

Camden Residents' Action Group

Incorporated

Camden – Still a Country Town

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General Manager
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30 October 2024

Dear General Manager,

Re: Planning Proposal (PP 2020/1/1)

5 Smalls Road, Grasmere

Lot 201 DP 734620

We again object to this Planning Proposal (PP) for seniors' housing at 5 Smalls Road located in rural Grasmere. Our reasons for objection remain largely unchanged from those in our submissions dated 22 April 2022 and 8 October 2020. These are appended for inclusion with this submission to reduce repetitiveness of detail. We acknowledge the private sector's role in providing much needed seniors' housing, particularly given Australia's aging population. From a community perspective, it is all about how and where it is developed, what is lost, whether it accommodates aging in place and looking beyond the profit motive.

Unfortunately, what is proposed here is not at all acceptable to residents and the community more generally.

Residents of Grasmere are extremely upset and emotionally drained by this drawn out and highly inappropriate proposal that seeks to intrude into the quiet enjoyment of their homes and destroy rural amenity. The proposed density and activity on the site are extraordinary: a 90-place day care centre, retail, supermarket, and health care centre, 154 standard independent living units, 75 assisted living apartments, and recreation building with 87 premium independent living units.

The people of Camden value their rural surrounds and scenic landscapes, it is part of Camden's history and identity. The proposal to undertake land-forming operations on the site and develop

such an urban enclave creates an anomaly within the rural area and impinges on the scenic qualities that are renowned to Camden.

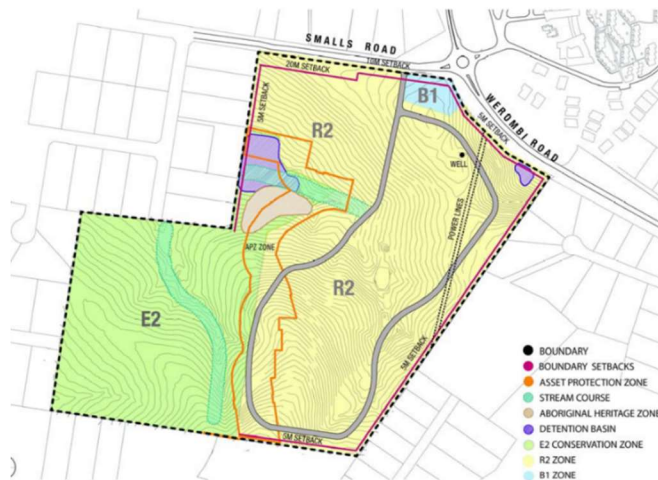
As well as the detailed reasons in our appended objections, we emphasise the following issues.

Lack of documentation

Scale model: Surely a scale model of the proposal within the landscape should have been exhibited, which would go some way towards demonstrating transparency and good faith with the community. It is impossible to visualise, especially due to intended on site cut and fill. This would seem a no-brainer given the very significant community opposition, the long period that this proposal has been in the pipeline and the times it has been sent back to the drawing board. We suggest this should be done immediately and the exhibition re-opened.

Ecological impacts: A Biodiversity Development Assessment Report (BDAR) remains elusive. The impacts of the proposed development on the endangered Cumberland Plain Woodland, as well as other flora and fauna, are not clear. Assurances about protection are required.

Aboriginal heritage: Assurance is needed that Aboriginal archaeological findings as shown in the diagram from 2020 Architectural Plans below are to be protected and that earlier plans for them are not lost through the iterations of the proposal.



Source:
Jackson Teece 7 May 2020
Architectural Plans
5 Smalls Road Grasmere

Economic impact on Camden Town Centre: another supermarket and more retail on the site so close to businesses in Camden is not good news for them or the wider community. The Draft Development Control Plan for 5 Smalls Road, Grasmere lists it as a large neighbourhood centre, of similar order of magnitude to that at Spring Farm. The old town is becoming the cultural hub of the area but to remain vibrant and sustainable it cannot afford to lose every day economic activity to this nearby neighbourhood centre. An unbiased economic study of the impact on Camden town centre is required.

Direct issues for Grasmere residents

Many issues have been covered before and will be front of mind of Grasmere residents who would live with them every day, including:

- Gross exceedance of the height limit and density. The site is currently zoned low density residential (R2), environmental conservation (E2) and neighbourhood centre (B1). The proposal to spot adjust the zoning of the site to accommodate many buildings of 3, 4, 5 and 6 storeys when the LEP building height limit of the area is 9.5m is unnecessary and excessive.

The use of RLs in the mapping is confusing. As noted above a scale model is required. The argument that the undulating topography will be utilised to mitigate the impact of this over-height urbanisation of the site is not demonstrated.

Seniors' housing does not require buildings that exceed 9.5m or two storeys. Many would argue that seniors need less reliance on elevators, more human scale accommodation and at least some personal open space. No justification of the excessive heights and number of storeys has been provided.

- Maintenance of privacy and sunlight for some households near the site are likely issues that needs close examination.
- Traffic will present congestion and safety issues with only one point of ingress and egress. This is clearly insufficient with so many living units, a 90-place child care centre and retail etc and vulnerable people who are likely to need emergency services more than the general population.
- Light through the night and noise pollution created by such a high and dense development will be unpleasant and incongruous in the rural area.

People expect reasonable certainty in future direction, policies and plans from government. Long-term and new residents depend on policies and planning instruments in the public domain to make their life decisions. They are rightly shocked that they must contend with this proposal at all, as it is contrary to such information and policies and strategic plans of Council and NSW government.

Policies and strategic planning

NSW and Council's plans for the future to ensure quality of life through provision of diverse housing and easy access to necessary services for all, whilst designating productive and natural areas to be protected from urbanisation for the common good, are consistent.

This proposal lacks social licence because it is inconsistent with high level strategic direction. It is inconsistent with policies and strategies to balance projected population growth with sustainable development and the natural environment.

State Policy: Seniors' Housing

NSW 2021 State Environmental Planning Policy (SEPP) *Housing for seniors and people with a disability* (Part 5) includes development standards (s84 (2) (c)) in areas where residential flat buildings are not permitted. Building height is limited to 9.5m, the same as applying to R2 Low density residential zone over most of the site. It seems that this PP would require a special dispensation in Camden LEP to allow residential flat buildings of the heights and storeys as proposed. The SEPP, with its 9.5m height limit, obviously does not envisage that this type of dense and over-height development would be proposed in a rural area. This PP is a stand out anomaly in the planning system.

When a proposal is not meeting SEPP standards, it almost certainly does not have a social licence nor meet community expectations.

Strategic Plan: Metropolitan Rural Area (MRA)

The site of the proposed urban development is within the Metropolitan Rural Area (MRA) as set out in the 2018 Western City District Plan (WCDP) which is aligned with Camden's 2020 Local Strategic Planning Statement (LSPS)¹. The LSPS (p. 12) cites a key component of the WCDP relating to Camden as *Recognising the value of the Metropolitan Rural Area and requiring its protection*. The MRA and WCDP are currently under review² by the Western Sydney Planning Partnership³. A review of their documents and working papers evidences that Camden's MRA remains highly valued and worthy of protection. As shown in the structure plan below the site of this proposal is categorised for Tourism and as Scenic Land (MRA).

