

JRPP No:	2011SYW014
DA No:	4/2011
Proposed Development:	Staged Subdivision to create 281 residential lots, 1 open space lot and 2 residue lots with associated works; Lot 1100; DP 1139217 & part Lot 2; DP 1151151, 239 Richardson Road, Spring Farm NSW 2569
Recommendation:	Approval

Assessment Report and Recommendation

Purpose of Report

The purpose of this report is to seek a determination from the Joint Regional Planning Panel (the Panel) of a Development Application (DA) proposing a residential subdivision on this site.

Pursuant to Clause 13B(1)(f) of State Environmental Planning Policy (Major Projects) 2005 (SEPP), the Panel is the determining authority for this DA as the development the development proposes a subdivision to create 277 lots which exceeds the SEPP's threshold of 250 lots for Council to determine the application.

Summary of Recommendations

It is recommended that the Panel approve the DA subject to the draft development consent conditions provided with this report.

Background

In 2004 the Spring Farm urban release area was rezoned from rural to urban.

Underpinning the rezoning was the Spring Farm master plan which promotes the delivery of four key villages within the precinct.

Bracketing each of the villages is a bush corridor with ecological values and conservation strategies.

Delivery of the master plan has continued with one of the four villages almost complete.

This DA was lodged in January 2011. The application was publicly notified and an assessment has been made against the relevant development controls. The application is now recommended to the Panel for approval.

The Site

The subject site is within the 'Eastern Village' of the release area and is described as Pt Lot 119, DP 1150306; Plymouth Boulevard, Spring Farm.

The site is predominantly cleared of vegetation with the exception of some scattered tree cover.

Above ground electricity transmission lines transverse the subject site (93Y 132KV and 858 66KV cables) but are in the process of being relocated underground. These transmissions lines extend from the Nepean Transmission Substation which is approximately 200m from this DA.

To the north of the site is the future link road known as Liz Kernohan Drive. This future road adjoins the most northerly of the proposed residential lots. In the long term, this road will extend down to the Macarthur Resource Recovery Park. This facility is an Ecolibrium mixed waste facility which incorporates renewable energy production. The facility itself is approximately 600m away from this DA.

The DA also adjoins land which is currently the subject of residential subdivision construction. This includes works undertaken by Landcom and separate works undertaken by another developer (the Cornish Group).

Within the land owned by Landcom an exhibition village sales office has been constructed. It is intended that this sales office will help market and sell the proposed residential lots. **A site location plan is provided with this report.**

The proposal

Development Consent is sought for the following development:

1. a staged subdivision to create 277 residential lots ranging from 375m² and 600m² across two precincts shown on the proposed plans as P200 and P300.
2. bulk earth works and remediation works; and
3. construction of roads, drainage, services, landscaping and open space.

Precinct 200 is located at the bottom half of the land to be developed, toward the bush corridor and Nepean substation. This precinct involves a subdivision to create 103 residential lots and 1 residue lots. The residential lots will range between 390m² and 600m².

Precinct 300 is located at the top half of the land to be developer, toward the future Liz Kernohan Drive. This precinct involves a subdivision to create 174 residential lots, 1 open space lot and 3 residue lots. The residential lots will range between 375m² and 600m².

This DA is classed as Nominated Integrated Development in that it requires a Controlled Activity Approval from the NSW Office of Water.

It is also classed as Integrated Development in that it requires a Bush Fire Safety Authority from the Rural Fire Service and an Aboriginal Heritage Impact Permit from the Office of Environment and Heritage.

A copy of the proposed plans has been provided to the Panel.

Notification

As this development is Nominated Integrated Development it was publicly notified for a period of 30 days. This included an advertisement in a local newspaper. One submission was received as a result of this notification. The issue raised in this submission is assessed in the “Any submissions” section of this report.

A copy of the submission has been provided to the Panel.

