

Camden Residents' Action Group

Incorporated

Camden – Still a Country Town

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6 July 2017

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Re: DA 2017/308/1 Camden Town Farm

CRAG's concerns with this proposal as included in the Statement of Environmental Effects and Development Application (DA) for functions and activities at the Camden Town Farm are as follows:

1. Commercialisation activities inconsistent with the Miss Llewella Davies' bequest

Miss Llewella Davies', in her bequest of the town farm to Council on behalf of the community employed legal advice to carefully state the community uses that she wished for it.

Her wishes were that the farm “be used as a working dairy farm or for some other agricultural pursuit to the intent that it should operate as a working model farm to enable the community to see such a farm in operation at close hand... In the event that the farm can no longer be used as a working farm it is my wish that it be used for grazing of livestock or if that is not possible as a passive recreation area.”

This DA includes commercial uses inconsistent with Miss Davies' wishes including private functions and commercial activities, festivals and sporting events. These activities cannot be categorised as farming, livestock grazing, agricultural education or passive recreation. These activities are also inconsistent with the published vision: “*The farm will be developed and maintained primarily for agricultural, tourism and educational purposes. It will be operated and managed in a sustainable manner that retains its unique character and encourages and facilitates community access, participation and visitation.*”

In acknowledging the terms of the bequest, the area proposed in the DA for functions and activities is argued to be minimal, but is somewhat unclear being described on p. 8 as 1.1 hectares of 54 acres (2%) and on p. 34 as 4 hectares of 50 acres (8%). Regardless of its size, the area proposed for intensive activity, is at the most accessible and visible section of the farm and nearest to potentially affected properties.

Importantly what has not been addressed is the proportion of time that this area will be hired out for commercial activities and private functions and the extent to which this will

- preclude the general community from accessing the farm for educational and passive recreational purposes,
- impact on activities taking place at the same time in Civic Centre, St Paul's Church, schools and private homes.

The DA states that proposed activities aim to ensure that the integrity of the heritage of the Farm remains intact while also creating income to ensure the Farm is maintained and restored in accordance with the 2016 Master Plan (which at the time of writing was not readily available on Council's website). However the DA does not quantify an estimate of the level of income needed for maintenance and restoration.

As CRAG¹ stated in its submission on the 2016 Plan, whilst understanding the maintenance needs of the heritage site (both built environment and landscape) and the desirability of maximising community and visitor use and enjoyment there is a difference between seeking sustainability within the terms of Ms Davies' bequest and commercial profiteering.

The proposed commercial activities follow the gazettal of the contentious reclassification of town farm land from community land to operational land on 20 February 2015. Given the purpose and intention of Miss Davies' generous bequest to the people of Camden and that land is automatically classified as community land if it is land "subject to a trust for public purposes"², it is assumed that the legality of reclassification was scrupulously explored. However the community has never been informed of any expert legal opinion and therefore is not convinced that these proposed commercial uses comply with the terms of the bequest.

Please see the Appendix for background on the pursuit of this reclassification and the public hearing recommending against it.

Given the enduring memories of Ms Davies' as an influential and colourful Camden identity there is strong community feeling that her legacy must be protected and great interest in the way it is managed.

¹ CRAG (24 May 2016) *Re: Draft Camden Town Farm Master and Management Plan 2016*
<http://www.crag.org.au/wp-content/uploads/2016/06/CRAG-Camden-Town-Farm-Submission-24-May-2016.pdf>

² Office of Local Government (2000) *Practice Note 1 Public Land Management* p.3
<https://www.olg.nsw.gov.au/sites/default/files/Practice-Note-1-Public-Land-Management.pdf>

Therefore this 2017 DA is critical as it is the first expression of an intention to move outside the terms of Ms Davies' bequest. It potentially sets a precedent for further commercialisation. It paves the way for the intentions of the bequest to be lost in time and for incoming Council's and management committee's to gradually treat it as it is now classified, as an operational asset.

At a minimum the DA should

- **reference the legal authority, made publicly available, that is relied upon for the land reclassification and commercial uses proposed in this DA;**
- **address, assuming the proposed commercial uses are shown to be lawful,**
 - **the cut-off point between ensuring sustainability and making profits for Council and private entrepreneurs and**
 - **the mechanism to control commercial activities from constraining the farm's educational functions and passive recreational qualities envisaged by Miss Davies;**
- **specify that Council or the 355 Committee create a dedicated trust account into which all proceeds of commercial activities must be deposited, provide a guarantee that all moneys are employed exclusively in the maintenance and improvement of educational and passive recreational features of the Farm and publish regularly an itemised account of the farm's income and expenditure;**
- **address how the community is to have free access to the farm and its intended quiet amenity for passive recreational purposes whilst private functions and commercial activities are occurring;**
- **address how the rights of surrounding properties to plan for and hold functions, private or commercial, are not to be compromised by noise and congestion to be expected from commercial activities booked and held at the farm;**
- **include reference to Council's motion of 26 November 2013 that the land comprising the Camden Town Farm is never to be sold and that any lease and/or licence entered into for a term exceeding five (5) years be subject to the public notification and hearing requirements of the Local Government Act;**

The above suggested amendments are made with the understanding, we trust shared by Council, that Miss Davies' bequest was motivated by civics not commerce.

