

ORD01

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SUBJECT: MATER DEI / WIVENHOE PLANNING PROPOSAL
FROM: Acting Director Planning & Environment
EDMS #: 22/463535

PROPERTY ADDRESS Part Lot 100 DP1230568
229 Macquarie Grove Road, Cobbitty

PROPONENT Graham Pascoe – Pascoe Planning Solutions

OWNER Sisters of the Good Samaritan

PURPOSE OF REPORT

The purpose of this report is to advise Council of a draft Planning Proposal for land at 229 Macquarie Grove Road, Cobbitty. The draft Planning Proposal seeks to amend the Camden Local Environmental Plan (LEP) 2010 to introduce more appropriate land use zones for the current uses on the site and apply new minimum lot sizes to facilitate the separation of these uses.

This report recommends that Council endorse the draft Planning Proposal and forward it to the Department of Planning and Environment (DPE) for Gateway Determination.

The draft Planning Proposal and supporting draft Development Control Plan (DCP) are provided as **attachments** to this report.

Councillors were briefed on the draft Planning Proposal on 31 October 2022.

BACKGROUND

In October 2021, Pascoe Planning Solutions lodged a Planning Proposal on behalf of the landowners, the Sisters of the Good Samaritan.

The site is currently zoned under Camden LEP 2010 as R5 Large Lot Residential, RU1 Primary Production, C2 Environmental Conservation and SP2 Air Transport Facility. A minimum lot size of 40ha applies to those parts of the site that are zoned R5 Large Lot Residential and RU1 Primary Production.

A portion of the site contains the Wivenhoe heritage item comprising the house and gardens, outbuildings, stables, servant's quarters and a coach house.

The site represents the residue holding following the Kirkham Rise residential development and the Wivenhoe Seniors Living Village.

The site comprises of the following precincts:

- Mater Dei School Precinct, the Mater Dei Chapel, the Stables and Wivenhoe Villa;
- The Aspect School (Autism Spectrum Australia);
- The Convent/residue area;
- Wivenhoe Environmental Conservation Area and Biodiversity Stewardship Areas Stages 1 and 2;

- Supporting infrastructure for the Kirkham Rise residential development and Wivenhoe Seniors Living Village including:
 - Parks and walkways (including one embellished small pocket park); and
 - Several detention basins used for drainage.

The distribution of these uses across the site is shown in **Figure 1**.