Planning Controls

The following are relevant planning controls that the development has been assessed against:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Deemed State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River
- Camden Local Environmental Plan 2010
- Camden Development Control Plan 2011

Assessment

The following assessment is made in accordance with the requirements of Section 79C of the Environmental Planning and Assessment Act 1979:

(1)(a)(i) The provisions of any Environmental Planning Instrument

State Environmental Planning Policy (Major Development) 2005 (SEPP)

Pursuant to Clause 13B(1)(f) of the SEPP, the Panel is the determining authority for this DA as the development the development proposes a subdivision to create 277 lots which exceeds the SEPP’s threshold of 250 lots for Council to determine the application.

State Environmental Planning Policy No. 55 – Remediation of Land

Development consent has been sought for remediation works as part of this application.

The applicant has submitted a contamination assessment of this site in support of this application. This assessment has found naturally elevated manganese concentrations above site specific criteria that are protective of human health for residential areas and have been identified at several locations across the site. Therefore remediation is necessary to make the site suitable for the proposed residential land use.

The selected remedial strategy, being excavation of manganese hotspots and disposal of the excavated material to landfill, is the most efficient and cost effective strategy given the nature of the contaminants involved and the expected volumes of soil that will require remediation.

Appropriate development consent conditions are recommended that require these remediation works to be carried out as part of the development.

State Environmental Planning Policy (Infrastructure) 2007 (SEPP)

This application was referred to Endeavour Energy, pursuant to Clause 45 of the SEPP, as the subdivision is located within land that is burdened by an electricity transmission line easement. Endeavour Energy has forwarded development consent conditions which are recommended to be imposed on any development consent issued.

This development is classed as traffic generating development pursuant to Clause 104 of the SEPP. As required by this clause the application was referred to the Roads and Traffic Authority (RTA). The RTA has forwarded development consent conditions which are recommended to be imposed on any development consent issued.

Deemed State Environmental Planning Policy No. 20: Hawkesbury/Nepean River

The overall aim of this plan is to protect the function of the Hawkesbury/Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. It is considered that the aims and objectives of this policy will not be prejudiced by this development and that there will be no detrimental impacts upon the Hawkesbury/Nepean River system subject to the recommended development consent conditions.

Camden Local Environmental Plan 2010 (LEP)

The subject land area is partly zoned R1 General Residential and partly zoned E2 Environmental Conservation.

Pursuant to Clause 2.6 of the LEP subdivision is permitted with consent in these zones.

The relevant objectives for the R1 zone include:

- (a) to provide for the housing needs of the community;
- (b) to provide for a variety of housing types and densities; and
- (c) to allow for educational, recreational, community and religious activities that supports the wellbeing of the community.

The proposed development will provide additional housing stock as described in objective (a) and which facilitate objective (b) by the various lot sizes proposed within the application.

With respect to objective (c), the provision of a local park will provide a facility that supports the well being of the community.

The relevant objectives within the E2 zone include:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.;
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values; and
- (c) to protect and enhance the ecology, hydrology and scenic views of waterways, riparian land, groundwater resources and dependent ecosystems.

It is noted that there are proposed public road reserves to be located in parts of the land zoned E2.

This is as a result of an anomaly in the LEP that has occurred during the recent change from the previously applicable Camden Local Environmental Plan No. 121 (LEP 121). Under LEP 121 the E2 land that the DA proposes to contain public road reserves was zoned residential.

This issue occurs at the interface of the respective boundaries within both precincts P200 and P300 (proposed lots 3179 and 3251 within P300 and proposed lot 2172 within P200).

Council has undertaken a housing keeping amendment for the LEP which amongst other things will rectify this anomaly. It is anticipated that this will be pursued through the Department of Planning and Infrastructure's gateway system in the near future.

Notwithstanding this, the proposed development is for subdivision and road construction which is permitted with consent in the E2 zone. The development will not be inconsistent with the objectives of the E2 zone.

The following LEP clauses are relevant to the proposed development:

Clause 4.1: Minimum lot size - The minimum lot size is 300m². The proposed development seeks to create lots ranging between 375m² and 600m² and therefore complies with the LEP.

Clause 6.1: Arrangements for designated State public infrastructure – Development consent conditions are recommended which will require the applicant to make appropriate arrangements under the Special Infrastructure Contribution with the Department of Planning and Infrastructure.

