

Camden Residents' Action Group

Incorporated

Camden – Still a Country Town

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14 February 2020

Dear General Manager,

RE: DA 2019/886/1

STUDLEY PARK

200 Camden Valley Way¹, 50A Lodges Road and

50 Lodges Road NARELLAN

DP 859872: LOT1, LOT 3 LOT 5

There is no doubt that the community wishes to see Studley Park restored and adaptively reused, and this aspect of the proposal is welcomed. We note that Studley Park² is state heritage listed and that its mansion and grounds³ are also locally listed. Importantly the State listing includes in its description of its significance the following:

Studley Park House and associated historic lands that now form Camden Golf Club course are an important and comparatively rare cultural landscape that retains an open landscape character and setting for the House, typifying a grand, nineteenth century country estate. This cultural landscape setting includes important views that physically connect Studley Park to other nearby historic 'country estates' such as 'Camelot' and 'Kirkham Stables', and define a broader historic landscape in the areas surrounding Camden.

¹ The address on the NSW Planning Portal for Lot 1, on which Studley Park House is situated, is 52 Lodges Road, Narellan. Lot 1 is an island lot surrounded by Camden Golf course, mainly comprised of Lot 5 which is classified as community land and leased by Camden Council until 2098 to Camden Golf Club.

² <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5045438>

³ <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1280081>

This proposal involves substantial building works over three stages. Stage 1 is restoration and redevelopment of Studley Park House and construction of a connecting two storey 46-bed hotel (Lot 1), road access through community land (Lot 3 and Lot 5) and changes to layout of the existing golf course on community land leased to Camden Golf Club (Lot 5).

Stage 2 involves fit-out and use of new hotel building and restored Studley Park House.

Stage 3 (A, B, C, D) involves construction of 4 residential flat buildings of 2 - 4 storeys housing 138 apartments.

Stage 2 relies on approval of Stage 1. Stage 3 relies on Stage 1 to the extent that additional accessibility is needed by potential residents of the apartments through community land.

All the land in question whether it is owned by the applicant (Lot 1) or Council on behalf of the community (Lots 3 and 5) is zoned RE2 Private Recreation which does not permit the DA use proposed and incorporates the following objectives:

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses
- To protect and enhance the natural environment for recreational purposes.

Of paramount consideration in assessment of the proposal is conservation of the significance of the cultural landscape as described in its State listing. We do not believe that the DA can be assessed as it stands. There are important questions of due process, missing information and ecological concerns although thirty-four documents accompany the DA. If it is to be assessed then we believe these matters are more than sufficient for its refusal.

We expand below on the following matters:

1. Assessment under LEP 5.10 (10)) Heritage Incentives: questions of applicability and due process;
2. Exhibition: questions of due process;
3. Community land: questions of legal capacity;
4. Heritage and Curtilage: questions of compliance with Conservation Management Plan (CMP);
5. Vegetation and Ecology: questions of endangered species, compliance and protection.

1. ASSESSMENT UNDER LEP 5.10 (10)) HERITAGE INCENTIVE

As Lot 1 is not zoned for the purpose proposed, the DA is lodged for assessment under conservation incentives for heritage listed properties, in this case state-listed Studley Park, as provided by LEP 5.10 (10)⁴:

***Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:*

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

We question whether it is appropriate for the entirety of this development to be accommodated for assessment under LEP 5.10 (10), particularly given its size that extends beyond the heritage curtilage and scope beyond restoration of the heritage item. In particular the residential component on land zoned private recreation would seem to be irrelevant to heritage conservation, and may perversely devalue the heritage item and its curtilage.

It is understood from discussions with Council that application of the heritage incentive clause and assessment of the DA relies on an endorsed CMP and economic necessity of what is proposed to enable restoration of the heritage item.

Endorsed CMP

The intent of s5.10 (10) is clear and a number of Land and Environment court cases have reinforced how it may be applied in relation to impact on heritage significance and curtilage⁵. Its application must show that there will be positive outcomes for heritage; it is not enough to argue that there will be no adverse effects. An endorsed CMP is fundamental to assessing heritage impact.

⁴ Camden LEP (2010) <https://legislation.nsw.gov.au/#/view/EPI/2010/514>

⁵ For instance

[2019] NSWLEC 1255 <https://www.caselaw.nsw.gov.au/decision/5cf8952de4b02a5a800c1556>

[2017] NSWLEC 1366 <https://www.caselaw.nsw.gov.au/decision/5967036be4b058596cba87f7>

[2007] NSWLEC 597 <https://www.caselaw.nsw.gov.au/decision/549f907a3004262463aeca>

The state listing refers to a revised Conservation Management Plan (CMP 2019) submitted on 9 January 2020 for endorsement and provided as a supporting document for this DA. The Heritage Office, and its Conservation Management Plan Reviewer for the area, confirm that an endorsed CMP is required for DA assessment and approval and advise that another version of the CMP is due to be lodged. CMP 2019 was found to need clarification and strengthening in a number of areas. It will not be endorsed as it stands. Of particular concern is Studley Park's curtilage, including its historic curtilage incorporating surrounding community land which also incorporates Camden golf course.

The lack of an endorsed CMP makes it impossible for Council and the community to judge the worthiness of what is proposed.

Exhibition of the DA was premature.

Economic necessity

Economic necessity is inherent in claiming assessment under LEP 5.10 (10) and obviating other provisions of the LEP. Discussions with Council indicate that it will:

- require a detailed, costed maintenance plan with work schedules extending years into the future;
- assess the financial viability of the plan.

The APK Economic Assessment Report does not

- refer to detailed costings of restoration and maintenance over time;
- pay due regard to Policy 14 of CMP 2019 (p. 213) requiring a mechanism to ensure provision of appropriate funds from the development towards conservation works to the house and grounds;
- clearly set out its analysis according to the stages described in the DA and categorically justify them;
- demonstrate the connection between the new development and conservation of Studley Park;
- demonstrate the financial feasibility of the substantial investment in new development.