2. Commercialisation activities impact on residents

This DA does not sufficiently address how current and future residents are assured of quiet enjoyment of their properties. The high intensity activity area is close to existing residences and will be very close to the approved retirement village on the old Camden High School site.

- The proposed private function and music festival activities closing at 11pm, potentially with alcohol provided onsite and music and amplified sound from 7am to 10.30 pm, provides ample opportunity for the disturbance of residents.
- The location and positioning of the performance stage exacerbates the potential for noise intrusion and no alternative locations have been proposed;
- The Noise Study is incomprehensible to the lay person in relation to the proposed activities and it does not model noise in relation to various possible positions of the performance stage. It does not answer the obvious question of how a music festival is likely to affect residents. Residents report that they can clearly hear when there is an event on at Onslow Oval, schools making announcements and hotels closing on a Saturday night. Noise complaints are likely to keep the Police and Council very busy. It is likely that noise will continue well into the night with rowdy patrons and traffic leaving the venue.
- Research into potential noise and disturbance needs to be undertaken, reported and assessed prior to this DA being put to Council.

3. Potential Conflict of Interest

It is unclear whether the potential conflict of interest, with Council as the custodian of the land and approval authority of this DA, has been addressed. How the potential conflict is resolved needs to be explained to the community.

We consider that this DA does not sufficiently cover the above legal questions and very understandable concerns about the proposed commercial uses of this asset which was bestowed by Ms Davies' to her community.

Yours sincerely,



Glenda Davis
President

Appendix

After her passing Miss Davies' solicitors wrote to Council on 22 March 2000 advising of her will's bequest and its terms and conditions. Council accepted these terms and conditions as acknowledged at its meeting of 26 April 2000. The land was seemingly automatically classified as Community land.

As background, all public land must be classified as either "community" or "operational" land. Operational land has no special restrictions and can be sold or used commercially. Classification as community land reflects its special features and the importance of public access and is often related to an obligation or restriction in a trust deed or will. Community land cannot be sold, cannot be leased or licensed for more than 21 years and must have a plan of management.

Council subsequently indicated that it has always intended to classify the land as Operational rather than Community. In the Council Meeting Business Paper of 26 November 2013³ it is stated

"On 13 June 2000 Council resolved that upon acquisition of the land that it be classified 'operational'. On 16 December 2002 Council endorsed a development program, for the farm, and resolved to classify the land as 'operational'. Unfortunately the requirement to formally notify the public of its operational status was overlooked. This Planning Proposal will allow the existing and intended use of the land, as outlined in the Camden Town Farm Masterplan."

Supporting documentation was not provided in these Minutes, and subsequently the 2002 development plan, evidence of the resolved intention or expert opinion about the legality of the intention has not been able to be readily accessed.

In 2012 a review was undertaken of the 2007 Management Plan. The 2007 Plan identified the following appropriate uses and activities: feed crops, demonstration herds, event area, recreational fishing, community garden, growers market, dairy museum, education space, exhibition space, agro-forestry, walking, bicycle and horse trails, community enterprise kitchen, retail outlet, picnic and barbecue area and car park.

In the subsequent September 2015 draft Master and Management Plan⁴ it is stated that the intention of the review was to accommodate the "changing needs of the farm" though these were not specified and that the review was to be held in draft form until the land classification was formalised as operational land.

³ Camden Council (26 November, 2013) *Business Paper ORD 06*
<http://www.camden.nsw.gov.au/assets/pdf/Council/AboutCouncil/2014/BusinessPapersAndMinutes/2013/26-November-2013-ORD01-06-p252.pdf>

<http://www.camden.nsw.gov.au/assets/pdf/Council/AboutCouncil/2014/BusinessPapersAndMinutes/2013/26-November-2013-ORD06-p253-ORD14.pdf>

⁴ Camden Council (September 2015) *Camden Town Farm Master and Management Plan* (draft)
<http://www.camden.nsw.gov.au/assets/pdf/Major-Projects/2017/Camden-Town-Centre-Urban-Design-Framework/Camden-Town-Farm-Masterplan-PDF.PDF>

The Business Paper of 26 November 2013 includes legal advice dated 7 December 2012 on the permissible scope of activities on community land and those included in the 2007 Plan. The advice was that all activities and strategies included in the 2007 Plan could be carried out on community land.

This Business Paper also includes the report, dated 5 February 2013, on the public hearing, required by law, held on the 10 December 2012, about Council's intention to reclassify the Town Farm from community land to operational land. The consensus of views at the hearing, including from people who knew Ms Davies very well, the executor of Ms Davies' will and the 355 committee was that the land should remain as community land.