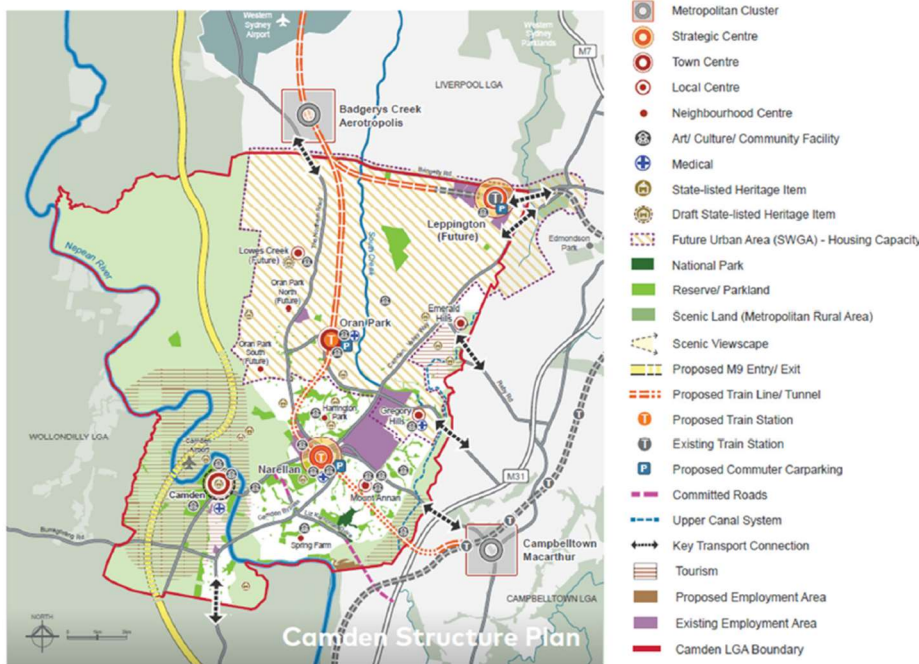
¹ Camden Council March 2020 *Local Strategic Planning Statement* Available at <https://www.camden.nsw.gov.au/assets/Uploads/adopted-LSPS.pdf>

² See <https://theparks.nsw.gov.au/wspp/projects/>

³ Comprised of Blacktown City Council, Blue Mountains City Council, Camden Council, Campbelltown City Council, City of Liverpool, Fairfield City Council, Hawkesbury City Council, Penrith City Council, Wollondilly Shire Council, NSW Department of Planning and Environment, Greater Cities Commission, Transport for New South Wales, and Sydney Water.

There is no suggestion in the review documents⁴ that Camden’s MRA is expected to change. There is every indication that the LSPS will continue as is with urban development remaining focussed within the boundary of the South West Growth Area (p. 38) and that protecting Camden’s rural lands and landscapes will remain a priority (p. 72).

Camden Structure Plan (refer to appendices for full size map):



Source: Western Sydney Planning Partnership July 2023 Working Paper for Western Sydney District Plan Review⁵

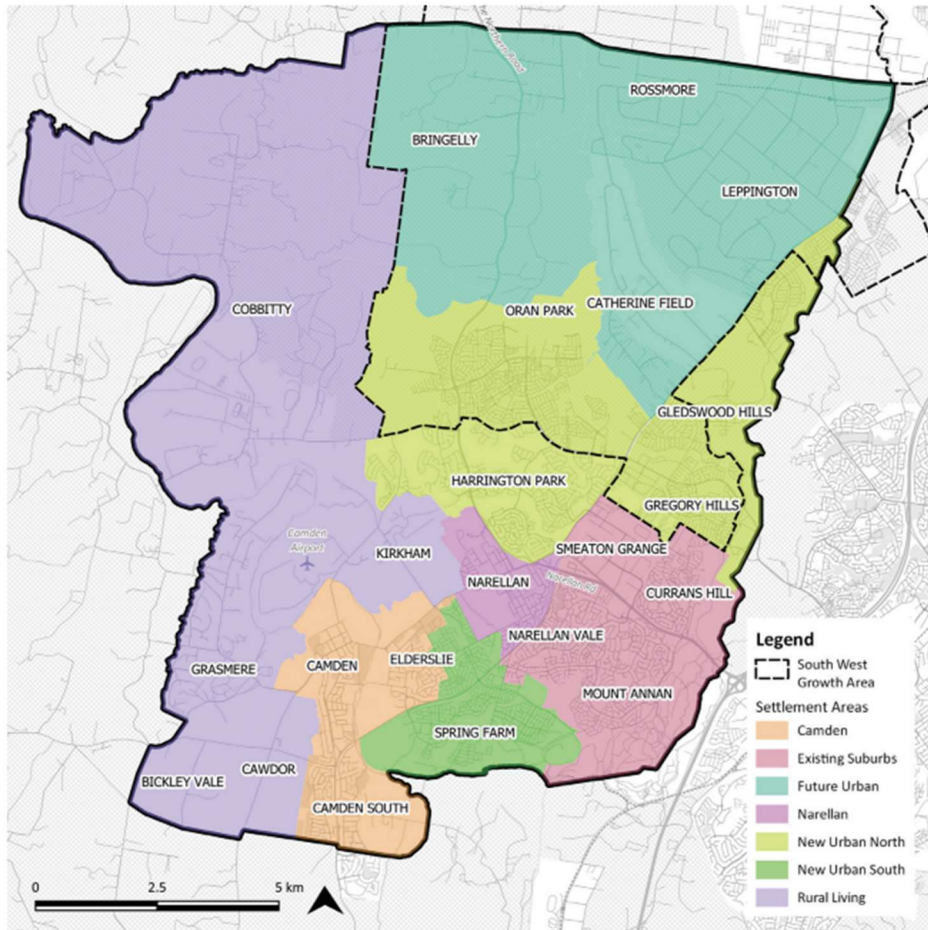
Strategic Plan: Housing

Council’s 2021 Local Housing Strategy (LHS)⁶, aligned with the WCDP, sets out planning priorities to 2036 including providing housing supply, choice and affordability, with access to jobs, services and public transport. Consistent with other strategic planning, this Strategy’s settlement map shows that Grasmere is not planned for urban development, but for rural living. Such planning provides housing choice and protects rural lands and landscapes, which also contributes to the economics of tourism.

⁴See documents at <https://theparks.nsw.gov.au/wspp/projects/>

⁵ Western Sydney Planning Partnership July 2023 *WORKING PAPER for Western Sydney District Plan Review* <https://theparks.nsw.gov.au/wspp/projects/>

⁶ Camden Council October 2021 *Camden Local Housing Strategy* Available at <https://www.camden.nsw.gov.au/assets/Uploads/FINAL-LHS-Website-Version.PDF>



Source: Camden Local Housing Strategy Figure 2.11: Camden LGA Settlement Area Map

The LHS (3.3.12) refers to the LSPS and Rural Lands Strategy⁷ and reiterates that rural land will not provide any planning capacity in meeting the LGA’s housing targets; Council’s policy is to protect existing rural land and contain residential development within urban areas in line with the direction set in regional planning and the WCDP. As stated in the LHS at Priority 5 *Addressing Housing Affordability*, the housing needs of the community are diverse and the objective is to *support housing that encourages affordability across the housing continuum*. The strategic plan is to take advantage of the ample opportunity to provide high density seniors’ housing, as in this proposal, in the urban areas shown on the map without compromising the rural areas and landscapes which are highly valued by all residents and visitors.

Even before covid and the housing crisis became fully apparent, affordable housing was of course an issue to be addressed. Camden’s housing strategy (2.5.1) acknowledges that the unmet demand of households who require social and affordable housing is significant. The unmet

⁷ Camden Council 2018 *Rural Lands Strategy* Available at <https://www.camden.nsw.gov.au/assets/pdfs/Council/Plans-and-Strategies/ADOPTED-Rural-Lands-Strategy-as-amended-November-2018-pdf.pdf>

demand no doubt has increased substantially since 2021. The Western Sydney Planning Partnership is developing an Affordable Housing Contribution Scheme⁸.

