

Camden Residents' Action Group

Incorporated

Camden – Still a Country Town

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3 December, 2020

Dear General Manager,

Re: Draft Camden Local Housing Strategy

Thank you for the opportunity to comment on this stage of the Local Environmental Plan (LEP) Review process, and allowing an extension of time to do so.

We appreciate the detail in the Draft Camden Local Housing Strategy and endorse the evidence-based approach taken by its authors.

The over-arching LSPS was completed and formally adopted in Stage 1, prior to the strategy work required to inform the detail of the Stage 2 LEP Amendment and Planning Proposal. Council explains that technical strategy work, including finalisation of the draft Housing Strategy, is to inform amendments to the LEP:

Stage 2 LEP Amendment

*Stage 2 to amend Camden LEP 2010 will be undertaken following the completion of the technical strategy work required to fully align Camden LEP 2010 with the District Plan and draft LSPS. The ...work is currently being undertaken to inform the Stage 2 Planning Proposal.*¹

¹ Camden Council Camden *Local Environmental Plan (LEP) Review 2020* Available at <https://www.camden.nsw.gov.au/planning/lep-review/>

This technical strategy work includes the Housing Strategy which we understand is to align with the principles and priorities of the Local Strategic Planning Statement (LSPS) and as required by the Western City District Plan, is to determine how and where Camden will support an increased population, ageing community, and a change in housing structure.²

We appreciate that the LSPS reiterates the principle of preservation and enhancement of Camden's heritage and special character. This principle reflects community views and aligns with community expectations as well as the acknowledgment of Camden's significant heritage and scenic landscapes in the Western City District Plan. LSPS priorities and principles are reflected in the Draft Housing Strategy within five important priorities:

Priority 1 – Providing housing capacity and coordinating growth with infrastructure

Priority 2 – Delivering resilient, healthy and connected communities

Priority 3 – Delivering the right housing in the right location

Priority 4 – Increasing housing choice and diversity

Priority 5 – Addressing housing affordability

We note in particular the draft Housing Strategy's alignment with LSPS Priority (L2) *Celebrating and respecting Camden's proud heritage* and Action 39³ that *Council will ensure that future precinct planning considers and protects State and Local Heritage items*. The strategic vision and objectives of the LSPS and Housing Strategy are clearly not consistent with proposals and development applications which result in loss of Camden's special character and heritage significance.

In summary:

- Our submission focuses on protection of heritage, character and amenity.
- The analysis underpinning the Housing Strategy shows there is only limited opportunity for new housing in established areas and these areas tend to coincide with the locations of most heritage items and established special character.
- We see the Housing Strategy as an opportunity to inform amendments to the LEP and DCP that explicitly guarantee preservation and enhancement of Camden's heritage and unique character.
- We seek a permanent moratorium on the operation of the Housing for Seniors or People with a Disability (HSPD) SEPP in the LGA's two heritage conservation areas and on all other heritage items listed in the LEP.
- We ask for the introduction of special protections, such as special zoning, in the heritage conservation areas and for other outstanding heritage items (such as St John's Precinct, Gledswood, Studley Park).

² Camden LSPS (March 2020) *Local Priority L1 Providing housing choice and affordability for Camden's growing and changing population*

³ Camden LSPS p. 45

Heritage and Character Protection

Council's analysis, the basis for the objectives and actions within the above priorities, show that there is sufficient land to meet housing targets and demand for residences in the South West Growth Area (SWGGA) and that there may only be limited opportunity for new housing in established areas. This is specifically reflected in the Housing Strategy vision (1.5, p. 22) and Priority 3, Objective 7⁴ (p. 84) that any housing growth in established areas is to be incremental, supported by infrastructure and preserve character and heritage values.

References to reinforcement of heritage and character protection are found throughout the Housing Strategy, for example:

- heritage items and sites of cultural value are to be protected and preserved (Land use constraint p. 53; future precinct planning is to consider and protect State and Local Heritage Items (Priority 2: Objective 4⁵, 3.2.5 Better Placed p. 76);
- there is an opportunity to review land use and development controls in the residential land use zones of the Camden LEP to ensure any infill development is appropriate and respects neighbourhood character and amenity. (Priority 3: Objective 7, 3.39 Incremental Growth p. 84)
- the recommendations of the Housing Strategy, as well as the Scenic and Visual Analysis, will enable a comprehensive review of planning controls and policies to ensure the valued heritage of the LGA is respected and preserved in meeting the housing targets. (Priority 3: Objective 7, 3.3.11 Heritage p. 85)

LEP and DCP Amendments

To operationalise protection of heritage, character and amenity, the Implementation and Delivery Plan includes the following actions referencing potential amendments to the LEP and DCP.