We question why no other compatible alternatives to the hotel and residential units are considered. We question why the viability of aged care/senior living incorporating Studley Park House as a Club House or its administrative centre (similar to nearby Carrington) is not considered as an option.

The Economic Assessment Report is deficient in a number of other areas as explained below.

Hotel proposal

As shown in the Base Case Economic Assessment, the estimated cost of the heritage repairs to Studley Park House is \$1.22m. The total heritage cost is shown as \$5.77m. The cost difference of \$4.55m would seem to be for the refurbishing of state heritage-listed Studley Park House as a hotel. The cost difference is therefore unrelated to heritage restoration as is the cost of the additional building housing 46 new rooms. Of the estimated total cost of the hotel of \$30.5m only \$1.22m relates to heritage conservation.

No explanation is given for a Cap Rate of 6%, which is seemingly being used as a Required Rate of Return to estimate that the cost of the hotel proposal should not exceed \$15.8m rather than the estimated \$30.5m. The calculation however instead of being based on Net Income is based on the proposed hotel's estimated Gross Operating Profit (GOP 949,365 / 6 x 100 = \$15,822,750). It is difficult to see the relevance of this number.

The estimated \$30.5m capital cost is then (unusually) divided by GOP to estimate a payback period of 32 years ($\$30,513,175 / \$949,365 = 32$). It is difficult to see any logic in this Payback Method calculation. In any case, Net Present Value is usually regarded as the superior method, possibly using 6% as the required rate/discount factor. In this case the use of the Payback Method is particularly misleading as it takes no account of residual capital value.

The expected maximum annual revenue for the hotel investment is \$2.37m (occupancy rate of 75%). This gives a gross revenue return of 7.8% on the capital invested ($\$2.37m / \30.5). The gross operating profit (40%) gives a return of only 3% ($\$0.95 / \30.5).

The net income return or actual cap rate would be significantly less. No expenses below the gross profit line are incorporated into the economic analysis. No provision is made to cover depreciation of the new build, which the ATO sets as 4%, or hotel fittings which are allowed at various higher depreciation rates. We must question how the hotel, given the economic analysis provided, is to contribute to maintenance of the listed heritage item, which is fundamental to assessment under LEP 5.10 (10).

In short no connection is made between the economic calculations for the hotel and the long-term conservation of Studley Park. Yet the purpose of the economic analysis is to justify negation of usual LEP clauses and justify use of LEP 5.10 (10) heritage incentives.

Such a small rate of potential return suggests there is an intention to use other means to generate income which has not been spelt out. Over 90%⁶ of hotels offer gaming. The latest figures from the NSW Government⁷ show the profit per hotel gaming machine in the Camden LGA is \$178,000 per machine per annum. It is obvious that the estimate for heritage repairs of \$1.2m

⁶ <http://aha.org.au/wp-content/uploads/2011/04/PWC-Hotel-Industry-Report-20092.pdf>

⁷ <https://www.liquorandgaming.nsw.gov.au/resources/gaming-machine-data>

and ongoing conservation maintenance would easily be covered by the installation of gaming machines within a much smaller facility.

If the proposal intends to seek revenue through gaming such as poker machines, given the social impact and outcry about so many poker machines already licenced within the Municipality, the community must be informed. Its economic and social impact must be made apparent in the DA and its assessment.

Residential development proposal

No substantiation is provided for the conclusion (p5) that a one-off contribution of residential development of 138 apartments (with a one-off return margin of 3%) could contribute to the long-term viability of the hotel and heritage maintenance expenses. What the analysis of one-off capital gain of the proposed 138 residential units shows is that they would make no financial contribution at all post the year of sale and would temporarily dilute the overall required Return on Investment (if 6% is assumed to be the minimum required). The economic report in fact finds that Stage 3 cannot facilitate the long-term conservation of Studley Park, and that it is therefore irrelevant to assessment under s5.10 (10).

There is no explanation of the \$1.8m land acquisition cost. The DA relies on access through community land (Lots 3 and 5). If this cost refers to acquisition of community land, we question

- why it is only factored into the cost of the residential units;
- how it can be factored in when even permanent access through community land requires a complex due process and private purchase of community land is legislatively almost impossible.

We note that an alternative calculation for 275 residential units is provided, which taking into account economies of relatively fixed site costs, produces a one-off financial gain of 17%. As the stated proposal is for 138 residential units this analysis is irrelevant.

In summary, we submit that this DA cannot be assessed under LEP 5.10 (10) Heritage Incentives because:

- **the CMP 2019 as provided in its support is unendorsed and will not be endorsed, which makes it impossible to judge the heritage impact of what is proposed;**
- **of its size and scope beyond restoration of the heritage item;**
- **it has not been economically demonstrated to be necessary for the long-term conservation of Studley Park.**

2. EXHIBITION

We are not convinced that the community has been made sufficiently aware of this proposal. The public's right to know about this proposal cannot be disputed given that Studley Park is a prominent landmark that contributes much to Camden's renowned historic landscapes and also because what happens on privately owned Studley Park affects surrounding community land.

Immediate neighbours would seem to have been notified as required under Council's notification policy⁸. However, under the EPA Amendment Act 2017⁹ a Community Participation Plan (CPP) is mandatory and required to be published on the NSW Planning Portal by 1 December 2019¹⁰. Under 2.23(2) the CPP is to have regard to the following

- (a) The community has a right to be informed about planning matters that affect it.*
- (b) Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning.*
- (c) Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning.*
- (d) The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered.*
- (e) Community participation should be inclusive and planning authorities should actively seek views that are representative of the community.*
- (f) Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made.*
- (g) Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account).*
- (h) Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development.*

A spirit of community participation is also strong throughout the Integrated Planning and Reporting Framework. No CPP was found for Camden as at 6 February 2020¹¹.

Although it may not be precisely clear to what extent the general community was made aware of this significant proposal, there is considerable doubt about whether legislated community participation principles have been observed in the exhibition of this DA.