Clause 6.2: Public utility infrastructure – This development is capable of being serviced by the necessary infrastructure which is also required by the recommended development consent conditions. In terms of linkages to the surrounding road network, the development adjoins Springs Road which connects indirectly onto Camden Bypass.

Clause 6.5: Matters to be specifically considered for residential development at Spring Farm states:

- (1) Before granting consent for the subdivision of the urban release area shown as "Spring Farm" on the urban release area map, the consent authority must consider whether:
 - (a) remnant vegetation and bush corridors will be protected, enhanced and managed; and
 - (b) adverse odour impacts from the Macarthur Resource Recovery Park will be mitigated.

The land subject to the development proposal has no significant remnant vegetation. Parts of the adjacent bush corridor bound the land which has either been enhanced and dedicated to Council or is in process of being regenerated.

With respect to (1)(b), Macarthur Resource Recovery Park (MRPP) is located approximately 600m away from the development land area.

Under the current DCP an indicative odour line exists on land within the Eastern Village. The land area subject to this application is outside of this line however Council is in receipt of approximately 165 complaints about the odour from the MRRP. These complaints were received over a 3 month period between November 2010 and January 2011 from residents within the adjoining suburbs of Mount Annan and Narellan Vale. These areas are located approximately 170m and 1km respectively from the closest boundary of the MRRP.

In response to this issue the applicant provided information on initiatives implemented at MRPP as advertised in the business newsletter for the facility (dated May 2010).

It is noted that the Department of Environment, Climate Change and Water (DECCW) received approximately 120 complaints in May 2010 however between March and April 2011 this was reduced to only 19 complaints.

Additionally, Council staff made contact with the MRRP's regulatory authority being DECCW by way of a formal referral. The following advice was received from DECCW:

- MRRP undertook alternative waste recycling strategies by introducing an 'alternative waste treatment.' This treatment was implemented approximately 2 years ago and the operation has not functioned correctly as required with the result being the odour issue.
- MRRP was required to undertake odour studies. From this the operators were required to produce a plan of management to minimise the impact of odour. As a result, the regulator provided a 'Works to Achieve' schedule which included mitigation strategies to further minimise the odour outside of the property boundary of the site. These works are almost complete.
- It was valued that \$1.3million of upgrades has been implemented to improve the operation of the MRRP.
- Infringement notices have been issued.
- DECCW makes regular inspections which can be up to 1-2 times per week. It was noted that very little odour were observed since undertaking the aforementioned upgrade works.
- As noted above, there has been a significant reduction in the number of complaints received between May 2010 and April 2011.

During the assessment of this application Council contacted the current operator of the MRRP, SITA Environmental Solutions, and it was noted that in a 5 month period between February 2011 and June 2011, 79 complaints have been received to the business.

Based on the above it is considered that previous odour impacts have or are currently being mitigated by the regulatory authority based on the extensive strategies required to be implemented by the operators of the site.

Clause 5.10: Heritage Conservation – An Aboriginal Heritage Assessment and Research Design for Salvage Excavation was prepared by Kelleher Nightingale Consulting Pty. Ltd. in support of this application.

This assessment notes that the site has little or no archaeological significance. However 3 new aboriginal sites were identified within P300 and it is recommended that a representative sample be salvaged from each in consultation with the Aboriginal community.

One known site was re-identified as SFPAD 5 in P200. SFPAD 5 was excavated under an existing Aboriginal Heritage Impact Permit (AHIP). The artefacts found indicate only short, low intensity Aboriginal activities took place on the site. A representative sample was salvaged. A section AHIP permit will be required for the re-identified portion of the SFPAD 5 which extends into precinct 200.

Having regard to the above, the appropriate Aboriginal Heritage Impact Permits are required to be obtained from DECCW and submitted to Council prior to the issue of a Construction Certificate. This requirement has been imposed in the draft development consent conditions.

(1)(a)(ii) The provisions of any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority

There are no draft environmental planning instruments that are applicable to this site or development.

(1)(a)(iii) The provisions of any Development Control Plan

Camden Development Control Plan 2011 (DCP)

Camden Development Control Plan 2011 (the DCP) came into force on 16 February, 2011 and the subject DA was lodged on 7 January, 2011.