The executor of Miss Davies' will stated *Miss Davies would be horrified at the thought of making the land able to be used commercially*. The Report concluded:

The Camden Town Farm has sparked an impassioned outpouring of concern at the prospect that reclassification more readily facilitates, at the extreme, disposal or alienation of a highly prized community asset or part thereof and/or other undesirable land use prospects.

The prospects of sale are immediately vetoed by a "Community" land classification; whilst the inherent obligation for a Plan of Management to accompany any community land minimises the potential of adverse land use impacts.

The legal advice commissioned by Council clearly indicates that the range of uses identified in the Town Farm Vision and articulated in the Town Farm Masterplan can be pursued on land with a "Community" classification.

It is, however, noted that there are some current uses which may require licenses or the like that previously weren't issued and necessitate cessation until a Plan of Management and relevant licenses or similar are in place.

On balance, I am, however, not persuaded that the land needs to be classified for operational purposes and indeed is better placed and potentially managed as an iconic community asset, if it retains its "Community" land classification accompanied by a relevant Plan of Management.

Every effort should, however, be made to minimise any disruption attached to the adoption of a Plan of Management.

Finally, notwithstanding the above, it would appear that the reclassification as "operational" land would potentially be precluded by Section 31 (3) (b) of the Local Government Act, 1993 given the nature of the "instrument" of Bequest". Council should consider commissioning further legal advice in this regard for purposes of clarity.

Despite the public hearing report recommendation that the land remain classified as community land it was resolved at the Council meeting of 26 November 2013 to reclassify it to operational land. The motion was also passed to "alleviate community concerns by agreeing that the land comprising the Camden Town Farm never be sold and that any lease and/or licence entered into for a term exceeding five (5) years be subject to the public notification and hearing requirements pursuant to Section 47A of the Local Government Act 1993"⁵

This resolution could conceivably be overturned by a different Council.

On the 20 February 2015 a gazettal notice for an amendment to Camden LEP 2010 for the Camden Town Farm was approved to formally change the farm's classification from community land to operational land.

Subsequently the document "Camden Town Farm Master and Management Plan 2016" dated January 2016 was presented to Council in April 2016⁶ and approved for exhibition. CRAG⁷ lodged a submission on this 2016 Plan which more specifically dealt with heritage issues. However this document is not generally available as is the aforementioned September 2015 draft Plan which is available though a search of Council's website.

Council's website at the page headed Camden Town Farm⁸ states

A draft Master and Management Plan for the Camden Town Farm has been developed to outline the range of land uses and activities which aims to expand and target the types of functions and activities, agricultural, community and recreation pursuits that will be held on the Farm, with the aim of continuing to ensure Miss Davies' wishes are respected and the heritage significance of the property is upheld and sustained.

Whilst it is envisaged that the Farm will be available for functions and community events in the future, bookings are not currently being taken whilst the Masterplan is finalised and development approval is sought for the range of activities and events as outlined in the draft Masterplan.

The September 2015 draft Master and Management Plan, in which the commercial activities were first proposed and the forerunner of the 2016 Master Plan, premises that future sustainability of the Farm relies on a range of activities across the site to generate income to develop and maintain the

⁵ Camden Council (26 November 2013) *Ordinary Council Meeting Minutes* (ORD06, p.5)
<http://www.camden.nsw.gov.au/assets/pdf/Council/AboutCouncil/2014/BusinessPapersAndMinutes/2013/Minutes-26-November-2013.pdf>

⁶ Camden Council (12 April 2016) *Business Paper Attachment*
<http://www.camden.nsw.gov.au/assets/pdf/Council/AboutCouncil/2016/Business-Paper-/12-April-Attachments-ORD08.pdf>

⁷ CRAG (24 May 2016) *Re: Draft Camden Town Farm Master and Management Plan 2016*
<http://www.crag.org.au/wp-content/uploads/2016/06/CRAG-Camden-Town-Farm-Submission-24-May-2016.pdf>

⁸ Camden Council (2017) *Camden Town Farm* <http://www.camden.nsw.gov.au/community/facilities-and-services/town-farm/>

Farm in accordance with Miss Davies' wishes. Unfortunately no attempt is included in the draft Plan to explain, quantify or evidence this assumption.

This 2015 draft Plan states that the detail of the proposed activities reflect the aim to further integrate the past and future. It is not clear what this means.

It also states its aim of expanding and targeting the types of functions and activities including agricultural, community and recreation pursuits and further that a key theme of flexibility should be applied on the site, particularly when overlaying the variety of functions and activities to achieve the vision for the Town Farm.

This Vision remains as

“The farm will be developed and maintained primarily for agricultural, tourism and educational purposes. It will be operated and managed in a sustainable manner that retains its unique character and encourages and facilitates community access, participation and visitation”

However under the strategy heading of *facilitate tourism and visitation* a number of private commercial and entrepreneurial activities are now included: weddings, christenings, birthday parties, family reunions, celebration parties, supper clubs, other lifecycle events, Christmas parties, night markets, music, film and food and wine festivals and so on.

It is not explained in this 2017 DA how each of the commercial activities proposed are necessarily consistent with the vision nor how they comply with the terms of the original bequest.