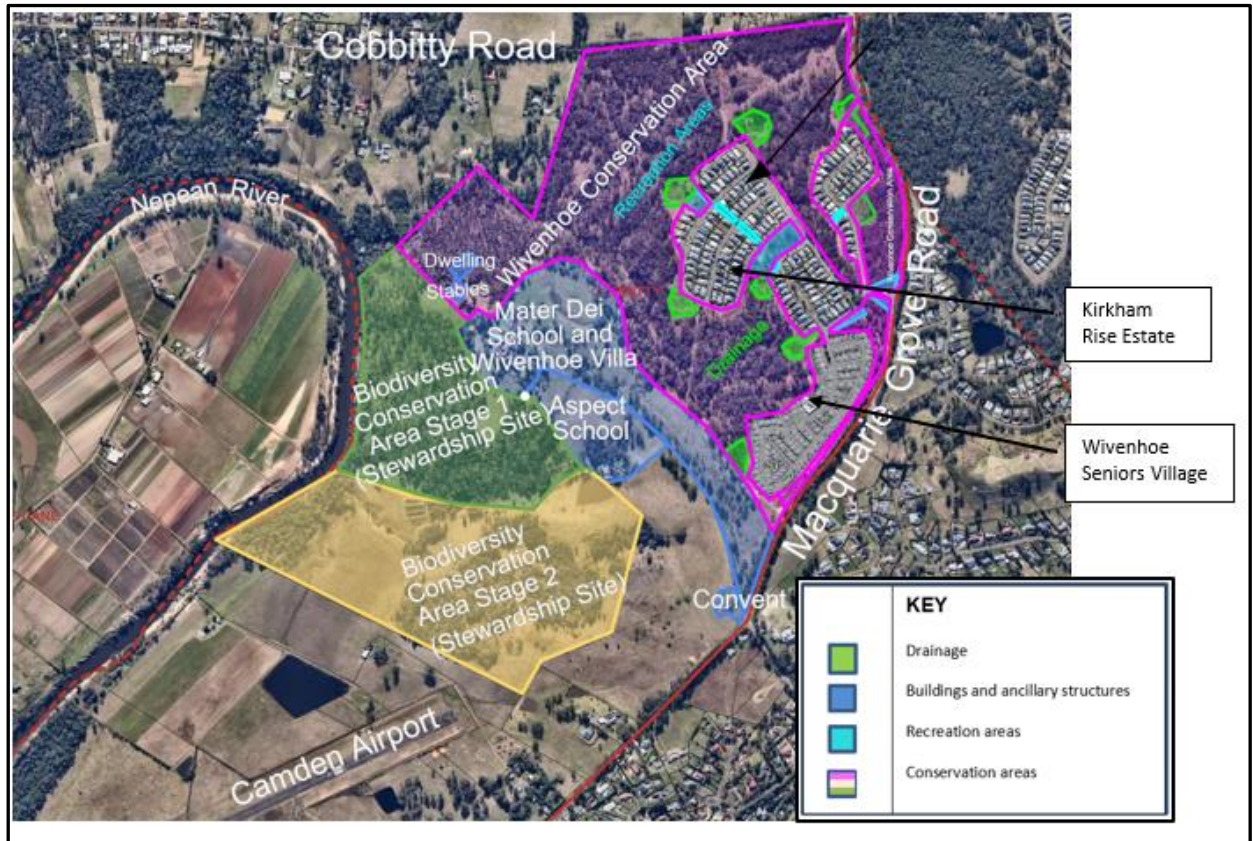


Figure 1 - Site Plan showing approximate location of land uses

The intent of the proposal is to apply land use zones that are in keeping with the current uses on the site and to facilitate the separation of the Mater Dei School, Aspect School, Conservation Lands and Convent Precinct onto separate allotments as shown in **Figure 2**.

