

## ORD02

**SUBJECT:** MATER DEI / WIVENHOE AMENDED PLANNING PROPOSAL (PRE PUBLIC EXHIBITION)  
**FROM:** Director Planning & Environment  
**EDMS #:** 23/322432  
**PREVIOUS ITEMS:** ORD01 - Mater Dei / Wivenhoe Planning Proposal - Ordinary Council - 08 Nov 2022

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**PROPERTY ADDRESS** Part Lot 100 DP1230568, 229 Macquarie Grove Road, Cobbitty, Part Lot 394 DP 1184159, A Lee Street and A McKellar Street, 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 an amended Planning Proposal (amended proposal) for land at 229 Macquarie Grove Road, A Lee Street and A McKellar Street, Cobbitty.

It is recommended that Council endorse the amended proposal for resubmission to the Department of Planning and Environment (DPE) for Gateway Determination.

The amended proposal, including associated maps and amendments to the draft Development Control Plan (DCP), are provided as **attachments** to this report.

### BACKGROUND

At its meeting on 8 November 2022, Council resolved to endorse a Planning Proposal for the subject land for submission to DPE for Gateway Determination.

The proposal seeks to amend the Camden LEP 2010 by rezoning parts of the site and varying the minimum lot sizes to facilitate the separation of the various uses on the site.

As noted in the previous report, the Sisters of the Good Samaritan (Sisters) intend to leave the site, with the Mater Dei school to be managed by Good Samaritan Schools. The Sisters are planning for the future ownership and management of the various uses on the site, including the conservation land.

For some time, the Sisters have been in negotiations with Council and National Parks and Wildlife Service (NPWS) regarding land across the site. At its meeting on 11 October 2022, Council resolved to enter a deed of agreement with the Sisters to transfer some land surrounding the Kirkham Rise residential development to Council. Prior to this (in 2021), Council resolved to enter a deed with the Sisters to transfer some open space and drainage land.

On 11 May 2023, the DPE advised Council that the Planning Proposal is not supported in its current form. The DPE's key concern relates to potential land acquisition obligations for the State Government for the land proposed to be rezoned SP2 Educational Establishment.

The DPE also requested Council:

- Address the acquisition provisions for the proposed open space and drainage land; and
- Correct a boundary error between the conservation land and the rural residue precinct to reflect the boundary shown in the biodiversity stewardship agreement for that part of the site.

The DPE requested the proposal be amended to address these concerns.

Councillors were briefed on the amended Planning Proposal on 27 June 2023.

### MAIN REPORT

The DPE's key concern relates to the proposed application of the SP2 Educational Establishment zone for the education precinct, as it may trigger a future land acquisition obligation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

As a result, an amended proposal has been prepared, in consultation with the proponent and the Sisters.

### **Amended Planning Proposal**

The current draft zoning plan and amended draft zoning plan are shown in **Figures 1 and 2**.

The amended proposal replaces the proposed SP2 Educational Establishment zone with RU2 Rural Landscape zone. The existing land uses are consistent with the objectives of the RU2 Rural Landscape zone, including to permit non-agricultural uses that are compatible with the environmental and conservation values of the land. Schools and related land uses are a permissible use in the RU2 Rural Landscape zone.

It is noted that a '*dwelling house*' is a permissible use in the RU2 Rural Landscape zone and accordingly the amended proposal will provide a dwelling entitlement for the school site/precinct (although this is not the stated aim of the Planning Proposal). Given the unique circumstances of the site, the RU2 Rural Landscape zone is considered the most appropriate zone (in lieu of the SP2 Educational Establishment zone).

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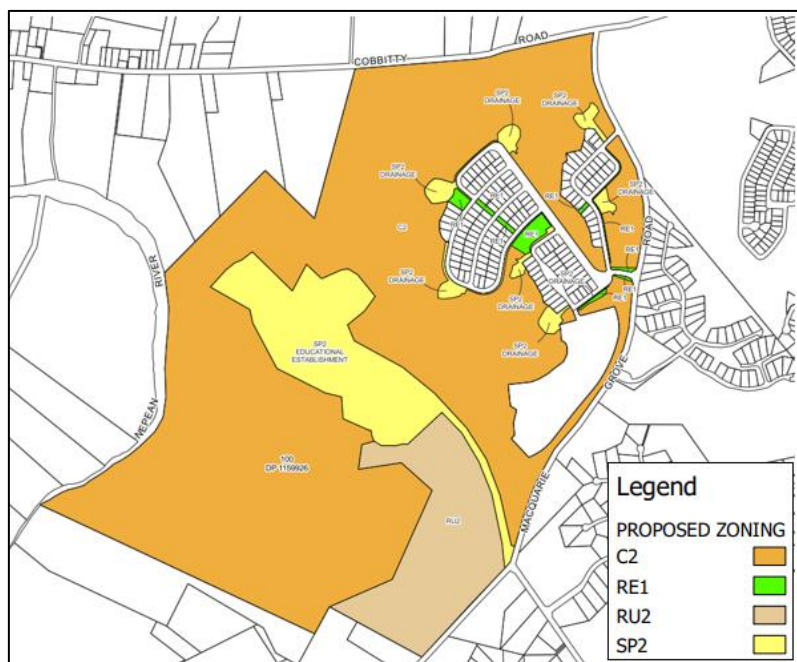