So why, if this proposal is to have any planning merit at all, does it not address the social issue of affordable housing? It MUST do so to be in line with community expectations and the strategic direction of government.

Instead, it is consistent with the boldness of this proposal that it makes no provision for affordable housing. There is little in the way of social argument for this development, the main driver is economic.

Plan: Floodplain Risk Management

February-March 2022 saw an unprecedented flooding disaster in NSW. Further flood events followed during the year, with four experienced in Camden. The 2022 NSW Flood Inquiry and government response emphasised the need for managing flood risk in planning decisions⁹.

Councils also undertook additional studies to better understand the local impacts of rain events and updated their flood management policies. Camden's Nepean River Floodplain Risk Management Study and Plan (FRSMP)¹⁰ includes a section (10.3.1) on flooding of access roads, a map (Figure 10-2) and a table of water depths (Table 10-2), copied in below.

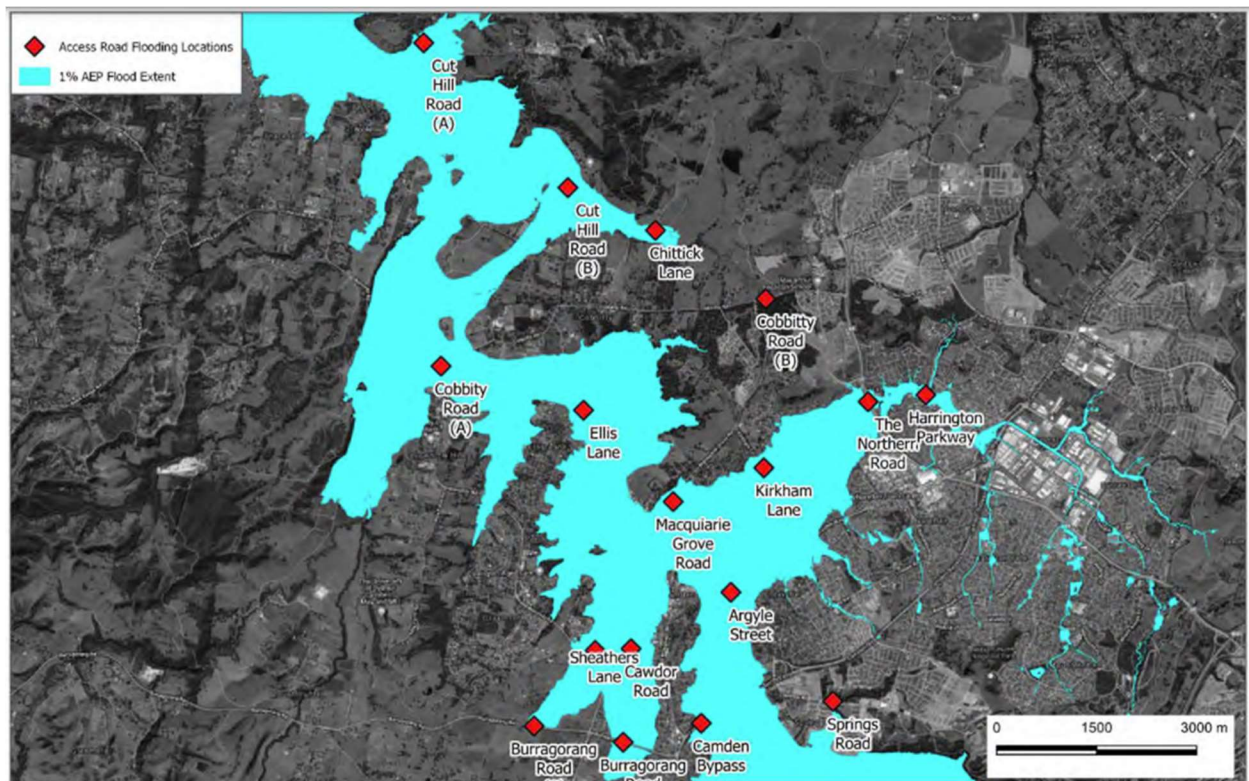
The analysis in the FRMSP clearly shows the problem of flooding of access roads to the site. It is also likely that the density of the proposed development would increase run-off and exacerbate water depths and the well-known local drainage problems.

The FRSMP (10.3.1) states that *access is considered lost when depths exceed 0.2m and that the following table highlights a key flooding issue... Due to the relatively large flood depths that occur in even minor events, many roads experience loss of access in the 20% AEP event, with overtopping depths ranging from 0.1 m to 2.8 m. Camden Bypass is the only crossing that is accessible for up to the PMF event.*

⁸ Western Sydney Planning Partnership 22 May 2024 *Version 1 Draft Western Sydney Regional Affordable Housing Contribution Scheme* Available at <https://theparks.nsw.gov.au/wspp/projects/>

⁹ NSW Government 1 March 2023 *Update on addressing flood risk in planning decisions* Available at <https://www.planning.nsw.gov.au/sites/default/files/2024-03/planning-circular-ps-24-001-update-addressing-flood-risk-planning-decisions.pdf>

¹⁰ Cardno 13 November 2022 *Nepean River Floodplain Risk Management Study and Plan* Available at <https://www.camden.nsw.gov.au/assets/Uploads/Report-Body-Nepean-River-FRMSP-Stamped2.PDF>



Source: Cardno 2022 Nepean River FRMSP

Table 10-2 Access Road Flood Depths (m)

ID	Location	20% AEP	5% AEP	1% AEP	PMF
A	Cut Hill Road (A)	0.3	3.7	6.3	13.6
B	Coates Park Road	-	-	0.1	1.3
C	Cut Hill Road (B)	2.3	6.0	8.0	14.5
D	Chittick Lane	-	-	1.1	7.6
E	Cobbitty Road (B)	0.1	0.1	0.2	0.8
G	Ellis Lane	0.9	4.5	6.6	11.1
H	Macquarie Grove Road	7.6	11.0	12.6	16.4
L	Argyle Street	2.5	5.5	7.1	11.0
I	Kirkham Lane	3.0	6.2	7.9	11.8
Q	Camden Bypass	-	-	-	-
P	Burragorang Road (B)	-	-	-	2.3
O	Burragorang Road (A)	-	-	-	2.6
F	Cobbitty Road (A)	4.5	8.2	10.1	15.1
N	Sheathers Lane	3.6	7.3	8.9	12.6
M	Cawdor Road	2.8	6.4	8.0	11.8
J	The Northern Road	-	-	-	1.4
K	Harrington Parkway	-	-	-	1.4
R	Springs Road	-	-	-	0.2

Source: Cardno 2022 Nepean River FRMSP

The FRSMP highlights the risks of concentrating so many vulnerable people in this location. Services are cut, emergency, particularly ambulance services may not be able to attend and staff may not make it to work.

In conclusion we see no net social merit in this proposal. As covered above this proposal is not consistent with Grasmere's low density residential zoning or high-level strategic direction for the area.

A proposal is always highly questionable when it seeks to challenge and overturn existing policies and strategic plans based in research and consultation with the community.

We urge Council to refuse this planning proposal.

Yours sincerely,



Glenda Davis

President

Camden Residents' Action Group

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General Manager
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22 April 2022

Dear General Manager,

Re: Planning Proposal (PP 2020/1/1)
5 Smalls Road, Grasmere
Lot 201 DP 734620

We object to this Planning Proposal (PP) for 5 Smalls Road which is located in rural Grasmere.