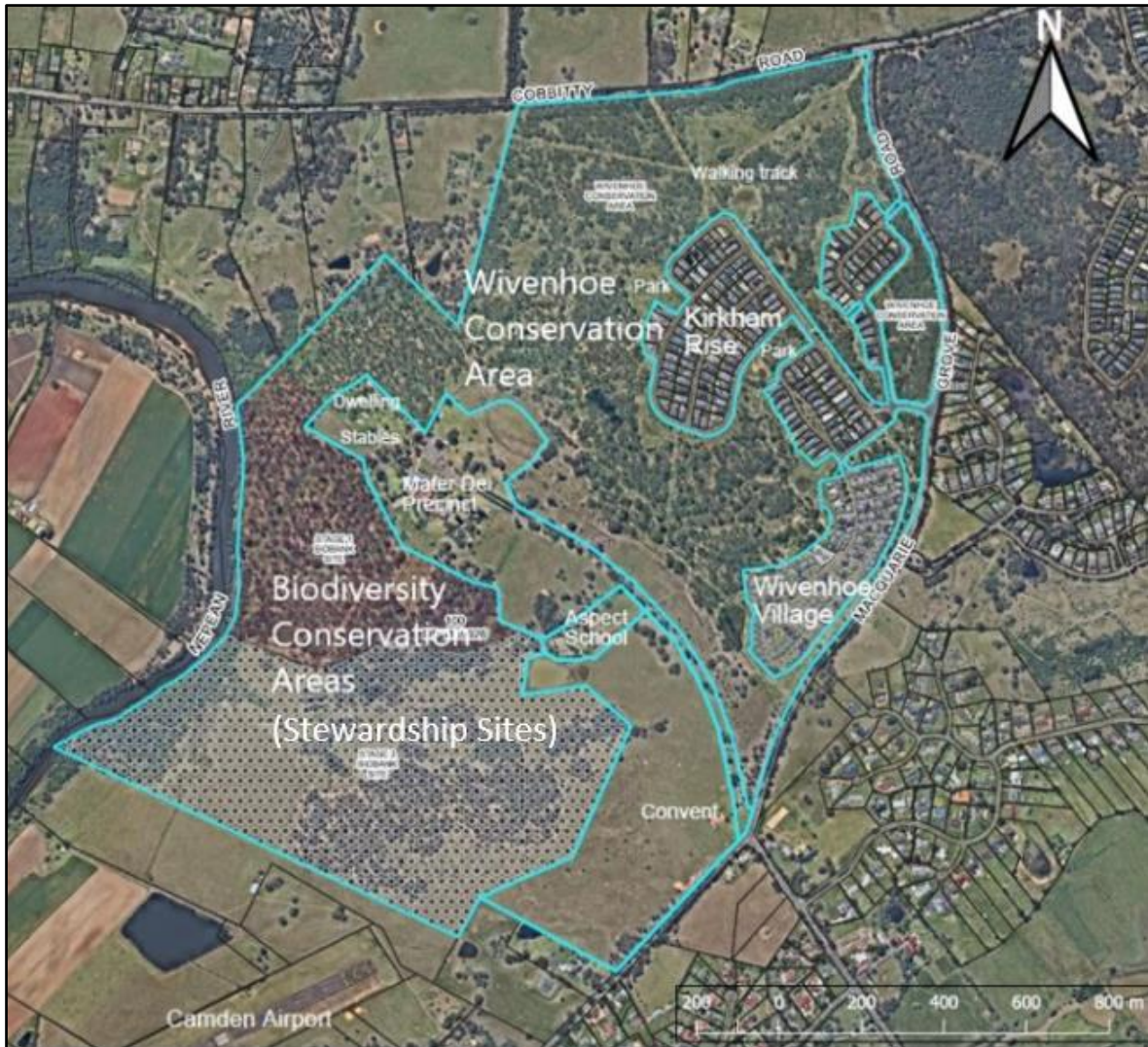


Figure 2 - Indicative Future Subdivision Layout

Site Context

The subject land is located within the rural residential area of Cobbitty and is bounded by the Nepean River to the west, Cobbitty Road to the north and Macquarie Grove Road to the northeast and southeast. Camden Airport adjoins part of the property boundary to the southwest of the site. Vehicular access to the site is via a central driveway accessed from Macquarie Grove Road.

The site comprises approximately 246ha of sloping land with large portions of the site covered by critically endangered Cumberland Plain Woodland with much of the site mapped as being bushfire prone.

The site is within Camden Airport's Australian Noise Exposure Forecast 20 year and 25-year zone, Inner Horizontal Surface, Approach Surface, Transitional Surface and Obstacle Limitation Surface.

Planning Proposal History

The Kirkham Rise and Wivenhoe Village sites were rezoned for residential purposes in September 2007 and three other approved Planning Proposals have also been associated with the site:

- April 2011: The first Planning Proposal resulted in the rezoning of the land within the Wivenhoe Village site to R2 Low Density Residential zone to facilitate the development of seniors living housing.
- January 2013: The second Planning Proposal resulted in some minor adjustments to land zoning boundaries surrounding the Kirkham Rise and Wivenhoe Estates.
- April 2014: The third Planning Proposal resulted in an amendment to the description and heritage curtilage of Wivenhoe.

Development within the Locality

Kirkham Rise and Wivenhoe Village were developed as part of a 210-lot subdivision that was approved in February 2009. The consent also approved the construction of 12 drainage basins and recreational areas located on the subject site.

As part of the subdivision, a Voluntary Planning Agreement (VPA) was entered into between Council and the Trustees of the Sisters of the Good Samaritan which included active and passive recreational areas, monetary contributions, heritage conservation and ongoing environmental conservation works.