Figure 1: Current Council endorsed draft zoning map

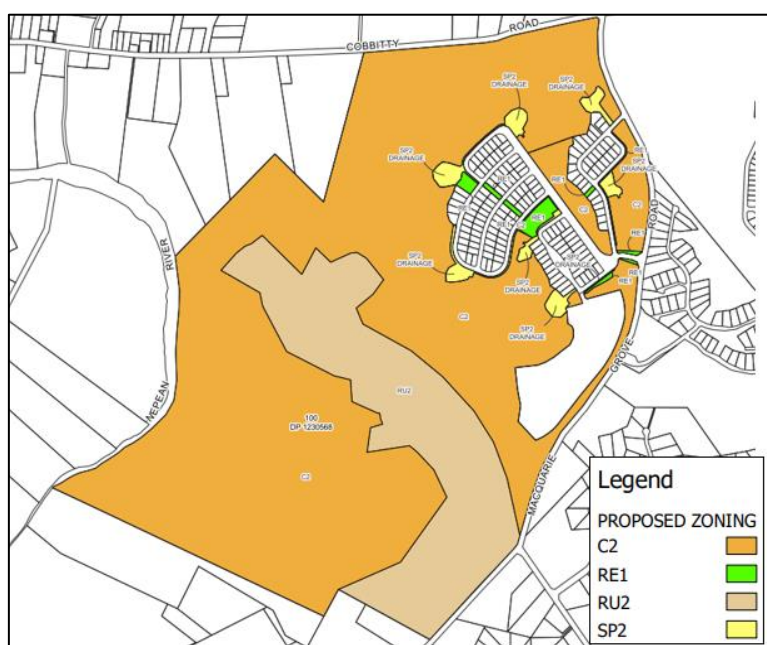


Figure 2: Amended draft zoning map

## Open Space and Drainage Land

The DPE has advised that the application of the SP2 Drainage and RE1 Public Recreation zones should include a land acquisition authority and corresponding Land Reservation Acquisition (LRA) map. The amended proposal identifies Council as the land acquisition authority for the relevant open space and drainage land.

As noted above, the open space and drainage land is subject to a deed for its transfer to Council. The proposal has been amended to identify two additional pieces of linear open space that are also subject to the deed.

## Zone Boundary Adjustment

The amended proposal includes an adjustment to the zone boundary of the C2 Environmental Conservation and RU2 Rural Landscape zones. The adjustment is a result of the location of fencing on the site and occurred when the site was surveyed for the Planning Proposal. The correct boundary forms part of the Biodiversity Stewardship Agreement (BSA) for the site and the Planning Proposal has been amended to be consistent with the BSA.



Figure 3: Amended Zone boundary

The amended proposal does not change the proposed minimum lot sizes. **Table 1** provides a comparison between the previous and amended Planning Proposal.

LEP Provision	Previous Planning Proposal	Amended Planning Proposal
Lot Size Map	20ha 2ha	No change
Land Zoning Map	SP2 Educational Establishment  C2 Environmental Conservation  RU2 Rural Landscape (rural residue precinct)  SP2 Drainage RE1 Public Recreation	RU2 Rural Landscape  No change  No change  No change
Land Reservation Acquisition Map	Nil	Proposed SP2 Drainage and RE1 Public Recreation zoned land
Clause 5.1 Relevant Acquisition Authority	Nil	Note Camden Council as the acquisition authority for SP2 Drainage zoned land (RE1 zoned land is already identified in this clause)

*Table 1: Comparison between original and amended Planning Proposal*

### Notification

The amended Planning Proposal is substantially the same as the original proposal with no additional impact on neighbouring land. As a result, the amended Planning Proposal has not been notified.

If a favourable Gateway Determination is received from the DPE, the amended Planning Proposal will be placed on formal public exhibition.

### Specialist Studies

The specialist studies submitted with the original proposal will need updating to reflect the amended proposal. The studies will be updated prior to public exhibition (subject to a favourable Gateway).