Surprisingly, although our organisation has been in existence since 1973, has a large and active membership, wide network and a charter of conservation of heritage and environmental sustainability, we were not notified (as would be expected under 2.23(2)(e)). Likewise, the

⁸ <https://www.camden.nsw.gov.au/assets/Uploads/19-251181-DCP-2019-Final-Part-1-Introduction.pdf>

⁹ [https://www.legislation.nsw.gov.au/#/view/act/2017/60/sch2/2.22\(1\)/2.23](https://www.legislation.nsw.gov.au/#/view/act/2017/60/sch2/2.22(1)/2.23)

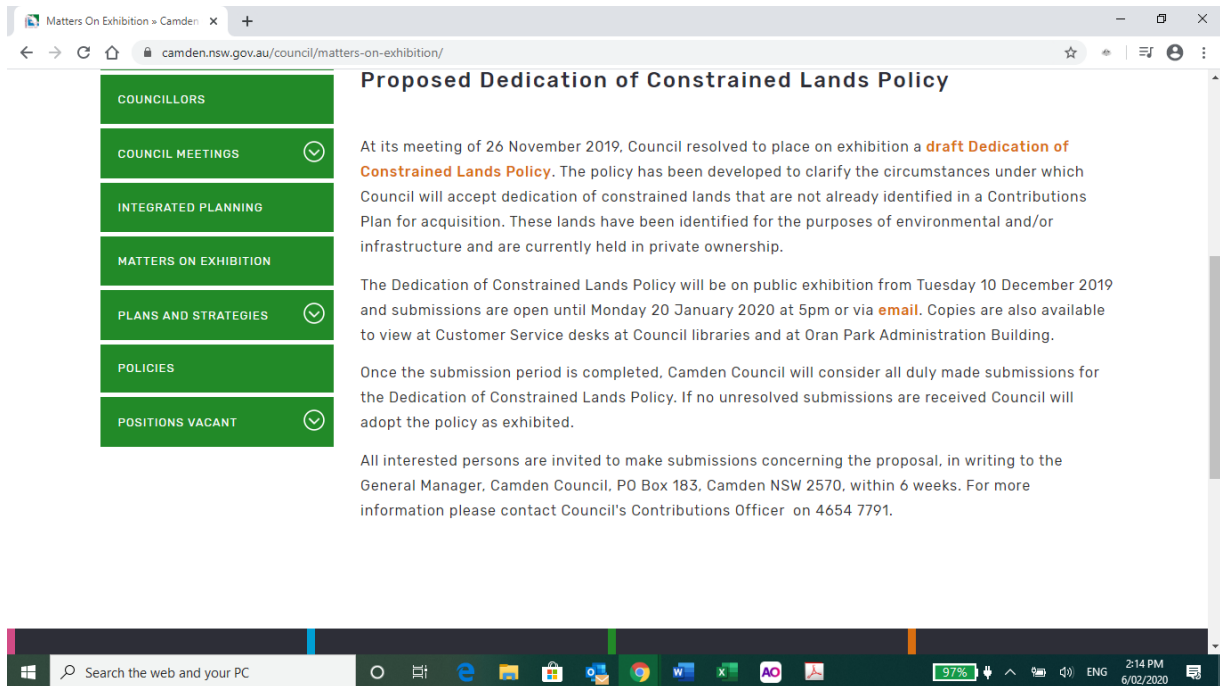
¹⁰ <https://www.planning.nsw.gov.au/Policy-and-Legislation/Environmental-Planning-and-Assessment-Act-updated/Guide-to-the-updated-Environmental-Planning-and-Assessment-Act-1979/Part-2-Community-Participation-Plans>

¹¹ <https://www.planningportal.nsw.gov.au/publications/community-participation-plans>

Camden Historical Society, a long standing and active community group with a large membership which would be exceptionally interested in this DA, was not notified of it.

Although reasonably to be expected (under 2.23(2)(h)):

- the proposal is not listed as a matter on exhibition on Council's website as accessed on 6 February 2020¹²;



- advertisement does not seem to have been comprehensive. As the Chronicle is no longer routinely delivered to homes and requires subscription this form of advertising is not necessarily widely disseminated. Also, we stand to be corrected but it was only found to be advertised once in Macarthur Chronicle on 15 January 2020.
- the exhibition period was not within a period of normal routine in the community but included common public and school holiday periods. This is unfair to community members who may not even be home and who need to digest 34 technical documents to understand whether they wish to make a submission.