The DCP states that *"it applies from the date of commencement. However, development applications lodged prior to the commencement date (i.e. 16 February 2011) may be assessed under the provisions of the Camden Development Control Plan 2006 (Camden DCP 2006)".*

Unlike strict savings and transitional provisions for new Environmental Planning Instruments, such provision for DCP's can be at the discretion of each council and is principally based on what the DCP advocates.

In this instance, considerations will be made to the DCP and a general discussion on any different/relevant controls contained within the now superseded Camden DCP 2006 will be provided as well. This approach is considered the most acceptable and thorough. Should the applicant withdraw and again lodge the same application today, then the 2011 DCP only, would apply.

Part B1 Environmental Management

Environmental issues including contamination, salinity, tree preservation have been addressed by the development consent conditions imposed on a previous approval for bulk earthworks and vegetation removal on this site (Development Consent 854/2006).

Environmental issues relating to erosions and sediment control, earthworks and noxious weeds have been addressed by the recommended development consent conditions.

Part C7 Spring Farm

In October 2009, Landcom submitted a proposal to Council to amend the master plan map for the Spring Farm Eastern Village. The subject application reflects of the proposed amendments which include:

- (a) amendment to street layouts to create a consistent grid pattern;
- (b) realignment of the pedestrian and cycle network to correspond with changes to the road layout;
- (c) realignment of the bus route to correspond with the associated changes to the street layout; and
- (d) reduction in open space that is generally consistent with Council's reviewed objectives of the Camden Contributions Plan 2004.

The amendment to the DCP is currently on public exhibition. The exhibition period is to conclude on 31 August 2011 and subject to a review of any submissions, is anticipated that a report will be put to Council for resolution to adopt the above amendments.

It was critical to ensure that the amended DCP was, at the very minimum, at the exhibition stage prior to the subject application being referred to the Panel for determination. It was important to ensure that council officers were satisfied of the amendments for the overall village due to a) controlling impacts to the Section 94 Plan; b) determining the appropriateness of the amendments and c) ascertaining the extent of public submissions.

At the time of writing this report, no submissions or enquiries had been received. Notwithstanding, the Panel members will be advised at the determination meeting of 1 September 2011 the number of submissions and Council's response to the relevant issues raised (if any).

To this end, the below assessment has been made against the amended master plan map and the current DCP controls. Whilst the amended master plan map is substantially different to the current adopted master plan map, the assessment has concluded that the development is fully compliant with the existing controls.

Relevant DCP Controls

Density Targets – The DCP anticipates a dwelling yield of between 1,308 and 1,359 dwellings for the Eastern Village. Based on the revised master plan and lots already produced, it is anticipated the plan will deliver a dwelling yield of between 1,300 to 1,409 dwellings.

Staging of Development – The DCP provides an indicative staging plan which aims to guide development in the release area. The land area subject to this application is within stage 5 and is considered consistent with the plan.

Part C7.2 Neighbourhood and Subdivision Design

The proposed amendments move away from the curvilinear design to a structured grid network design. The proposal complies with the current controls contained within the DCP and where relevant development consent conditions have been recommended to ensure this.

Part C7.3 Street Network and Design

The Spring Farm street network is identified in Figure C22 – Spring Farm Street Network and Design Map. As noted above, the amended master plan focuses on a grid pattern which provides a north-south and two east west boulevards.

It is considered that the proposed road layout maintains a road hierarchy which:

- (a) acts to regulate desired traffic flows to each street,
- (b) provides a high level of accessibility throughout the village and to the surrounding localities, and
- (c) maintains the visual connections.

The proposed road layout, in comparison to the adopted road layout, respects the existing vegetation and bush corridors which presents minimal impact on the local and surrounding environment.

Part C7.4 Pedestrian and Cycle Network

The proposed pedestrian and cycle network amends the previous master plan to complement the changes made to the subdivision design and street network.

The amendments are not contrary to the existing controls within the DCP, only the master plan map.