Under Priority 3 *Delivering the right housing in the right location*

Action 21 Undertake a review of land use and development controls within the Camden Town Centre to ensure any job and housing growth can be sensitively accommodated. To ensure that planning controls provide for sensitive incremental growth whilst preserving and enhancing heritage and character values. Review in accordance with the Camden Town Centre Urban Design Framework. Potential amendments to the LEP and DCP provisions.

Action 22. Review land use and development controls in residential zones of the Camden LEP to ensure any infill development is appropriate and respects neighbourhood character and amenity. To assess and identify areas in the established suburbs that could be suitable for incremental housing growth to assist increasing housing supply and diversity. Review of residential land zones within the Camden LEP, taking into consideration the objectives of the LRHDC, existing

⁴ Objective 7: Housing growth in established areas is incremental, and preserves character and heritage values

⁵ Objective 4: Neighbourhood design supports healthy and connected communities that are better placed.

infrastructure and prevailing character to determine any preferred areas that could accommodate low rise housing diversity. Potential amendments to LEP and DCP provisions.

Action 24. Complete the Heritage Review. To ensure any housing growth respects heritage values. Make amendments to the DCP in accordance with the Heritage Review and/or any subsequent Council endorsed strategy.

And under Priority 4 *Increasing housing choice and diversity*

Action 30. Review planning controls in the EPIs and DCPs for Seniors Housing to ensure a consistent approach is adopted across the LGA. To ensure appropriate location, access, design and planning controls are developed to facilitate the successful delivery of Seniors Housing. Potential amendments to the EPIs and associated DCPs.

These actions are welcomed and considered essential if we are to conserve Camden's character and heritage.

Unfortunately, instances of recent proposals that are contrary to the espoused principle of protection of heritage, character and amenity are many. There does seem to be some conflict between SEPP provisions, the Camden LEP provisions especially zoning and Council policies, including the DCP and CUDF.

Sometimes proposals rely on Housing for Seniors or People with a Disability (HSPD) SEPP to override local planning rules, undertake spot rezoning or claim an exemption as an incentive to heritage conservation under LEP 5.10 (10). Proponents see investment opportunities and do not consider local character and heritage provisions within the EPIs as any stumbling block. Documentation submitted with DAs and Planning Proposals can be deficient and heritage impact statements do not necessarily follow NSW Heritage Office guidelines under the DCP or best practice. References to some recent proposals that are not consistent with LSPS principles are appended.

Such proposals often alienate the community and waste everyone's time.

We suggest that proponents of developments require very clear objective parameters of what Council will accept for assessment. The community is becoming increasingly frustrated by the exhibition of proposals that are not compliant with the planning instruments.

Housing development associated with heritage items that may be somehow facilitated by a particular zoning and/or pursued through a State Environmental Planning Policy (SEPP), particularly the HSPD SEPP that is contrary to the LSPS and supporting Housing Strategy especially need to be precluded by the planning instruments.

HSPD SEPP

In February 2019, the NSW Government introduced a moratorium to exclude the HSPD SEPP from applying in Heritage Conservation Areas which has been extended to 1 July 2021.

The NSW Government⁶ states

The extension of the moratorium offers councils more time to ensure the seniors housing provisions align with their local strategic plans and to finalise their local housing strategies. ...Once councils have completed their strategic planning and community consultation, they will be able to choose how the Seniors Housing SEPP applies in Heritage Conservation Areas in their local government area.'

It is the technical work of the Housing Strategy that the NSW Government particularly refers to in relation to seniors housing and heritage conservation. The stated reason for the seniors' housing moratorium was to allow councils time to ensure the seniors housing provisions of the HSPD SEPP align with their local strategic plans and local housing strategies.

The draft Housing Strategy specifically covers seniors housing in Priority 4 Objective 10 (pp 92-96). It refers to the ending of the current moratorium on HSPD SEPP applying to land within HCAs and that in light of the proposed amendment to the HSPD SEPP that Council will review planning controls for seniors housing.

Objective 10 refers to the proposal of the Department of Planning Industry and Environment (DPIE) to update the HSPD SEPP through the development of a Housing Diversity SEPP. **A relevant proposed amendment is that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.**⁷

We understand that Councils have the opportunity through their Housing Strategy to decide to make the exclusion of conservation areas from the HSPD SEPP permanent and decide where seniors housing may be appropriately located and where it is prohibited, especially to further protect heritage items.