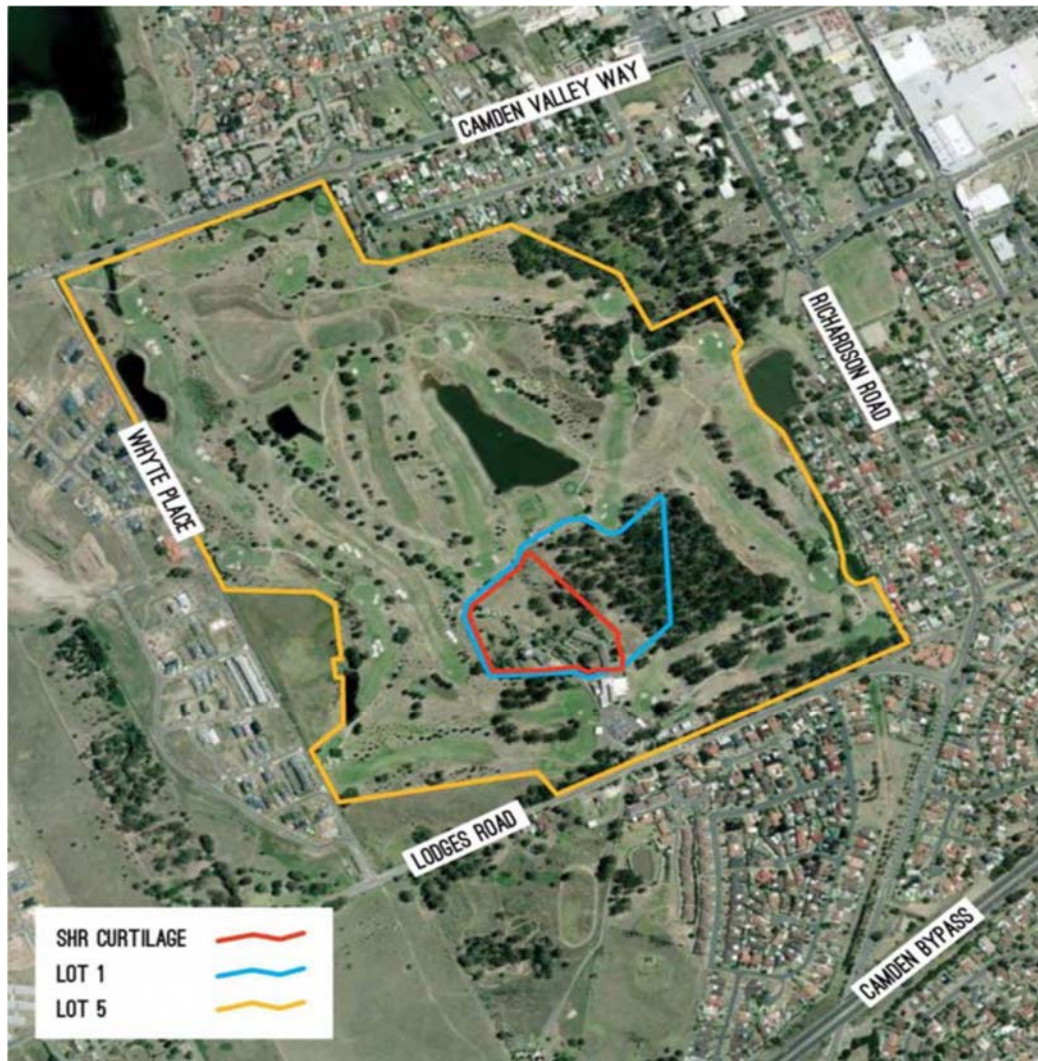
We submit that the DA should be exhibited under legislated CPP principles.

¹² <https://www.camden.nsw.gov.au/council/matters-on-exhibition/>

3. COMMUNITY LAND

There are questions, as covered below, about required Plans of Management and due process in relation to community land, the use of which is relied upon in this proposal.

As shown below, Lot 5, under lease to Camden Golf club, comprises the majority of community land surrounding privately owned Lot 1.



Other community land adjoins Lot 5.

An extract of relevant community land from the Register of Community land is shown below¹³.

¹³ Extracted from Register at <https://www.camden.nsw.gov.au/assets/pdfs/Council/About-Us/Land-Register/Community-Land-Register-November-2019.pdf>

Parcel Number	Suburb	Address of the land	Title Reference	Zoning	Is there a Plan of Management for the Land	Is the land subject to an Agreement
113758	NARELLAN	2A Richardson Road	LOT: 7 DP: 859872	RE2 Private Recreation	Yes - Generic - GCU	Yes - Lease to Camden Golf Club Ltd. Terms: 99 years commencing 18/02/1999 to 17/02/2098.
113759	NARELLAN	6A Richardson Road	LOT: 4 DP: 859872	RE2 Private Recreation	Yes - Generic - GCU	Yes - Lease to Camden Golf Club Ltd. Terms: 99 years commencing 18/02/1999 to 17/02/2098.
113760	NARELLAN	50 Lodges Road	LOT: 5 DP: 859872	RE2 Private Recreation	Yes - Generic - GCU	Yes - Lease to Camden Golf Club Ltd. Terms: 99 years commencing 18/02/1999 to 17/02/2098.
113761	NARELLAN	50A Lodges Road	LOT: 3 DP: 859872	RE2 Private Recreation	Yes - Generic - GCU	
113762	NARELLAN	50B Lodges Road	LOT: 2 DP: 859872	RE2 Private Recreation	Yes - Generic - GCU	

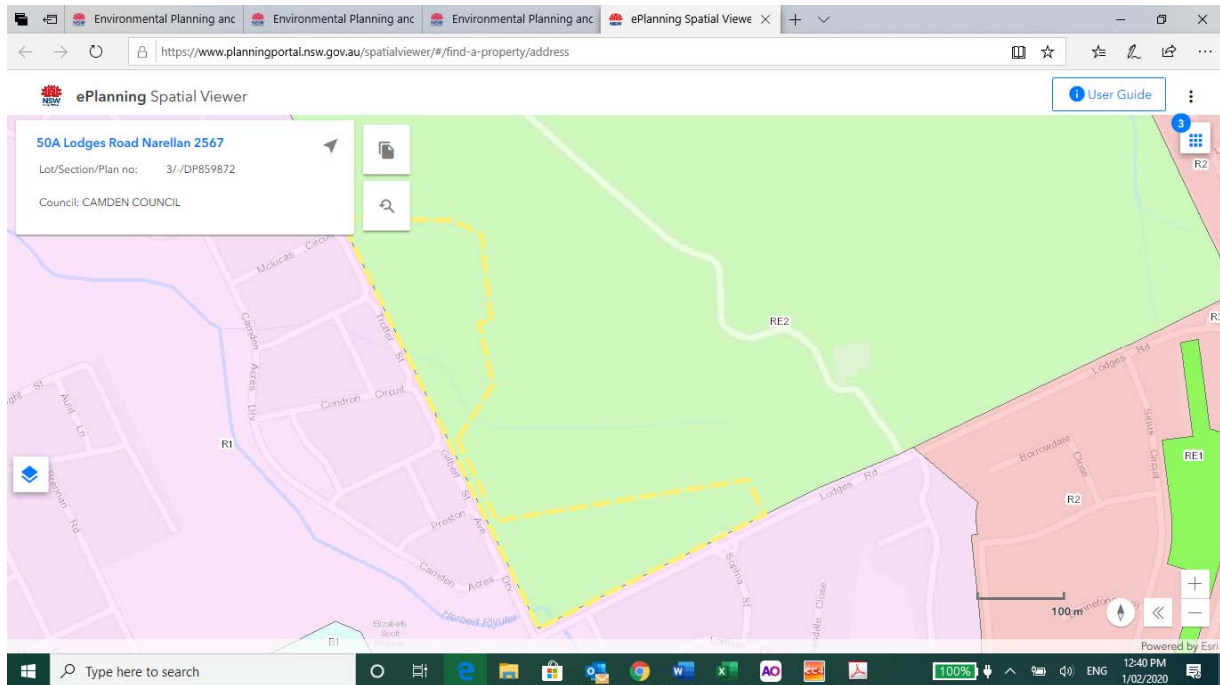
The Statement of Environmental Effects (SEE) states