The site is currently zoned low density residential (R2), environmental conservation (E2) and neighbourhood centre (B1). The proposal seeks to spot adjust the LEP building height limit of 9.5m in order to accommodate a variety of buildings including a residential aged care facility, independent and assisted living units, villas, dementia cottages, a health centre, a child care facility and retail shops. A range of building heights, including 13m, 16m, 20m and 24m is proposed as well as the existing height limit of 9.5m.

Whilst we acknowledge the positive changes made to the earlier proposal for the site (PP 2020), many of our objections remain similar to those included in our objection dated 8 October 2020. This objection is appended for inclusion as it reflects the history of this PP and covers in more detail the environmental impacts and concerns of residents that are not be addressed by the changes.

As with the 2020 exhibition, we have again found there is inadequate explanation, justification and documentation provided in this 2022 exhibition to fully establish the level of and commitment to conservation of Aboriginal heritage and Cumberland Plain Woodland. Any change from the PP 2020 also cannot be properly ascertained and judged.

Key reports, apparently lodged with the withdrawn 2020 site preparation DA (2020/348), are not publicly available. These include those on environmental impacts of tree clearing and impacts on flora and fauna, bulk earthworks including cut and fill and potential levelling of the site and heritage assessments. The conservation outcome of proposed bulk earthworks is completely unexplained.

Also missing is the Biodiversity Development Assessment Report (BDAR) which we assume addresses removal of the endangered Cumberland Plain Woodland. How much sensitive environmental woodland is to be removed and impacts on fauna and flora remain questionable, yet clear answers are of high concern to Grasmere residents and the community generally.

Also missing is the *Retail Needs Assessment prepared by Macroplan dated August 2020* which we assume addresses the adjustment of the B1 boundary.

To be meaningfully consulted and to evaluate the environmental, social and economic impacts of PP 2020/1/1, the community at least needs access to these reports.

Community feedback to us, especially from Grasmere residents, is that the neighbourhood centre, development density and building heights remain insensitive and inappropriate within Grasmere.

The people of Grasmere have also expressed distress about the lack of opportunity to comment on the 2022 exhibition. They are concerned about:

- its submission window around Easter time and school holidays which limits community involvement. For many this a first opportunity to travel and arrange family events because of the covid pandemic;
- the lack of opportunity to arrange a public meeting, as was held for the earlier exhibition;
- the number of people who are being found at this late juncture to be unaware of the new proposal and concern that there is no notice on the site;
- the expectation that all surrounding residents are computer literate or have computers and internet to access information;
- that no business owners in Camden township were informed despite the obvious commercial implications for many of them.

To avoid too much repetition from our 2020 objection, this objection mainly focuses on the building heights above the LEP standard of 9.5m and explicit amendments to PP 2020: an adjustment to the boundary of the neighbourhood centre zone (B1) to increase its area with a building height of 13m and the proposed development controls, specific to the site, that are suggested to be included in a special section of the Camden DCP.

Background

A Planning Proposal¹ dated 17 November 2017 (**PP 2018**) was endorsed to go to Gateway at Council's meeting of 8 May 2018 subject to the resolution of an outstanding objection from the NSW Office of Environment and Heritage. The NSW Department of Planning amended Camden Local Environmental Plan (LEP) map on 21 December 2018 to give effect to a spot rezoning of the site².



PP 2018 Indicative Plan Layout (IPL) (p 6)

¹ CAMDEN COUNCIL PLANNING PROPOSAL Amendment No. 16 – Carrington (5 Smalls Road, Grasmere) November 2017 Available at <https://www.camden.nsw.gov.au/assets/pdfs/Council/Business-Papers/2018/BP-attach-8-May-2018-ORD01.pdf>

² NSW Department of Planning *Camden Local Environmental Plan 2010 (Amendment No 16) [NSW] Published LW 21 December 2018 (2018 No 758)* Available at <https://www.legislation.nsw.gov.au/view/pdf/asmade/epi-2018-758>

The approved rezoning change was from R5 Large Lot Residential to R2 Low Density Residential (18.5ha), B1 Neighbourhood Centre (4000m²) E2 Environment Conservation (8.4ha). The PP 2018 Indicative Plan Layout above shows the current zones with R2 shaded brown, B1 shaded blue and E2 shaded green.

The rationale provided for this rezoning was to facilitate seniors living dwellings in the form of Independent Living Units (duplexes, townhouses and two storey apartments) and Residential Aged Care Facility (R2), services ancillary to seniors living and also accessible to the public, including a medical centre, local shop, café/restaurant, childcare centre, and wellness centre (B1) and a conservation area to ensure conservation of critically endangered vegetation and an area containing Aboriginal cultural heritage material (E2).

None of these land uses require buildings that exceed 9.5m or two storeys. PP 2018 did not apply to exceed the 9.5m height limit of the area and stated:

The current maximum height of buildings will restrict development to a maximum of two storeys and ensure that the new development will be in keeping with the surrounding development. Lot size controls will not be amended as it is not intended that the site be subdivided. (p 7)

The Business Paper recommendation accepted by Council in endorsing the rezoning stated that:

It is not proposed to amend the current Height of Buildings (9.5m) applying to the land. This will ensure that the maximum building height is consistent with the existing residential development in Grasmere which is also 9.5m.

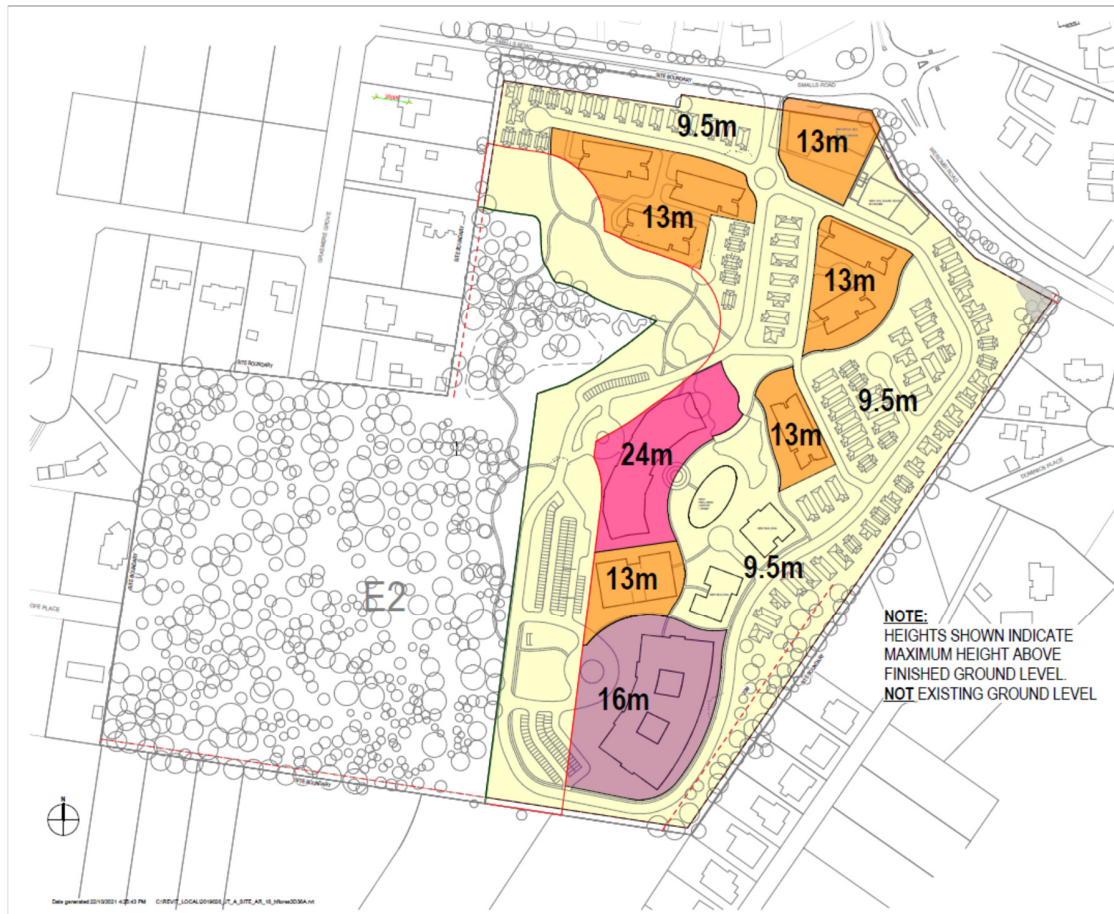
On 29 July 2020, another Planning Proposal Request, dated May 2020, was lodged (**PP 2020**) to increase the maximum height control from 9.5m up to 24m. It is understood that the community expressed significant opposition to the proposal especially the height exceedance.