Usually the cessation of the moratorium would require Camden Council and NSW Heritage Council to consider a development application for seniors housing under HSPD SEPP provisions. Apart from Metropolitan Rural Areas (MRAs), the current HSPD SEPP would usually be able to set aside local planning controls, policies and strategies that may prevent development of housing for seniors on a particular site including potentially a heritage site.

We understand that seniors housing is no longer necessarily a mandated permitted use and that Council has the opportunity to decide its appropriate location through appropriate LEP and DCP amendments.

⁶ NSW Government 24 September 2020 *Housing for Seniors or People with a Disability* Available at

⁷ NSW Department of Planning Industry and Environment July 2020 *Explanation of Intended Effect for a new Housing Diversity SEPP* Available at [https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000/00/Housing+Diversity+SEPP+EIE+\(1\).pdf](https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000/00/Housing+Diversity+SEPP+EIE+(1).pdf) p. 19

St John's Precinct Camden

The Housing Strategy states that Council is to undertake a review of planning controls consistent with the Camden Town Centre Urban Design Framework (CUDF) with the assumption that Camden Town Centre will not provide any capacity in meeting the LGA's housing targets (Priority 3, Objective 6⁸, p. 83). Also, the majority of future seniors housing is to be accommodated in the new and emerging precincts of the SWGA (Priority 4, Objective 10⁹, p. 92-96).

In relation to Camden's St John's Precinct, of particular concern is the reported intention of the Moran Health Care Group to rely on the provisions of the HSPD SEPP to, if necessary, override the Camden LEP and construct an aged care facility. It is of immense community concern that the Precinct is currently subject to an option contract to purchase around 60% of its area, including the horse paddock (glebe) and Rectory. The National Trust has issued a Position Paper on its conservation as appended.

The Precinct's history and heritage value are unique within the Camden LGA and Australia. It is both State heritage-listed¹⁰ and located within Camden's Heritage Conservation Area (HCA) which NSW Heritage Council has recommended for consideration in future planning for the State Heritage Register and is also subject to a Council resolution to explore its state and/or national listing.

There is a long-standing tension between the preservation of the open space of the Precinct and the provision of housing. In the late 1960's over 20 acres was sliced from the Precinct and used for the 50+ houses of the Forrest Crescent development. In 1972/1973 there was a failed attempt to construct 27 townhouses close to the St John's building. Now there is a proposal for a \$30 million-dollar aged care centre.

This is not private land. The community including the Macarthur family consider that the Precinct belongs to the people and that the Church does not have the legal or moral right to sell any part of it. This view is borne out by the conditions in the Register General Caveats attached to the current titles (caveat 426177 on Lot 550 in deposited plan 737448 and caveat 634896 on lot 56 in deposited plan 239467) and the Feoffment (No. 938 Book V) recording the establishment of the Precinct (1841). These documents clearly show the land is held by three charitable trusts for the people of Camden for very specific purposes.

The Precinct's listing on the NSW State Heritage Register is supported by a Conservation Management Plan (CMP) and Addendum. Both documents were formally accepted by Camden Council and the Anglican Church. The CMP and Addendum's policies limit the potential uses of

⁸ Objective 6: Housing density is strategically located to activate town centres, promote walkability and optimise infrastructure

⁹ Objective 10: Housing is inclusive and caters for an ageing population and People with Disability
<https://www.planning.nsw.gov.au/Policy-and-Legislation/Housing/Housing-for-Seniors-or-People-with-a-Disability#:~:text=In%20February%202019%2C%20the%20NSW,extended%20until%201%20July%202021.>

¹⁰ NSW Office of Environment and Heritage *St John's Anglican Church Precinct*
<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5053423>

the Precinct. (Example: Policy 54: Retain and conserve open-space rural character of the Horse Paddock.)

The current zoning of the St John's site, B2¹¹ Local Centre, does not specifically permit or prohibit seniors housing, and does allow many types of development that would decimate its heritage value and contradict its CMP. Also, there is always the possibility of spot rezoning.

We see this as an opportunity to fully protect St John's Precinct from inappropriate development.

Special protections

The community embraces the LSPS, but the question is whether its vision can be realised.

We consider it imperative that the principles and priorities of the LSPS as reinforced through the Housing Strategy, in particular that of protecting Camden's heritage and character, be legislated and strengthened.