It is noted that the revised layout has been designed to facilitate the regional pedestrian and cycle network needs. This includes the local pedestrian and cycle network linking to the Macarthur wide pedestrian and cycle network

It is envisaged that this new alignment will ultimately connect Camden to Menangle Park via the Nepean River (which will then connect these two areas through to Campbelltown via the Royal Botanical Gardens, Mount Annan and the University of Western Sydney).

This layout has been developed through the Macarthur Regional Recreational Trail Concept which has been developed in association Landcom, Camden and Campbelltown Council, University of Western Sydney and Royal Botanic Gardens, Mount Annan.

In this regard, the pedestrian and cycle network is adequately addressed.

Part C7.6 Parks and Open Space

The original park and open space strategy within the Eastern Village was to provide a total of three public open space areas.

Two of the three parks are required to be constructed under the currently adopted master plan map. However under the subject application, only one of the three parks is proposed.

This is a variation to the currently adopted master plan map however it is supported for the following reasons:

1. The provision of only one open space area within this subdivision is consistent with the amended master plan map. This amended map has been reviewed by Council staff who are satisfied with its contents. Additionally, at the time of writing no public submissions have been received to the amended map.

Notwithstanding this, the Panel members will be advised at the determination meeting of 1 September 2011 the number of submissions and Council's response to the relevant issues raised (if any).

2. The provision of only one open space area within this subdivision is part of the larger overall amendment to the currently adopted master plan map. This amendment will result in less open space being provided in Spring Farm which is consistent with a Council review of the applicable Section 94 contributions plan for the area.

Additionally, the reduced amount of open space to be provided for Spring Farm has been assessed and is considered to be acceptable based on the predicted needs of the population in this area.

On this basis it is recommended that the Panel support this proposed variation to the currently adopted master plan map.

It is however noted that the open space proposed as part of this application is generally consistent with the controls for open space areas within the Spring Farm DCP. Where there are some minor inconsistencies with the original landscape master plan report (which was produced when the original rezoning of the land occurred in 2003) these are considered acceptable as they are more reflective of modern requirements for open space in urban areas.

(1)(a)(iia) The provisions of any Planning Agreement

No planning agreements relate to the subject site or proposed development.

(1)(a)(iv) The provisions of the Regulations

The Environmental Planning and Assessment Regulations 2000 prescribe certain development consent conditions that are recommended as part of the draft development consent conditions provided with this report.

(1)(b) The likely impacts of the development

The likely impacts of this development include:

During construction

Impacts such as air quality and noise would be primarily related to construction dust and noise levels. Appropriate development consent conditions are recommended to

ensure that all environment impacts during the construction of the subdivision are minimised.

Noise

Two potential noise sources that require consideration as part of the application are:

1. road traffic noise impacts from the future Liz Kernohan Drive; and
2. noise impacts generated from Nepean Transmission Substation.

Road traffic noise from future Liz Kernohan Drive

This future road will bound the northern boundary of the site. Road traffic noise mitigation will be achieved by dwelling construction methods to eight future dwellings and the construction of an acoustic barrier along four properties that adjoin the road.

A traffic noise assessment submitted by the applicant recommends a 2.1m high barrier to be constructed on lots 3339-3340 and lots 3343-3344. Council staff have reviewed this report and consider that this height is insufficient to fully attenuate noise impacts. It is therefore recommended that the height of this barrier be increased to 2.4m which will achieve the require level of attenuation. Given this would achieve compliance and provide greater protection to the future residents, this is considered reasonable. This requirement has been imposed within the draft development consent conditions provided to the Panel.

Nepean Transmission Substation

Nepean Transmission Substation (the substation) is located 200m from the subject site. The residential part of Spring Farm is located on the north side of Springs Road while the substation is on the south side. The footprint of the substation is approximate 2.04ha in area and within the footprint there are a number of transformers that vary in size and noise levels.

Renzo Tonin and Associates was engaged to conduct a noise assessment of the substation and its impacts on the proposed development. The assessment found that the substation would exceed the noise criteria as contained within the NSW Industrial Noise Policy should it be left untreated.