The proposal relies upon new access works over the Golf Course land including a new entry driveway over 50A Lodges Road (Lot 3 DP 859872) which will serve the existing golf course and the proposed development within Studley Park. (p.v)

This new driveway will serve vehicles associated with the proposed hotel and residential accommodation and all golf club light vehicles. Lot 1 will also continue to benefit from the existing right of carriageway from Camden Valley Way, across the golf course, which is proposed to be used for special event vehicles only (e.g. Wedding cars). The existing golf club vehicular access will be retained for service vehicles associated with the golf club. (p.18)

It should be noted that the existing right-of-carriageway over Lot 5, benefitting Lot 1, extends within the footprint of the golf club building and accordingly, the proposal seeks to rectify this access arrangement with a new driveway and easement. (p. 13)

This proposed new driveway, requiring an easement as a minimum, is through the irregularly shaped Lot 3 (50A Lodges Road) situated in the vicinity of the corner of Whyte Place and Lodges Road and Lot 5. The NSW Department of Planning¹⁴ shows Lot 3 as below.



Both Lot 3 and Lot 5 are classified as community land and categorised as general community use.

Under the Local Government (LG) Act¹⁵ the core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land to meet the current and future needs of the local community and of the wider public (s 36I).

¹⁴ <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>

¹⁵ Local Government Act 1993 http://classic.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/

Also, under the LG Act, community land

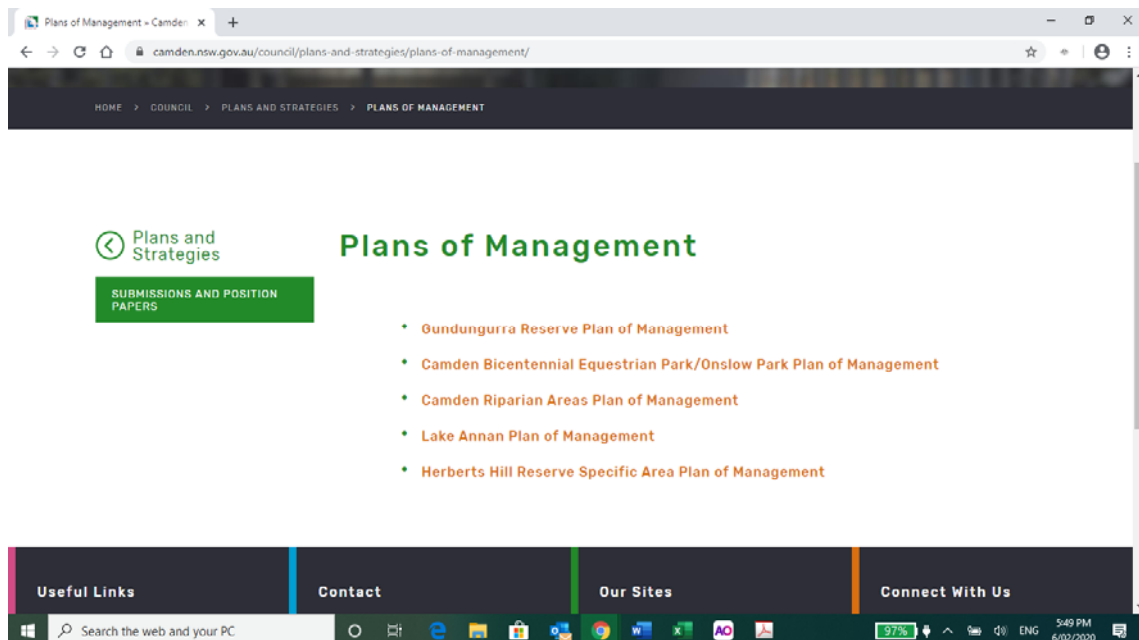
- must have a Plan of Management (PoM) (s 35);
- a draft plan of management must be publicly exhibited (s 38);
- must be adopted by Council (s40);
- must have a publicly available PoM (s 43);
- cannot be sold or otherwise disposed of (s 45);
- may only be dealt with in accordance with the PoM (s 46);
- is subject to public exhibition of any proposal and possible Minister's consent (s47) to grant a lease or any other long term use.

It is understood therefore that it is:

- mandatory that the lots of community land in question are subject to a publicly available PoMs that have been through the required process;
- not possible for the right of access through community land to be determined through a private DA.

The NSW Government's Practice Note¹⁶ reiterates that PoMs (specific or generic) must be prepared in consultation with the community for all community land, not only because they are required under the Act, but because they are essential in guiding management of the land.

Although the above Register extract refers to a Generic Plan of Management, none could be located on Council's website¹⁷ (shown below as accessed 6 February 2020).



¹⁶ OLG Practice Note 1 Revised May 2000 Public Land Management ISSN 1320-6788

<https://www.olg.nsw.gov.au/sites/default/files/Practice-Note-No1-Public-Land-Management-Revised-May-2000.pdf>

¹⁷ <https://www.camden.nsw.gov.au/council/plans-and-strategies/plans-of-management/>

Under s 45 of the LG Act, a Council has little power to deal with or dispose of community land and it is highly questionable whether a Council has the power to grant permanent access as required by this DA. We note that s88K of the Conveyancing Act has been occasionally used by the Court¹⁸ to impose such easements.