We strongly believe that the community expects that:

- Heritage Conservation Areas permanently continue to be precluded from HSPD SEPP provisions or similar in the proposed Housing Diversity SEPP, that set aside the local LEP and DCP planning provisions;
- St John's Precinct be preserved, fully protected and not subject to inappropriate housing (or other) development proposals that would degrade its exceptionally significant heritage and cultural values and/or devalue the highly valued privately designed Macarthur township of which it is the intended focal point;
- Other significant heritage items be fully protected from inappropriate seniors or other housing development;
- the principles of the LSPS and Housing Strategy are operationalised effectively in the LEP and DCP so that
 - Camden's heritage is not at the mercy of inappropriate seniors housing or other development applications and planning proposals.
 - Heritage conservation is not contingent upon how far a developer will take appeals against refusals.
 - Development Applications and Proposals are not accepted for consideration by Council if they are non-compliant with the provisions and standards of the planning instruments and Council policies.

¹¹ Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

We are unsure of the best way to operationalise special protections to ensure that heritage and special character is preserved, a recurring principle as so clearly articulated throughout the LSPS. However, we expect professional planners would be able to establish mechanisms to adjust the LEP and DCP to align with and operationalise LSPS principles and housing strategies to provide sufficient local control over existing and desired future character.

Certainly, it is important that spot rezoning and different interpretations of LEP provisions cannot be argued to a potential developer's advantage and to the disadvantage of heritage conservation. Such argument in proposals is inefficient for Council and wastes the community's time. The potential of eventual approval can result in an insult to Council's strategy and very poor outcome for tourism, the community and future generations.

In relation to St John's Precinct, we do not believe it is possible or desirable to attempt to reflect the unique properties of the Precinct within the zones to which the Camden Housing Strategy would normally apply, such as Residential (R1-5) or Business (B1-5) zones or Rural Zones (RU1 – 3).

Perhaps it is time to recognise the Precinct is special and change the zoning from the current B2 to the current Special Activities (SP2 or SP1) or Environmental Conservation (E2).

We suggest SP2 Infrastructure and E2 Environmental Conservation are consistent with the definition in LEP Practice Note PN 11-002¹² (SP1 is already applied to the old Anglican Cemetery at Narellan).

We believe that the zoning of heritage listed properties such as St John's Precinct and Gledswood should be reviewed to ensure that their zoning objectives, permitted and prohibited uses are consistent with the principles and strategies of the LSPS and Housing Strategy of protecting and preserving heritage items and their cultural value.

We feel it is essential at the very least that the HSPD SEPP moratorium continue permanently in Heritage Conservation Areas which would include the St John's Precinct, and be extended to protect every heritage area and item listed in the LEP.

We respectfully request that the points raised in this submission be fully considered in informing LEP amendments included in the Planning Proposal of Stage 2 of the LEP Review.

Yours sincerely



Glenda Davis

President

¹² NSW Government Planning *Preparing LEPs using the Standard Instrument: standard zones* Available at <https://www.planning.nsw.gov.au/-/media/Files/DPE/Practice-notes/preparing-LEPs-using-the-standard-instrument-standard-zones-2011-03-10.pdf>

Appendix: Recent proposals that are not consistent with LSPS principles

Studley Park: State heritage listed. Proposed apartment buildings, hotel and other development to Studley Park House under LEP s 5.10 (10) heritage conservation incentive as zoned RE2 Private Recreation. Housing that arguably degrades heritage significance. Withdrawn.

Gledswood homestead: State-heritage listed with acknowledged rare heritage significance. Proposed child care centre requiring alteration to fabric and gardens under LEP s 5.10 (10) heritage conservation incentive as zoned Zone SP3 Tourist. The Conservation Management Plan states its most appropriate use as residential. Under consideration.

The documentation provided with the above two DAs was deficient and did not seriously consider how the proposals were to facilitate heritage conservation under LEP 5.10 (10). This provision seems to be an invitation to “try it on” which wastes everyone’s time. It needs to be clarified and strengthened, perhaps supported through the DCP with a checklist of requirements.

In the case of Gledswood, its SP3 zoning in Camden LEP includes the objective of enabling *low density housing that does not unreasonably impact on tourist-oriented development*. According to NSW Department of Planning Practice Notes (09–005¹; 11-002²) this objective would seem to be additional to that required by the Standard LEP. It is not consistent with the state-heritage listed status of Gledswood and the conservation principles of the LSPS and draft Housing Strategy. Such an objective may encourage developers to seek inappropriate investment opportunities.