The findings of the assessment identified three possible acoustic attenuation options. Such measures are aimed at attenuating the noise from three transformers which emanate noise levels beyond the criteria. These options include:

- (a) replacing the noisy transformers; or
- (b) construct a 5m high three sided noise wall around the noisiest transformers; or
- (c) construct a concrete noise wall extending the entire length of the east and south boundary of the substation (approximately 245m in length). This wall would be at least 7m high.

It is considered that option (a) would provide the best outcome for amenity and aesthetic reasons. However, the applicant obtained correspondence from Endeavour Energy and while no objection was raised, they acknowledged that this option would most likely be undertaken beyond the timeframe of residential land subdivision and therefore requiring the secondly preferred option (option (b)) to be pursued.

Notwithstanding this, a level of uncertainty remains over the timing of the transformer upgrades being completed and therefore it is necessary to ensure that some noise mitigation treatment occurs prior to the issue of a Subdivision Certificate for the affected lots. To facilitate this application, it is recommended that a development consent condition is imposed which allow either option (a) of (b) to be pursued, subject to a Deed of Agreement being produced between Landcom and Endeavour Energy prior to the issue of a Construction Certificate.

Magnetic field strengths from Nepean Transmission Substation

The applicant has obtained correspondence from Endeavour Energy regarding this matter. This correspondence indicates that the magnetic field strengths around the perimeter fence of the substation are below the maximum exposure levels for the industry guidelines and standards.

This correspondence has been provided to the Panel for information.

Residential Lot Threshold

Council has identified that the current road capacity in Spring Farm is able to accommodate 1226 residential lots. Once this threshold is reached it will be necessary to provide alternate road access. This will require the provision of a signal controlled intersection at the Camden Bypass and construction of the associated connecting road linking Richardson Road to the Camden Bypass.

The lot threshold was determined in a study by Masson Wilson Twiney on behalf of various developers at the time of the rezoning being undertaken for this urban release area.

For Council to ensure that the signal controlled intersection is delivered, development consent conditions are required on all residential subdivision development consents which state that no Subdivision Certificate is to be issued, if at the time, the registration of those lots will reach above the lot threshold and the required road network is not complete and operational.

It is considered that this is the most appropriate mechanism to facilitate approval of development applications within this release area (and to allow lot production) while ensuring the vehicular traffic movements do not result in adverse environmental impacts for the new and surrounding community.

Concurrently, Council is working with state government agencies in an endeavour to progress the construction of this intersection.

(1)(c) The suitability of the site for the development

This site is considered to be suitable for the proposed development. The relevant environmental issues have been assessed and addressed throughout this report. The suitability of the subdivision on the subject site is further supported by the general terms of approval obtained by both internal Council departments and external government bodies.

(1)(d) Any submissions

The following issue was raised in the one submission received from the public during the notification of this application:

1. Objection relating to impacts on existing rights of carriageway (RoC) which partially burdens the subject site and allows access to the adjoining land on which the MRRP is located

Officer comment:

The applicant has responded to this issue by confirming that the limit of works under the subject application is clear of the RoC. A development consent condition is recommended to ensure the continuation of the RoC until such time that it is extinguished in the future.

(1)(e) The public interest

The development will result in the continuation of land supply within the eastern section of this release area. This will then provide a greater demand for the retail and commercial precinct to be developed within the area which will supply the residents with their own shopping and social facilities.

As a result it is considered that this development will positively contribute to the public interest for both the existing and future residents of Spring Farm.

Conclusion

Council has received a development application for a residential subdivision within the Spring Farm release area. The application proposes the creation of 277 residential lots and 1 open space lot.

The subdivision relies on a revised master plan that is currently being publicly exhibited by Council. Council staff have undertaken an assessment of the revised master plan and raise no objection to the overall concept.

An assessment has been made on the revised master plan in accordance with Section 79C of the Environmental Planning and Assessment Act 1979. As a result, it is considered that the development is generally compliant with all relevant development controls that apply to it.

One submission has been received relating to a right of carriage which burdens the subject land and benefits an adjoining land holding. This issue has been addressed via a development consent condition.

Consequently it is recommended that the Panel approve the development application subject to the draft conditions of consent provided with this report.

Recommendation

That the Panel approve this development application subject to the draft development consent conditions provided with this report.