A check of Generic PoMs made publicly available on Council websites confirms that in conforming to the legislation referred to above, they do not accommodate private sale or other long-term alienation of community land.

We submit that this DA cannot be determined as it stands because it relies on new access through community land (Lots 3 and 5).

Permanent access can only involve a separate due process. At a minimum this process must involve establishing a new PoM and following whatever process is required to overcome legislative restrictions on use of community land.

¹⁸ For example [2012] NSWSC 389

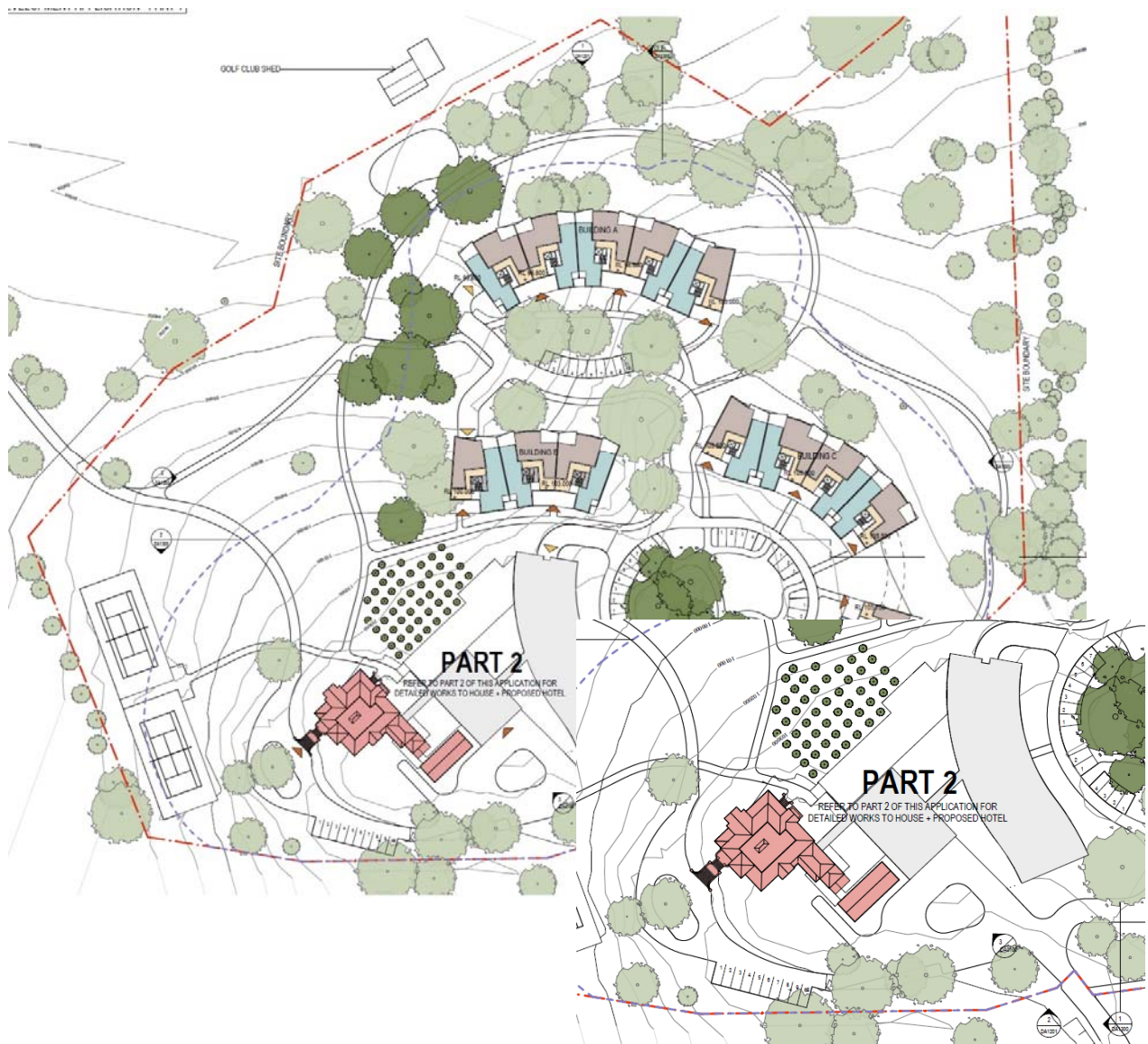
4. HERITAGE AND CURTILAGE

Currently, the statutory heritage curtilage of Studley Park, as shaded in the diagram opposite, is comprised of part of Lot 1 encircled in red and extends minimally into Lot 5.



Presumably any proposed development of the DA outside the curtilage would be excluded from assessment under LEP 5.10 (10), and would be subject to RE2 zoning restrictions.

The proposed building overlay is shown below.



The proposed new hotel building would appear to be entirely within the statutory curtilage. The proposed new residential units would appear to partially in and partially outside the statutory curtilage.

We note that the Heritage Office will not endorse CMP 2019. It is likely that curtilage will be addressed more specifically in a 2020 revision. The following points that we make about CMP 2019 may possibly foreshadow aspects of a revision.

We note that CMP 2019 is not limited to the current statutory curtilage stating instead that its subject site and study area

...is limited to Lot 1, comprising the house and immediate surrounds (5.532ha) (p. 1);

...refers to the entirety Lot 1 in DP 859872 (p. 5)

Importantly in relation to historic curtilage the CMP 2019 also references *the Golf Club and lands managed by Council (lots 2-5 and lot 7) in terms of the site description, historical analysis and heritage significance (p. 1).*

In relation to the historic curtilage, as opposed to the statutory curtilage, CMP 2019 states

..... there is an opportunity to review and perhaps extend the defined heritage curtilage as defined in applicable statutory legislation. This CMP has been limited in its assessment of these components however extension of the curtilage is encouraged (subject to future assessment).