### Draft Development Control Plan (DCP)

The draft DCP has been updated to reflect the adjustment to the C2 Environmental Conservation and RU2 Rural Landscape zone boundary. All other DCP provisions remain relevant for the amended proposal. Subject to the proposal proceeding, the draft DCP will be revised to reference updated specialist studies, prior to public exhibition. The amended draft DCP is provided as an **attachment** to this report.

## Assessment against Key Strategic Documents

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

## Assessment of Planning Merit

It is considered that the amended Planning Proposal has sufficient planning merit to proceed to Gateway Determination for the following reasons:

- The removal of the R5 Large Lot Residential zone from the site is consistent with the rural character and heritage qualities of the site (discussed in the previous Council report);
- The proposed RU2 Rural Landscape zone will protect the rural and scenic qualities of the land, allow schools and associated development to occur and remove the potential for land acquisition issues for the State Government;
- The proposal secures Environmental Conservation zoned land for the Camden LGA;
- The proposal allows the continuation of the schools, which provide needed education services to local children and their families;
- The proposal has minimal impact on the existing area as the proposal does not seek to change or increase the uses on the site;
- The proposal is not inconsistent with Council's strategic plans and policies; and
- The proposal rezones land previously agreed to be transferred to Council.

## Next Steps

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

Subject to a favourable Gateway Determination, the amended Planning Proposal will be placed on public exhibition concurrently with the draft DCP. If unresolved submissions are received during the public exhibition, a further report to Council will be prepared. If no unresolved submissions are received, the amended Planning Proposal will be submitted to the 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 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 below community engagement methods be undertaken during public exhibition:

- Notification letters to landowners and adjacent properties;
- 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 amended Planning Proposal seeks to replace the proposed SP2 Educational Establishment zone with a RU2 Rural Landscape zone, identify land on the Land Reservation Acquisition map and note Council as the acquisition authority under Camden LEP 2010.

The amended Planning Proposal will facilitate a separation of current land uses and apply land use zones that are in keeping with the current uses.

The amended Planning Proposal demonstrates strategic and site-specific planning merit and therefore is recommended to proceed to Gateway Determination.

## RECOMMENDED

**That Council:**

- i. **endorse the amended draft Planning Proposal for land at 229 Macquarie Grove Road Cobbitty (Part Lot 100 DP1230568), A Lee Street and A McKellar Street, Cobbitty (Part Lot 394 DP 1184159) to be submitted to the Department of Planning and Environment for Gateway Determination;**
- ii. **endorse the amended draft Camden Development Control Plan 2019 for the purposes of public exhibition;**
- iii. **subject to no unresolved submissions being received, forward the amended 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 amended Planning Proposal not receive a Gateway Approval, notify the proponent that the Planning Proposal will not proceed.**

## ATTACHMENTS

1. Mater Dei/Wivenhoe - Amended Planning Proposal prepared for Council Report (with tracked changes)
2. Mater Dei/Wivenhoe Amended Planning Proposal Maps
3. Mater Dei/Wivenhoe Planning Proposal - Assessment against Strategies, SEPPs and Ministerial Directions
4. Mater Dei/Wivenhoe Planning Proposal - Advice from DPE and Gateway Determination
5. Mater Dei/Wivenhoe Revised Draft DCP

**ORD02 MATER DEI / WIVENHOE AMENDED PLANNING PROPOSAL (PRE PUBLIC EXHIBITION)**

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

- i. endorse the amended draft Planning Proposal for land at 229 Macquarie Grove Road Cobbitty (Part Lot 100 DP1230568), A Lee Street and A McKellar Street, Cobbitty (Part Lot 394 DP 1184159) to be submitted to the Department of Planning and Environment for Gateway Determination;
- ii. endorse the amended draft Camden Development Control Plan 2019 for the purposes of public exhibition;
- iii. subject to no unresolved submissions being received, forward the amended 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 amended Planning Proposal not receive a Gateway Approval, notify the proponent that the Planning Proposal will not proceed.

ORD99/23 THE MOTION ON BEING PUT WAS **CARRIED**


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

No Councillors voted against the Motion.



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Attachment 1



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## Camden Council Planning Proposal


229 Macquarie Grove Road, A Lee Street and A McKellar Street -Cobbitty  
(Mater Dei/ Wivenhoe)


Version 54  
JuneNovember 20232


 70 Central Ave,  
Oran Park NSW 2570


 mail@camden.nsw.gov.au


 PO Box 183, Camden 2570

 camden.nsw.gov.au

 4654 7777

 4654 7829

 DX 25807

 ABN: 31 117 341 764