On 8 October 2021, PP 2020 was determined as withdrawn, along with an accompanying concept DA (2020/524)³.

³DA 2020/524 Concept development application for seniors housing development over 6 stages comprising of: - Residential Care Facility with 128 beds across 3 storeys; - Apartment style self-contained dwellings. Approximately 259 units with 2-3 bedrooms across 12 buildings between 3-5 storeys including recreation centre consisting of lounge, dining, cinema, salon, reception, function rooms, auditorium and back of house areas; - Single storey wellness centre consisting of pool, gym, physio, lounge and care room; - Single storey villa style self-contained dwellings. Approximately 82 units with 2-3 bedrooms; - Three storey retail and health centre building, including specialist medical rooms for visiting doctors and dispensary; - Single storey child care facility for approximately 90 children; - Single storey dementia cottages. Approximately 24 rooms across 2 buildings; and - Estate entrance signage, landscaping, internal private roads, services, stormwater, civil and associated works. Construction of Stage 1 including bulk earthworks, tree clearing and associated site preparation works to create suitable building platforms for future development proposals Available at <https://planning.camden.nsw.gov.au/Application/ApplicationDetails/010.2020.00000524.001/>

On 9 September 2020 a DA (2020/348)⁴ for preparatory work to create suitable building platforms was likewise determined as withdrawn. No documentation to indicate the extent of the earthworks and land-forming is publicly available.

The Planning Proposal Request now before us, similarly dated May 2020 and first exhibited on 28 March 2022, notes an amendment date of October 2021 (**PP/2020/1/1**). The maximum height at 24m is unchanged.



Source: Jackson Teece 22 October 2021 Maximum Height of Buildings Map (PP 2020/1/1)

⁴DA 2020/348 Bulk earthworks, tree clearing and associated site preparation works to create suitable building platforms for future development proposals. Available at <https://planning.camden.nsw.gov.au/Application/ApplicationDetails/010.2020.00000348.001/>



Figure 2: Heights of buildings

Source: Michael Brown Planning Strategies May 2020 Planning Proposal Request (PP 2020)

PP 2020/1/1 and PP 2020 height maps are shown above.

A comparison shows a main change in the north of the site with the replacing of large over-height buildings, except for the 13m building at the roundabout, with many smaller ones at 9.5m.

We note that building heights are above finished ground level, not existing ground level.

Objections

BUILDING HEIGHTS

Inconsistency with Greater Sydney Commission (GSC) and Camden plans and strategies, including inappropriate location in the Metropolitan Rural Area (MRA)

Like all of Grasmere, the site is located within the MRA. The GSC in the Greater Sydney Region Plan- A Metropolis of Three Cities⁵ has designated the MRA to be unsuitable for urban development, with only parts specifically identified as proximate to Western Sydney Airport potentially able to be further investigated. This direction is reiterated in the GSC Western City District Plan⁶ which lists the following action (79) *Limit urban development to within the Urban Area, except for the investigation areas at Horsley Park, Orchard Hills, and east of The Northern Road, Luddenham.*

The GS Region Plan- A Metropolis of Three Cities Objective 29 (p. 160) states that the MRA contains scenic and cultural landscapes which are important to the history and character of Greater Sydney, that are popular with tourists and visitors, provide opportunity to live and work in a rural town and conserve and enhance cultural heritage.

Importantly this GSC objective further states: *Urban development is not consistent with the values of the Metropolitan Rural Area. This Plan identifies that Greater Sydney has sufficient land to deliver its housing needs within the current boundary of the Urban Area, including existing Growth Areas and urban investigation areas associated with the development of the Western Sydney Airport* (p. 160).

The Western City District Plan states under Sustainability Objective 29, protection and enhancement of environmental, social and economic values in rural areas, that urban development in the MRA will only be considered in the urban investigation areas identified in Region Plan. Grasmere is excluded.

We therefore refute the PP Report (5.1.2) claim and argument of the PP to increase the height limit as being consistent with the GSC objective of providing increased housing opportunities.

Increasing the height limit of structures on the site does represent urban development in the MRA in violation of the GSC plans.

⁵ Greater Sydney Commission June 2018 *GREATER SYDNEY REGION PLAN A Metropolis of Three Cities Objective 19. p. 161*

⁶ Greater Sydney Commission March 2018 *Western City District Plan* Available at <https://www.greater.sydney/western-city-district-plan/sustainability/city-its-landscape/better-managing-rural-areas>

The claim of consistency of PP 2020/1/1 with the GSC plans and local strategies, mandated to align through the LEP Review⁷ with the GSC Plans, is further refuted as follows:

- Planning Priority W5 of the Western City District Plan states in relation to housing supply (Objective 10) that: *Additional capacity for housing supply is well progressed across much of the District, including the State-led projects through the Growth Areas and Planned Precincts* (p. 41).
- Camden’s Local Strategic Planning Statement⁸ requires protection of the MRA (p. 12) and adopts the principle that new greenfield housing growth is wholly contained within the South West Growth Area (SWGA) (p. 40).
- Camden’s Local Housing Strategy⁹, notes the potential for this site in Smalls Road as an extension to Carrington and states that the majority of all housing growth is to be accommodated within the precincts of the SWGA with these greenfield sites offering unique opportunities for a range of appropriate seniors housing (p. 96). There is no indication that the development would not be expected to be compliant with LEP 2010 in relation to its zoning of R2 and 9.5m height limit.

PP Report 2020/1/1 (Appendix E) in assessing the ministerial direction for rural lands states: *The Planning Proposal Request has had regard to the Metropolitan Rural Area requirements as detailed in the Report (5.1.2). However, the land is zoned R2 Low Density Residential.*

Whilst this statement would seem to refer to an argument that R2 zoning allows MRA values¹⁰ to be ignored, Section 5.1.2 of the Report simply states:

Importantly, despite being in the rural conservation focussed Metropolitan Rural Area (MRA), the subject land is contiguous with rural residential development and fulfils the nominated criteria of limited expansion of such form development; namely:

“Limited growth of rural residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA”.

⁷ Camden LEP Review Available at <https://www.camden.nsw.gov.au/strategic-planning/lep-review/>

⁸ Camden Council Local Strategic Planning Statement March 2020 Available at https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/Local+Strategic+Planning+Statements/LSPS+2020/15278+Camden+Council+LSPS+Update+v05FA+%2428MedRes%2429_S-1161.pdf

⁹ Camden Council Local Housing Strategy 2021 Available at <https://www.camden.nsw.gov.au/assets/Uploads/0-FINAL-LHS-Website-Version.PDF>

¹⁰ AgEconPlus 14 February 2017 *Values of the Metropolitan Rural Area of the Greater Sydney Region Report* Available at https://www.planning.nsw.gov.au/~/_media/Files/DPE/Reports/values-of-the-metropolitan-rural-area-of-the-greater-sydney-region-report-2017-02-14.ashx

The second paragraph of this quote is from the GS Region Plan- A Metropolis of Three Cities¹¹, Objective 29 under *Rural Lands*. It continues by stating

This could include the creation of protected biodiversity corridors, buffers to support investment in rural industries, and protection of scenic landscapes.