..... to conserve historic elements within Studley Park's historic curtilage (i.e. Lots 2, 3, 4, 5 and 7) not just the subject landholding (Lot 1), various recommendations and policies are provided in Section 9. (p. 195).

Camden Council should consider expanding the heritage listing curtilage of both the local and state listing to include Lot 5, Studley Park's landscape setting (p. 214).

It is certainly open to argument as to how well this DA respects the statutory and historic curtilage of Studley Park. Within both the statutory and historic curtilage, it is also questionable whether the DA is consistent with CMP 2019 policies on new development (14- 21), especially 18 and 21:

Policy 18. *New development should be dispersed and set within the landscape, retaining trees such that the overall bush character is maintained in views and vistas, including broader district views. The height of new development should be subject to a height study to mitigate impacts of scale in proximity to the house and ensure retention of the bush character.*

Policy 21. *New development in Lot 1 should be based on a height study to mitigate impacts of scale. The mass, scale and height of any new development on Lot 1 should consider the mass, scale and height of Studley Park house, as well as topography and land contours and the extant tree canopy. New development must be setback sufficiently from the house so as to retain its landmark presence in the Camden area.*

As shown in the building overlay above the footprints of the proposed new buildings are far larger than the footprint of Studley Park House.

The proposed hotel viewed from the south as included in the SEE (p. 21) particularly demonstrates the scale of the proposed new build and its unsympathetic mass in relation to Studley Park House.



As the Burra Charter (Article 8), referred to in CMP 2019 (p. 195), states

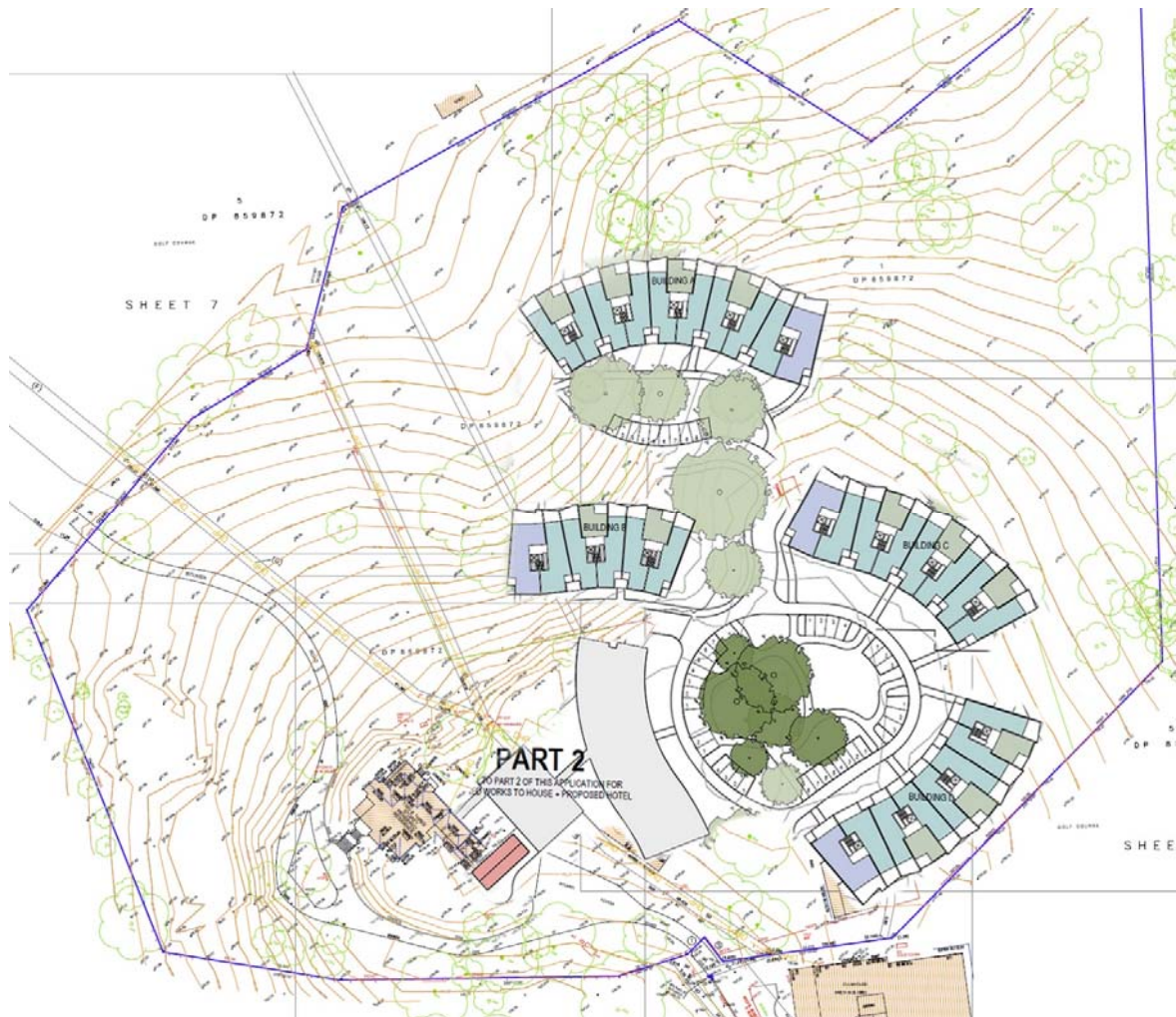
Conservation requires the retention of an appropriate setting. New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate.

As shown in the diagram below it is arguable that the setting of the House would be compromised by the proposed new buildings.



Although many trees are shown in the above artist's impression of the setting, 25% of extant trees as well as other shrubs and groundcover will be removed to accommodate the development. It will take many years, if not decades for replacement trees to reach the size of those to be removed.

