding of \$186,666 under the 2021/22 Floodplain Management Program from the Department of Planning and Environment for the detailed Overland Flow Study of the Narellan Creek Catchment of the Nepean River and include the funding in the 2022/23 Budget;



Councillor C Cagney declared a non-pecuniary, less than significant interest in relation to ORD04 - Community Representation on Advisory Committees and Reference Groups, advising that several of the applicants are known to her however she has not been involved in the recruitment process and that she would remain in the chamber during discussion and voting on the matter.

Motion: Moved Councillor C Cagney, Seconded Councillor McLean that the declarations be noted.

ORD51/22 THE MOTION ON BEING PUT WAS **CARRIED**

Councillors Symkowiak, Campbell, C Cagney, Farrow, Dommaraju, Zammit and McLean voted in favour of the Motion.

No Councillors voted against the Motion.

#### **PUBLIC ADDRESSES**

There were no public addresses to be noted.

#### **CONFIRMATION OF MINUTES**

Motion: Moved Councillor C Cagney, Seconded Councillor McLean that the Minutes of the Ordinary Council Meeting held 12 April 2022, copies of which have been circulated, be confirmed and adopted.

ORD52/22 THE MOTION ON BEING PUT WAS **CARRIED**

Councillors Symkowiak, Campbell, C Cagney, Farrow, Dommaraju, Zammit and McLean voted in favour of the Motion.

No Councillors voted against the Motion.

#### **ORD01 PLANNING PROPOSAL - SUBDIVISION FOR ROAD CLOSURE AS EXEMPT DEVELOPMENT**

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

- i. endorse the draft Planning Proposal for subdivision of a public road as exempt development, to be forwarded to the Department of Planning and Environment for Gateway Determination;
- ii. subject to receiving a favourable response from the Department of Planning and Environment, proceed to public exhibition for the draft Planning Proposal in accordance with the requirement of the Gateway Determination and the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2021*;
- iii. subject to no unresolved submissions being received, forward the draft Planning Proposal to the Department of Planning and Environment for the plan to be made; or
- iv. if unresolved submissions are received, consider a further report outlining the results of the public exhibition.

## Appendix 6: Closed Minutes – Camden Local Planning Panel – 19<sup>th</sup> April 2022



# Camden Local Planning Panel

Closed Meeting Minutes  
19 April 2022

**Meeting held via teleconference**





## **CLOSED CAMDEN LOCAL PLANNING PANEL MEETING**

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**MEETING COMMENCED: 2.00PM**

**PRESENT**

Pamel Soon (Chairperson), Grant Christmas (Expert Panel Member), Sue Francis (Expert Panel Member), Bill Rooney (Community Representative – Central Ward).

**ALSO IN ATTENDANCE**

Manager Strategic Planning, Team Leader Heritage, Precincts and Rural, Strategic Planner, Graduate Planner/Building Surveyor.

**APOLOGIES**

There were no leave of absence to be granted.

**DECLARATIONS OF INTEREST**

There were no declarations to be noted.

**CCLPP01 PLANNING PROPOSAL - ROAD CLOSURE AS EXEMPT DEVELOPMENT**

**PANEL RECOMMENDATION**

The Camden Local Planning Panel has considered the draft Planning Proposal and supports the Council officer's report but would recommend for the two current matters that have been under consideration for some time, that they be dealt with via a development application and associated clause 4.6 variation dealing with minimum lot size so that they may be handled more efficiently and more timely than a planning proposal.

**VOTING NUMBERS**

The Panel voted 4-0 in favour of the recommendation.

**CCLPP02 PLANNING PROPOSAL - THE STABLES, HARRINGTON GROVE**

**PANEL RECOMMENDATION**

The Camden Local Planning Panel has considered the draft Planning Proposal and supports the Council officer's report.

**VOTING NUMBERS**

The Panel voted 4-0 in favour of the recommendation.

**MEETING CONCLUDED: 2.37PM**



# camden

council



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