It is difficult to see how PP 2020/1/1 is consistent with GSC Region and District planning and therefore how it could be acceptable for Gateway determination because:

- The site is within the MRA and NOT within the Urban Area or designated investigation areas. An added indication that MRA values are to be observed was the amendment made on 29th July 2020 to SEPP 2004 Seniors Housing to exclude its operation in MRAs¹².
- The proposed height exceedance of the limit of 9.5m in the R2 zone is very considerable. It only compares with height limit of the B2 zone of Oran Park which is within the SWGA.
- The multi-storey character of many of the buildings cannot be described as *limited growth of rural residential development*. It is clearly urban expansion which the GSC states is not consistent with the MRA.

We draw attention to the fact that community opposition¹³ to inappropriate expansion of aged care/seniors into the rural areas around Hornsby resulted in those areas being excluded from operation of the 2004 and 2021 SEPPs to overrule local planning provisions.

¹¹ Greater Sydney Commission March 2018 Region Plan A Metropolis of Three Cities *Environmental, social and economic values in rural areas are protected and enhanced Objective 29* Available at <https://www.greater.sydney/metropolis-of-three-cities/sustainability/city-its-landscape/environmental-social-and-economic>

¹² On 26 November 2021 the 2004 SEPP was replaced by the 2021 Housing SEPP Available at <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714>

¹³ see <https://www.2gb.com/hornsby-mayor-vows-to-fight-inappropriate-development-at-dural/>

Inadequate explanation, justification and documentation

The community which relies on the environmental planning instruments in making their own personal and investment decisions is entitled to be provided with documentation that fully explains the impact of changes to them.

The Environmental Planning and Assessment Act (s3.33) requires explanation and justification for making changes to the LEP. It is reasonable that the exhibition of the PP should also contain an explanation of its intended objectives and outcomes.

We find no explanation or justification for the proposed building heights and consequent density and intensity of use of the R2 and B1 zones in the documentation.

The intended seniors housing, aged care facilities, child care, medical centre and retail facilities can all be readily accommodated in buildings of 9.5m or less- as they are elsewhere in the LGA.

We find no explanation or justification for the increasing the height limit from 9.5m to up to 24m in the documentation.

The maps that are provided include the notation: “*Heights shown indicate maximum height above finished ground level. Not existing ground level*”.

We find this unacceptable. The standard LEP¹⁴ defines building height as

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

Our reading of Land and Environment Court decisions on height are consistent with this definition and present the view that height is measured from what is normally perceived as natural ground level.

The Statement of Environmental Effects¹⁵ (p. 49) submitted with concept DA of PP2020 stated: *A key strategy in the masterplan siting of buildings has been to locate and set buildings down into the landform. In combination with rising landform to boundaries having buffer vegetation, and perimeter screen planting generally, there is limited visibility from neighbouring sites and streetscapes.*

¹⁴ Available at <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2006-155a#dict>

¹⁵ Michael Brown Planning Strategies May 2020 *Statement of Environmental Effects to Accompany Concept Development Application under Section 4.22 of the Environmental Planning & Assessment Act 1979, as amended Lot 201 in DP 734620, No 5 Smalls Road, Grasmere (Carrington Park)*

The impact of the proposed building heights is certainly not clear to the public. Yet it is this impact on the MRA and scenic landscapes that is all important to the community and to residents of the surrounding area. As noted under *Background*, a DA (2020/348) for preparatory work to create suitable building platforms was submitted and later withdrawn, with no documentation being publicly available.

The site is not level, and its topography could be a factor in the visibility of aberrant building heights. No site survey map is provided to show the ground levels, or building platform levels. In relation to s3.33 referred to above, under s3.33(2)(d)) maps are required to contain *sufficient detail to indicate the substantive effect*. The land-forming and earth moving to create intended building platforms needs explanation, as does its impact on the landscape and of the finished height of buildings within that landscape.

Non-compliance with height limit objectives of SEPP Housing and LEP R2 Low Density Residential Zone

PP 2020/1/1 seeks height limit changes from 9.5m up to 24m for the site areas zoned R2 Low Density Residential which has a height limit of 9.5m.

Whilst the SEPP can override local planning provisions both the 2004 Seniors Housing SEPP and 2021 Housing SEPP specify a height limit of 8m and 9.5m respectively. It is unclear which SEPP should apply to this PP. The PP2020/1/1 Report, which only refers to the 2004 SEPP, has an amendment date of October 2021 and the 2021 Housing SEPP came into force on 21 September 2021.

However neither SEPP, which refer specifically to the R2 Low Density Residential Zone, support the building heights proposed.

BOUNDARY ADJUSTMENT OF B1 ZONE

Inconsistency with the objectives of LEP B1 Neighbourhood Centre Zone

This amended PP seeks to increase the height of the entire B1 zone to 13m and to increase its area, more than an acre, not only to accommodate the parking area, but also to include a 1000-1400m² supermarket as well as the originally proposed health centre and retail shops.

The objectives of the B1 zone include

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To encourage mixed use developments to present an active frontage to the street by locating business, retail and community uses at ground level.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

What is proposed is not small scale. At 13m it is of at least three storeys, a storey higher than the commercial centre of Camden and of greater bulk.

The facilities will not necessarily be at ground level.

The size and scale are even more incongruous than proposed in PP 2020 and would present as an even greater aberration in the MRA, the low-density residential surrounds and in the larger and low-scale neighbourhood catchment of Camden township.

There is one entry access from Smalls Rd, very close to the roundabout, with a right turn to exit onto Smalls Rd. Traffic, which will include heavy vehicles, will be increased on local roads and on the roundabout. The access is shared with residential buildings and the child care centre in the R2 zone.

The B1 zone will create conflict with the adjoining zones on the site itself and with the surrounding residential area. The B1 zone's visual impact, 24-hour lighting on the outside of the buildings, increased traffic and noise is not compatible with resident amenity.

Inadequate explanation, justification and documentation

The written description of the boundary change of B1 is imprecise. We find that the maps provided in the landscape plan, master plan and height of buildings map do not adequately define the zone boundaries that result from the proposed amendment to the area of the B1 zone, for which an entirety height limit of 13m is proposed.

The maps do not indicate the substantive effect of the boundary change as required under s3.33(2)(d) of the EP & A Act.

The B1 zone is located on a signature site at the roundabout of Smalls and Werombi Roads. It will be highly visible, and this change to the sense of place of Grasmere and the Camden area will be of major concern within the community.

The imposition of a large, prominent and unexpected centre in the streetscape and landscape needs to be justified.

The 2019 DCP already contains a specific section (Schedule 11) on Grasmere¹⁶. We note that the section (11.3) for Centre Development Controls is blank indicating that it was not envisaged that this area would need its own service centre and would mainly rely on Camden Town Centre.

The proposed neighbourhood centre should comply with DCP 5.2 General Controls Applying to all Business Zone Areas which includes the following objective (a)

Ensure that the retail floor space within the Camden LGA does not undermine the potential of existing and proposed centres within the region

We find no justification or explanation as to how the size and number of businesses proposed for the B1 zone would not undermine nearby Camden Town Centre.