Existing Conservation Protection over parts of the site

A substantial portion of the site has significant biodiversity value as shown in **Figure 1**. These mapped areas are already subject to conservation protection measures, which include two Biodiversity Conservation Areas (Stage 1 and 2) which is subject to Biodiversity Stewardship Agreements and the Wivenhoe Conservation Area which is subject to a Conservation Management Plan.

Future of the site and land dedication matters

The Sisters of the Good Samaritan (Sisters) plan to exit the site in 2023, leaving Mater Dei school to be managed by Good Samaritan Schools. The Sisters are putting plans in place for the future management of the site and to ensure that the conservation lands continue to be managed appropriately.

The Sisters have been in separate negotiations with Council and National Parks and Wildlife Service (NPWS) to dedicate parts of the site to each organisation. At its meeting held on 13 October 2022, Council resolved (in summary) to enter into a deed of agreement with the Sisters of the Good Samaritan for the transfer of some of the conservation land surrounding Kirkham Rise.

Current and future land dedication matters do not have implications for the subject Planning Proposal.

Initial Notification

The draft Planning Proposal was placed on initial notification for a period of 14 days from 28 March to 11 April 2022.

Letters were sent to adjoining and nearby properties and notices were placed on the Your Voice Council website. Two submissions were received objecting to the draft Planning Proposal. The issues raised in these submissions are summarised below:

- Concern that the reduction of land size (minimum lot size) will lead to subdivision and further development;
- Protection of the site's biodiversity;
- Impacts on local native fauna that live on the site;
- Concern that the site provides a corridor for wildlife and offers food and shelter, and this will be lost if the site is rezoned; and
- The importance of the site to native animals due to other land elsewhere being lost to bushfire.

Initial consultation with public agencies was also undertaken, with five agency submissions received, which raised no objection, subject the further investigation of certain matters. An agency response summary table is provided as an **attachment** to this report.

The draft Planning Proposal, specialist studies and draft DCP have been updated in response to these submissions.

A formal public exhibition will occur subject to endorsement of the draft Planning Proposal and receipt of a Gateway Determination. Submitters to the initial notification stage will be advised of any future public exhibition.

MAIN REPORT

Summary of Proposal

The purpose of the draft Planning Proposal is to introduce zones that are more appropriate to the current uses on site and to apply new minimum lot sizes to facilitate the future separation of these uses as follows:

- Mater Dei Precinct (including school, stables, and workers cottage);
- Aspect School Precinct;
- Convent Precinct; and
- Conservation Lands Precinct.

The proposal also seeks to correct a zoning anomaly in regard to land zoned SP2 Air Transport Facility and to apply an SP2 Infrastructure Drainage and RE1 Public Recreation zone to lands proposed to be dedicated to Council.

The proposal is accompanied by proposed amendments to the Camden Development Control Plan 2019 (draft DCP). The amendments propose to incorporate a site identification and layout plan identifying the future use precincts and new controls to address site access, Asset Protection Zones (APZs) and site constraints including Camden Airport and heritage.

Proposal's Vision

The vision for the site is to enable the Sisters of the Good Samaritan to withdraw from the site whilst ensuring that the current uses of the site are protected into the future.

The intention for the Mater Dei Precinct is that the site will continue to be operated by Good Samaritan Schools and there will be the option for the Aspect School to purchase the smaller school site.

The intention for the Convent Precinct is that it will form a residual lot that can be sold to fund the draft Planning Proposal and future subdivision.

Zoning and permissibility

A comparison between the existing and proposed zoning and lot sizes is provided in **Tables 1** and **2** and as illustrated in maps provided as an **attachment** to this report.