This begs the question about how the proposal will affect important views that have been recognised in the CMP 2019 (section 3.4 and Policy 15). It would seem that a more analytical approach to how the proposed new buildings and vegetation removal in combination with the site's topography, as covered in Policy 21, will impact on views and vistas is required. The survey lines on the topographical map below are half a metre apart, so every second line is one metre in height. We suggest that an analysis and assessment of how vistas will change is necessary before architectural plans can be finalised.



Some recent photos of views to the historic property demonstrating its open landscape character, verdant setting and landmark prominence as described in its State listing are shown below.



Studley Park from Camelot Entrance Gate, Kirkham Lane



Studley Park from Geary Pl - Camden Acres



Studley Park from McLucas Cct - Camden Acres



Studley Park from Herberts Hill Reserve - Camden Valley Way



The Heritage Impact Study (HIS), required in support of the DA, dated 19 November 2019 claims to rely on CMP 2019. Whilst a full comparative analysis of the documents is beyond the scope of this submission, we find a number of obvious inconsistencies, which lead us to question whether the HIS is relying on an earlier version of the CMP. If it is relying on the most recently available CMP 2019 provided on Council's website then we must question the professional integrity of the HIS.

For example, the HIS:

- only mentions 36 CMP policies, whereas there are 44;
- does not analytically evidence how the new buildings are consistent with all CMP policies for new development (14-21);
- states that the only new structure in Lot 1 is tennis courts;
- refers (pp. 55, 57) to Zones 1 and 2 and Figures 132 and 133 but they do not seem to exist;
- references wording of policies but the wording is sometimes different to that actually contained in CMP 2019;
- does not acknowledge that siting of the lift in Studley Park House is inconsistent with Policy 11 of CMP 2019 (p. 212) *Policy 11 Where a new lift is required, it is preferred that the lift be located in an external addition, rather than within the house.*

- claims (p. 53) that the proposed works will not detrimentally affect Pimelea Spicata communities on the site. The Flora & Fauna Assessment (p. 31) reports destruction of 9.8% of the local population;
- claims (p. 53) that new buildings located within the remnant Cumberland Plain Woodland will not be detrimental to it. The Flora & Fauna Assessment (p. 31) reports that 0.95ha would be disturbed. Also, activity of future residents would be detrimental to its survival and regeneration.

We submit that

- **the building proposal outside the statutory heritage curtilage may not be assessable under LEP 5.10 (10);**
- **the proposal does not adequately examine its impact on the cultural landscape and views and vistas of Studley Park;**
- **the proposal is not necessarily consistent with CMP 2019 policies, or those yet to be endorsed;**
- **the HIS cannot be relied upon as it stands because it cannot be shown to be necessarily consistent with CMP 2019 and other reports;**
- **assessment of this DA requires a new HIS that is fully and rigorously consistent with an endorsed CMP and other technical reports.**

5. VEGETATION and ECOLOGY

The study identifies the existence of critically endangered Cumberland Plain Woodland (CPW) and the endangered plant *Pimelea spicata*, and concludes that the proposed development will not have any significant impact on any threatened species, populations or endangered ecological communities (EECs) and their associated habitats.

CRAG rejects this conclusion. For any environmental assessment it is important that determining authorities firstly consider the wider environmental and conservation context. These vegetation types, CPW and *Pimelea spicata*, are both unique to western Sydney. With CPW now reduced to 6% of its original distribution all remnants are now significant regardless of vegetation connectivity.

The cumulative impact of development proposals such as this - recommending the removal of 98 specimens of *Pimelea spicata* and the ongoing degradation of CPW is exactly why their long-term future is bleak and exactly the reason why these are both listed at the national and state level as endangered.

A full Species Impact Statement is required given the proposed removal of *Pimelea spicata*. Specifically, we believe that the following issues must be addressed:

- The population of *Pimelea spicata* at Narellan is regionally significant, and adjoins significant populations (not mentioned in the study) to the north on the council reserve;
- The relocation (translocation) of impacted *Pimelea* plants to adjacent areas would have a very low success rate based on similar species in Victoria (33% survival), as comprehensively researched and reported¹⁹;
- Drainage and high nutrient runoff from the proposed development will alter soil nutrient status, favour weeds and lead to long term decline in CPW areas and *Pimelea* habitat;
- This proposed loss of *Pimelea spicata* would be in addition to other significant populations being lost to development in western Sydney, e.g. Western Sydney Airport site;
- Should the development proceed, appropriate offsetting in compensation for the loss of *Pimelea* (with tangible local scale conservation gains) should be mandated at the very minimum.

We submit that the proposed development does impact unacceptably on critically endangered Cumberland Plain Woodland and the endangered *Pimelea spicata*, and that an independent and comprehensively researched Species Impact Statement is required.

¹⁹ Biosis (2014) *Review of Spiny Rice-flower translocations in Victoria*
<https://www.trustfornature.org.au/images/uploads/conservation/Special-conservation-funds/Pimelea-Trust/Pimelea-Translocation-Assessment-Report-06-03-14.pdf>

Our above analysis has covered many matters of due process and reasons for refusal of this DA, which have been summarised at the end of each section. It was impossible from the time that we were alerted by Studley Park neighbours of this DA and close of the exhibition period to read, let alone analyse, all of the 34 supporting documents. It is quite possible that there is more missing information or more reasons for refusal.

We must conclude that we do not understand the timing and scope of its public exhibition and why it was exhibited without key information, such as an endorsed CMP.

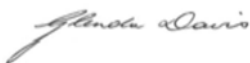
The community is keen to see restoration of Studley Park, which of course includes retention of its cultural landscape, but close examination of this DA reveals that it does not meet community expectations.

We request that this DA be refused.

We also request and look forward to a new DA that:

- is exhibited using CPP principles
- includes a summary explanation in plain English of what is proposed and its potential impacts including on landscapes, community land and endangered species. This would help the community appreciate what is proposed and inform their choice to make a submission and have input into the assessment;
- addresses and overcomes the identified shortcomings of this DA and demonstrates compliance with all relevant policies and state and national legislation.

Yours faithfully,



Glenda Davis

President