¹⁶ Schedule 11 Available at <https://dcp.camden.nsw.gov.au/schedules/grasmere/>

DCP SITE-SPECIFIC DEVELOPMENT CONTROLS

The 2019 DCP already contains many specific provisions covered in the Draft Development Control Plan Controls Schedule 13 – Carrington Park (Smalls Road) and also a specific section (Schedule 11) on Grasmere¹⁷.

We are not comfortable that no analysis has been provided to compare DCP existing controls with those in the draft. We do not consider that it is appropriate that the Carrington Park should be considered an island potentially subject to different or weakened rules to that applying to other development in the LGA.

At the very least an analysis should be undertaken to ensure that all land use controls are at least as strong as those in the DCP, particularly:

- 2.16.1 Aboriginal Culture and Heritage*
- 2.4 Trees and Vegetation*
- 2.5 Environmentally Sensitive Land*
- 2.6 Riparian Corridors*
- 2.7 Bush Fire Risk Management*
- 2.10 Development near Camden Airport*
- 2.19 Landscape Design*

For instance, the objectives for Historical Archaeology in the draft (S13.4) are

- 1. Ensure conservation or recording of historical archaeological items where required.*
- 2. To ensure that the Aboriginal and European sites are interpreted and incorporated where possible.*

This is not the same as or consistent with the objective of DCP 2.16.1: *To manage Aboriginal heritage values to ensure enduring conservation outcomes.*

Similarly, an objective of Vegetation Conservation and Bushfire Risk Management (S13.3) is

Ensure the protection and enhancement of an existing large stand of Cumberland Plain Woodland vegetation in the south-west section of the site (E2 Environmental Conservation lands).

¹⁷ Schedule 11 Available at <https://dcp.camden.nsw.gov.au/schedules/grasmere/>

In comparison, objectives of DCP 2.5 include

- a. *Protect, manage, enhance and restore as much environmentally sensitive land as possible;*
- b. *Protect and enhance native vegetation for its aesthetic, cultural and heritage values and to retain the unique visual identity of the Camden landscape;*
- c. *Maintain and enhance ecological processes necessary for the continued protection of environmentally sensitive land as well as encourage the recovery of threatened species, communities or populations and their habitats.*

Whilst the E2 zone is a protected area, the proposed development involves substantial loss of Cumberland Plain trees and vegetation, particularly in the south-east corner with associated impacts on biodiversity of flora and fauna.

We consider that the specific draft DCP controls are

- defined too soon in that the PP may not proceed or is likely to change;
- confusing in that they are redundant or not the same as those that already exist in the DCP;
- potentially weaker than existing DCP controls.

Conclusion

As noted in our appended original objection to PP 2020, what was submitted for public exhibition was seriously lacking in supporting documentation and explanation. As we cover above, this remains the case.

Residents and the community of course understand the need for and welcome development of seniors living and aged care facilities that are appropriate to and sensitively consistent with the environment and sense of place of their locations. There is no clear articulation of how this development, the residential component of which is not consistent with any reasonable understanding or definition of low-density residential development and which includes an oversized commercial centre, would impact the landscape, streetscape, viability of Camden Town Centre and liveability of surrounding residents. No amount of vegetative screening can fully address its incongruous character within the low-scale surroundings and MRA.

We have considered the proposal in relation to the GSC Regional Plan- a Metropolis of Three Cities, the Western City District Plan, Camden's Local Strategic Planning Statement and Housing Strategy.

We submit that PP 2021/1/1 has not demonstrated sufficient strategic and site-specific merit for the planning proposal to proceed and that it should not be approved for Gateway assessment.

Clearly this proposal requires a fully evidenced cost-benefit analysis. The disadvantages of overturning the extant planning controls that are there to provide certainty and protect the amenity of those who have invested their lives in Camden need to be addressed in relation to an evidenced need for such dense seniors housing in this location. The PP makes no attempt to justify why the buildings need to be so high.

Again, we consider that this proposal needs to be refused at this stage of the PP process, or at least to go back to the drawing board.

If it is to be re-exhibited, we again request that appropriate documentation and explanation be provided to the community.

Yours sincerely,



Glenda Davis

President

Camden Residents' Action Group

Incorporated
Camden – Still a Country Town

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8 October 2020

Dear General Manager,

Re: Planning Proposal (PP 2020)
Concept development application DA 2020/524
5 Smalls Road, Grasmere
Lot 201 DP 734620

Please accept this submission as being for both the Planning Proposal (PP 2020) and the Concept Development Application (DA 2020/524) which are inseparable as each relies on the other. The Concept DA cannot proceed without the rezoning addressed by PP 2020 and the Concept DA attempts to demonstrate that the maximum height increase sought in PP 2020 is conceptually compatible with the area.

We note that an earlier Planning Proposal¹ dated 17 November 2017 (PP 2018) was endorsed to go to Gateway at Council's meeting of 8 May 2018 subject to the resolution of an outstanding objection from the OEH. The NSW Department of Planning amended Camden Local Environmental Plan (LEP) map on 21 December 2018 to give effect to a spot rezoning of the site².

¹ **CAMDEN COUNCIL PLANNING PROPOSAL Amendment No. 16 – Carrington (5 Smalls Road, Grasmere)** November 2017 Available at <https://www.camden.nsw.gov.au/assets/pdfs/Council/Business-Papers/2018/BP-attach-8-May-2018-ORD01.pdf>

² NSW Department of Planning *Camden Local Environmental Plan 2010 (Amendment No 16) [NSW] Published LW 21 December 2018 (2018 No 758)* Available at <https://www.legislation.nsw.gov.au/view/pdf/asmade/epi-2018-758>

The rationale provided for this rezoning was to facilitate seniors living dwellings in the form of Independent Living Units (duplexes, townhouses and two storey apartments) and Residential Aged Care Facility (R2), services ancillary to seniors living and also accessible to the public, including a medical centre, local shop, café/restaurant, childcare centre, and wellness centre (B1) and a conservation area to ensure conservation of critically endangered vegetation and an area containing Aboriginal cultural heritage material (E2).

None of these land uses require buildings that exceed 9.5m or two storeys.



PP 2018 Indicative Plan Layout (IPL) (p 6)

PP 2018 did not seek to increase the maximum building height and stated:

The current maximum height of buildings will restrict development to a maximum of two storeys and ensure that the new development will be in keeping with the surrounding development. Lot size controls will not be amended as it is not intended that the site be subdivided. (p 7)

The Business Paper recommendation accepted by Council in endorsing the rezoning stated that:

It is not proposed to amend the current Height of Buildings (9.5m) applying to the land. This will ensure that the maximum building height is consistent with the existing residential development in Grasmere which is also 9.5m.

The rezoning change approved on 21 December 2018 was from R5 Large Lot Residential to R2 Low Density Residential (18.5ha), B1 Neighbourhood Centre (4000m²) E2 Environment Conservation (8.4ha). The PP 2018 Indicative Plan Layout above shows the current zones with R2 shaded brown, B1 shaded blue and E2 shaded green.

PP 2018 limited the maximum building height over the whole site to 9.5m.

PP 2020, lodged on 29 July 2020, does not seek to change the zones. Instead it seeks to amend the maximum height control from 9.5m up to 24m.

We object to the Planning Proposal for an increase in the maximum building height and the Concept DA (2020/524) which relies on it for the following reasons.

Missing Documentation

This Planning Proposal and Concept DA are difficult to understand. Whilst it is intrinsically complex, it was made almost unfathomable because of missing documentation. The number of documents is very few compared to many less complicated applications.

As will be noted throughout this submission, a number of documents that underpin and link PP 2018 to PP 2020, are not publicly available. These include ones that possibly evidence high level decisions made, for example by the Office of Environment and Heritage (OEH) that are fundamental to an appreciation of the proposed level of conservation of critically endangered species and Aboriginal heritage.