Zoning (LZN)	Existing	Proposed	Proposed land area (ha)
	RU1 Primary Production (117.0ha)	SP2 Infrastructure – Educational Establishment	10
		C2 Environmental Conservation	81.9
		RU2 Rural Landscape	25.1
	C2 Environmental Conservation (98.7 ha)	SP2 Infrastructure – Educational Establishment	2.3
		C2 Environmental Conservation (no change)	91.4
		SP2 Infrastructure - Drainage	2.8
		RE1 Public Recreation	2.2
	R5 Large Lot Residential (26.0ha)	SP2 Infrastructure – Educational Establishment	13.1
		C2 Environmental Conservation zone	12.9
	SP2 - Air Transport Facility (3.0ha)	C2 Environmental Conservation zone	3.0

Table 1 - Comparison between existing and proposed zoning

	Existing	Proposed	Proposed Land Area (ha)
Minimum Lot Size	AB2 (40ha) (143.0 ha)	Z1 (2ha)	2.2
		AB2 (20ha)	46.0
		None (C2 zone)	94.8
	None (C2 zone) (98.7ha)	AB2 (20ha) (SP2 -Educational Establishment zone)	2.4
		None (RE1 & SP2 – Drainage zones) and C2 zone	96.3
	None (SP2 - Air Transport Facility) (3.0ha)	None (C2 zone)	3.0

Table 2 - Comparison between existing and proposed minimum lot sizes

Draft Development Control Plan

The draft Planning Proposal is accompanied by an amendment to Schedule 5 of the Camden Development Control Plan 2019 (draft DCP) and applies to land within the subject site. The draft DCP is included as an **attachment** to this report.

Specialist Studies

The Planning Proposal was supported by various specialist studies, as listed in **Table 3**, which are included under **separate cover** to this report.

Specialist Study	Author	Date
European Heritage Assessment	Design 5 Architects	30 September 2021
Aboriginal Due Diligence Assessment	Travers Bushfire & Ecology	22 September 2021
Bushfire Protection Assessment	Travers Bushfire & Ecology	3 September 2021
Camden Airport Operations Report	REHBEIN Airport Consulting	September 2021
Transport Assessment	Transport Planning Partnership	October 2021
Transport Assessment Addendum	Transport Planning Partnership	20 January 2022
Biodiversity Overview (updated) (Including Conservation Initiatives) Report	Travers Bushfire & Ecology	8 August 2022
Wivenhoe Biodiversity Overview and Management (appendices 1 -7)	Travers Bushfire and Ecology, Eco Logical Australia, OEH	7 October 2021, Jan 2008, Oct 2016, July 2012, May 2016, May 2012

Table 3 - Specialist studies

A table summarising the key findings of the specialist studies and Council officer comment is provided as an **attachment** to this report.

Camden Local Planning Panel

On 20 September 2022, the Camden Local Planning Panel (the Panel) considered the draft Planning Proposal and draft DCP. The Panel considered the proposed zones and planning controls reflect the opportunities and attributes of the land holding and the proposal will ensure the important ecological and heritage values of the site will be protected and will continue to be appropriately managed in the future.

The Panel supported Council officers' recommended amendments to the Planning Proposal to:

- Reflect an existing agreement between Council and the landowner under which Council will take ownership of drainage and public recreation/open space areas associated with the existing Kirkham Rise residential development; and
- Correct an apparent anomaly in relation to land currently zoned SP2 Air Transport Facility.

The Panel also agreed that the inconsistency of the Planning Proposal with the Minister for Planning Direction 3.1 (Conservation Zones) is justified, for the reasons outlined in the Council officers' report.

The draft Planning Proposal has been amended in accordance with the recommendations of Council officers and the Panel.

Assessment against Key Strategic Documents

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

On balance, it is considered that the draft Planning Proposal demonstrates sufficient planning merit to proceed to Gateway Determination for the following reasons:

- It proposes land use zones that are in keeping with the current uses on the site.
- The removal of the R5 Large Lot Residential zone from the site is consistent with the rural character and heritage qualities of the site.
- It secures additional Environmental Conservation zoned land for the Camden Local Government Area.
- It provides a logical solution to secure the future ongoing use of two existing educational establishments in the Camden area that provide education services to children and their families.
- It will have minimal impact on the existing area as the proposal does not seek to change or increase the uses on the site.