Smalls Road Grasmere: Located in Metropolitan Rural Area (MRA). Mainly zoned R2 Low Density Residential. Proposal for seniors housing with various buildings up to five (5) storeys in height. This proposal would seem to rely on local planning rules as MRAs are excluded from the HSPD SEPP. Concept proposal not consistent with its zoning including a 9.5m building height limit. Under consideration.

¹ NSW Department of Planning *PN 09–005 Local environmental plan zone objectives* Available at <https://www.planning.nsw.gov.au/-/media/Files/DPE/Practice-notes/local-environmental-plan-zone-objectives-20090910.pdf?la=en>

² NSW Department of Planning *PN 11-002 Preparing LEPs using the Standard Instrument: standard zones* Available at <https://www.planning.nsw.gov.au/-/media/Files/DPE/Practice-notes/preparing-LEPs-using-the-standard-instrument-standard-zones-2011-03-10.pdf>

Old Hume Highway: Proposed three lot consolidation and construction of a multi-dwelling housing development comprising of 22 units across 3 storeys. This proposal is for housing that takes out three established single dwelling houses and gardens and changes the character of this older part of town and reduces amenity. The storey limit is two. Under consideration.



Camden Town Centre Heritage Conservation Area

The Camden Urban Design Framework and its built form principle are often not being addressed in proposals. Residential cottages are intended to be adaptively re-used under the Burra charter and DCP. DAs argue that the zoning allows for their demolition and the construction of buildings that degrade the rural character, fine grain and heritage significance of the HCA.

For example:

20 Elizabeth Street. Zone B4. Demolition of dwelling replaced by three-storey commercial. Two-storey limit. 47% above height limit. With Land and Environment Court.



19 Edward Street. Demolition of contributory dwelling replaced by two modern structures with elevated walkway and roof garden overlooking other properties. Under consideration.



POSITION PAPER

ST JOHN'S ANGLICAN CHURCH, CAMDEN

BACKGROUND

St John's Anglican Church Camden was one of the first properties listed on the National Trust Register in 1949 as it is a fine group of ecclesiastical buildings set within a particularly appropriate rural landscape. The spire and tower of the church combine to form an exceptionally fine architectural statement that even today manages to provide the dominant element for miles around. The view of Camden from Narellan is particularly important where the full impact of St. John's setting in relationship to the town can be appreciated. Another important view is that which creates the historic visual link from Camden Park House to the church. St John's Church was built from 1841-1849 primarily through the patronage of the Macarthur family. Further, the building is an excellent early example of a Gothic Revival Church in Australia. The churchyard and grounds consist of pasture-like grassed slopes and thick clumps of mature eucalypts and pine trees.

The preservation of the open space between the Church and Rectory is unequivocally essential so that their visual and historic pastoral relationship is retained. With their wooded environment, the church and rectory have relatively few intrusions, making this group one of the most dramatically sited compositions of Colonial architecture still in existence.

The revised National Trust Register Listing Report in 1975 stated that strict controls should be imposed on future town development as regards permissible heights so that the church group retains its visual importance. The wooded slope to the east of the church is also particularly attractive and its preservation is thought essential to the survival of St John's visual integrity. The accuracy of and validity for those controls is re-affirmed by the continuing urbanization of the locality and accompanying pressures on important landscapes and scarce urban spaces.

In May 1978 the St John's Hills and John Street Urban Conservation Area was listed on the National Trust Register. In that listing St John's Church was described as 'perhaps the finest single example of the early Gothic Revival in Australia' which is superbly sited for near and distant appreciation. That siting is still effectively as it first was and one reason for the Trust Register Conservation Area listing is to provide a lasting context for that important building. Distant views of the church are well known and important. The hilltop is double humped; the church is on one prominence, the rectory on the other, while between them a grassy saddle of land commands broad views over one part of the town and to the eastern distance.

In early 2017 newspaper reports indicated that there were proposals to sell the land between the church and the rectory to fund the construction of a secondary, modern church building.

NATIONAL TRUST POSITION

- The Trust most strongly supports all actions that will result in the land between the church and the rectory being conserved and maintained intact to protect the historic views and to protect the setting of the St John's Church Group and the St John's Hill and John Street Urban Conservation Area.
- The Trust opposes any buildings on the land between the church and the rectory.
- The Trust strongly supports the nomination of the St John's Church Group for listing on the State Heritage Register.

ACTION TO PROMOTE THE TRUST'S POSITION

The Trust will promote its views on this issue in the media, with Camden Council and the NSW government.