- It is in keeping with Council's strategic plans and policies.

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 and draft DCP will be placed on public exhibition. Council is also requested to grant delegation to the General Manager to adopt the draft DCP, subject to no unresolved submissions being received and the proposal being finalised. 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 DPE for finalisation and the draft DCP will be adopted.

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 landowners and adjacent properties (approximately 170 letters); the extent of the notification area for this proposal provided as an attachment to this report;
- Signage to be provided at the site advising that the proposal is on exhibition; and
- Social media posts directing the community to Council's Your Voice website for further information on the proposal.

FINANCIAL IMPLICATIONS

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

CONCLUSION

The draft Planning Proposal seeks to amend the Camden LEP 2010 to rezone land to SP2 Infrastructure Educational Establishment, C2 Environmental Conservation, RU2 Rural Landscape, SP2 Infrastructure Drainage, RE1 Public Recreation and introduce a new 20ha and 2ha minimum lot size to parts of the site. The proposal seeks these amendments to ensure that the land zones applying to the site are in keeping with the current and future uses on the site and to support the future separation of these uses.

The draft Planning Proposal is supported by a draft DCP which proposes amendments to Schedule 5 Mater Dei of the Camden DCP 2019.

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.

RECOMMENDED

That Council:

- i. endorse the amended draft Planning Proposal for land at 229 Macquarie Grove Road Cobbitty (Part Lot 100 DP1230568) to be forwarded to the Department of Planning and Environment for Gateway Determination;
- ii. endorse the draft Camden Development Control Plan 2019 for the purposes of public exhibition;
- iii. subject to no unresolved submissions being received, grant delegation to the General Manager to adopt the proposed changes to the Camden Development Control Plan upon notification of the Camden LEP 2010 amendment;
- iv. 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;
- v. 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
- vi. if unresolved submissions are received, consider a further report outlining the results of the public exhibition; or
- vii. should the draft Planning Proposal not receive Gateway Approval, notify the proponent that the draft Planning Proposal will not proceed.

ATTACHMENTS

1. Planning Proposal Request
2. Draft Development Control Plan
3. Assessment against Strategies, SEPPs and Ministerial Directions
4. Summary of Specialist Studies and Officer Comment
5. Agency Response Table
6. Maps
7. Notification Map
8. Technical Studies Mater Dei PP - Under separate cover

CONFIRMATION OF MINUTES

Motion: Moved Councillor C Cagney, Seconded Councillor A Cagney that the Minutes of the Local Traffic Committee held 4 October 2022, the Ordinary Council Meeting held 11 October 2022 and the Extraordinary Council Meeting held 17 October 2022, copies of which have been circulated, be confirmed and adopted.

ORD163/22 THE MOTION ON BEING PUT WAS **CARRIED**

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

No Councillors voted against the Motion.

ORD01 Mater Dei / Wivenhoe Planning Proposal

Motion: Moved Councillor Campbell, Seconded Councillor McLean that Council:

- i. endorse the amended draft Planning Proposal for land at 229 Macquarie Grove Road Cobbitty (Part Lot 100 DP1230568) to be forwarded to the Department of Planning and Environment for Gateway Determination;
- ii. endorse the draft Camden Development Control Plan 2019 for the purposes of public exhibition;
- iii. subject to no unresolved submissions being received, grant delegation to the General Manager to adopt the proposed changes to the Camden Development Control Plan upon notification of the Camden LEP 2010 amendment;
- iv. 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*;
- v. 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
- vi. if unresolved submissions are received, consider a further report outlining the results of the public exhibition; or
- vii. should the draft Planning Proposal not receive Gateway Approval, notify the proponent that the draft Planning Proposal will not proceed.

ORD164/22 THE MOTION ON BEING PUT WAS **CARRIED**

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

No Councillors voted against the Motion.

Councillor Dommaraju vacated the Chamber, the time being 6.52pm.