Also, the Statement of Environmental Effects (SOE) makes the following references to intended site works associated with PP 2020:

This application is lodged separately, but in concert with an application for bulk earthworks and a Planning Proposal to increase the heights of buildings. (p 8)

The development has been designed to take into consideration this fall, with cut and fill proposed, as shown detailed on the bulk earthworks development application, submitted separately. (p 15)

The site contains stands of vegetation. This application proposes to remove vegetation and this aspect of the proposal was addressed in the bulk earthworks development application. (p 55)

The bulk earthworks DA ((2020/348) which was lodged on 3 June 2020 was withdrawn on 9 June 2020 before its public exhibition.

The above SOE statements clearly show that information provided in this withdrawn DA is fully relevant to PP 2020 and necessary to inform submissions. According to the Statement of Environmental Effects the following documentation supported the bulk earthworks DA:

- A flora and fauna survey and impact assessment
- Contamination and remediation of land reports
- Availability of services, water & sewer, and accessibility
- Heritage impact
- Flood mitigation and detention basin, storm water
- Tree clearing, bulk earthworks, and cut and fill

The extent of earthworks and impact on the ecology, heritage, landscape and building heights is of major public concern but is not explained and documented.

The lack of supporting information with PP 2020 and the concept DA is in our opinion sufficient to require a new public exhibition that includes all necessary and relevant documentation.

Location in the Metropolitan Rural Area (MRA)

PP 2020 (p38) states *The Planning Proposal Request has had regard to the Metropolitan Rural Area requirements as detailed in the Report (5.1.2). However, the land is zoned R2 Low Density Residential.*

Whilst this statement would seem to refer to an argument that R2 zoning allows MRA values³ to be accommodated or ignored, Section 5.1.2 simply states:

Importantly, despite being in the rural conservation focussed Metropolitan Rural Area (MRA), the subject land is contiguous with rural residential development and fulfils the nominated criteria of limited expansion of such form development; namely:

“Limited growth of rural residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA”.

The second paragraph of this quote is from the Greater Sydney Commission (GSC)⁴ *A Metropolis of Three Cities*, Objective 29 under *Rural Lands*. It continues by stating

This could include the creation of protected biodiversity corridors, buffers to support investment in rural industries, and protection of scenic landscapes.

The GSC also states in Objective 29:

Urban development is not consistent with the values of the Metropolitan Rural Area.

In the *Western City District Plan*, the GSC⁵ also lists the following action (79)

Limit urban development to within the Urban Area, except for the investigation areas at Horsley Park, Orchard Hills, and east of The Northern Road, Luddenham

³ AgEconPlus 14 February 2017 *Values of the Metropolitan Rural Area of the Greater Sydney Region Report* Available at <https://www.planning.nsw.gov.au/~/-/media/Files/DPE/Reports/values-of-the-metropolitan-rural-area-of-the-greater-sydney-region-report-2017-02-14.ashx>

⁴ **Greater Sydney Commission March 2018 *A Metropolis of Three Cities Environmental, social and economic values in rural areas are protected and enhanced Objective 29*** Available at <https://www.greater.sydney/metropolis-of-three-cities/sustainability/city-its-landscape/environmental-social-and-economic>

⁵ Greater Sydney Commission March 2018 *Western City District Plan* Available at <https://www.greater.sydney/western-city-district-plan/sustainability/city-its-landscape/better-managing-rural-areas>

It is difficult to see how PP 2020 and Concept DA is consistent with GSC planning and therefore how it could be acceptable for Gateway determination because:

- The site is within the MRA and NOT within the Urban Area or investigation areas designated by the GSC Western City District Plan.
- The Concept Plan cannot be described as proposing limited expansion of *rural residential development*. It is clearly urban in nature which the GSC states is not consistent with the MRA.
- **The proposed maximum height of buildings of 24m, is the same (except for potential spot rezoning) as that mapped for the urban area of Oran Park Town Centre (B2) which is subject to the Growth Centres SEPP.**

An added indication that MRA values are to be observed is the amendment made on 29th July 2020 to SEPP Seniors Housing to exclude its operation in MRAs. This precludes use of the SEPP to override local planning controls.

Only DAs and applications for Site Compatibility Certificates (SCC) that had already been lodged before 29 July may continue to be assessed under the SEPP⁶. No SCC was lodged and the DA was lodged after the amendment came into force⁷. However, the SEPP itself suggests that a maximum height of 24m is unacceptable due to limitations set by Clauses 40 and 45 particularly as the R2 zone does not permit residential flat buildings⁸.

We therefore understand that, short of a s 4.6 Variation, a change to the local planning controls in the way of a second spot rezoning to increase the maximum height of buildings (or by again changing the zoning on the site which would also be problematic in the MRA) is the logical path to realisation of this concept DA.

⁶NSW Department of Planning Industry, and Environment *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020* Published LW 29 July 2020 (2020 No 441) Available at <https://www.legislation.nsw.gov.au/view/pdf/asmade/epi-2020-441>

⁷ This amendment states 2 *Commencement This Policy commences on the day on which it is published on the NSW legislation website*. The footer states: *Published LW 29 July 2020 (2020 No 441)*. The SEPP version date can be entered at <https://www.legislation.nsw.gov.au/view/html/inforce/2020-07-29/epi-2004-0143> - the MRA exclusion is in force on 29 July but not 28 July.

⁸ The MRA exclusion in the SEPP would seem to preclude *Additional Permitted Uses* as per LEP Schedule 1

8 Use of certain land at 90 Werombi Road, Grasmere

(1) *This clause applies to land at 90 Werombi Road, Grasmere, being Lot 10, DP 845472 (Carrington).*

(2) *Development for the purposes of **residential flat buildings** and seniors housing is permitted with development consent.*

But it is clear that the proposed height increase for this site in the MRA is not consistent with GSC planning. It is consistent with urban development and an overreach far beyond generally acceptable parameters of rural character.

Area character: Low Density Residential

Seniors housing is currently a permitted land use on the site in R2, and also potentially in B1, to the site's maximum building height of 9.5m.

PP 2020 is fundamentally flawed as the height increase sought does not meet the objectives of R2 Low Density Residential and LEP 4.3 Height of Buildings. Buildings up to 24m in the concept plan would be 2.5 times higher than the maximum height standard of R2.

Such a maximum height increase cannot meet the objectives of:

- **R2 Zone**, especially of providing *for the housing needs of the community within a low-density residential environment* and *minimising conflict between land uses within adjoining zones*;
- **LEP 4.3 Height of Buildings**, especially of ensuring that *buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality*

Similarly, a retail centre of 13m height at the intersection of Werombi and Smalls Roads is not consistent with the low-density residential character of the area and, as covered above, would present as an aberration of the values of the Metropolitan Rural Area. The area of the B1 zone is 1 acre and the proposed building appears to take up much of that with parking spread into the R2 zone.

In any case, the proposed height and density of the proposed retail centre suggests an urban development inconsistent with that of a B1 Neighbourhood Centre which is described as being for small-scale retail, business and community uses.

The Development Control Plan (DCP)⁹ for Grasmere, reads:

... residential and associated development is to be designed and located to blend in with the rural residential backdrop, when viewed from the important view corridors

⁹ Camden DCP 2019 Schedule 11 Grasmere Available at <https://www.camden.nsw.gov.au/assets/Uploads/19-251640-DCP-2019-Final-Schedule-11-Grasmere.pdf>

including the vehicle entrance to Carrington hospital on the corner of Werombi and Smalls Road and is to maintain consistency with existing adjoining development.

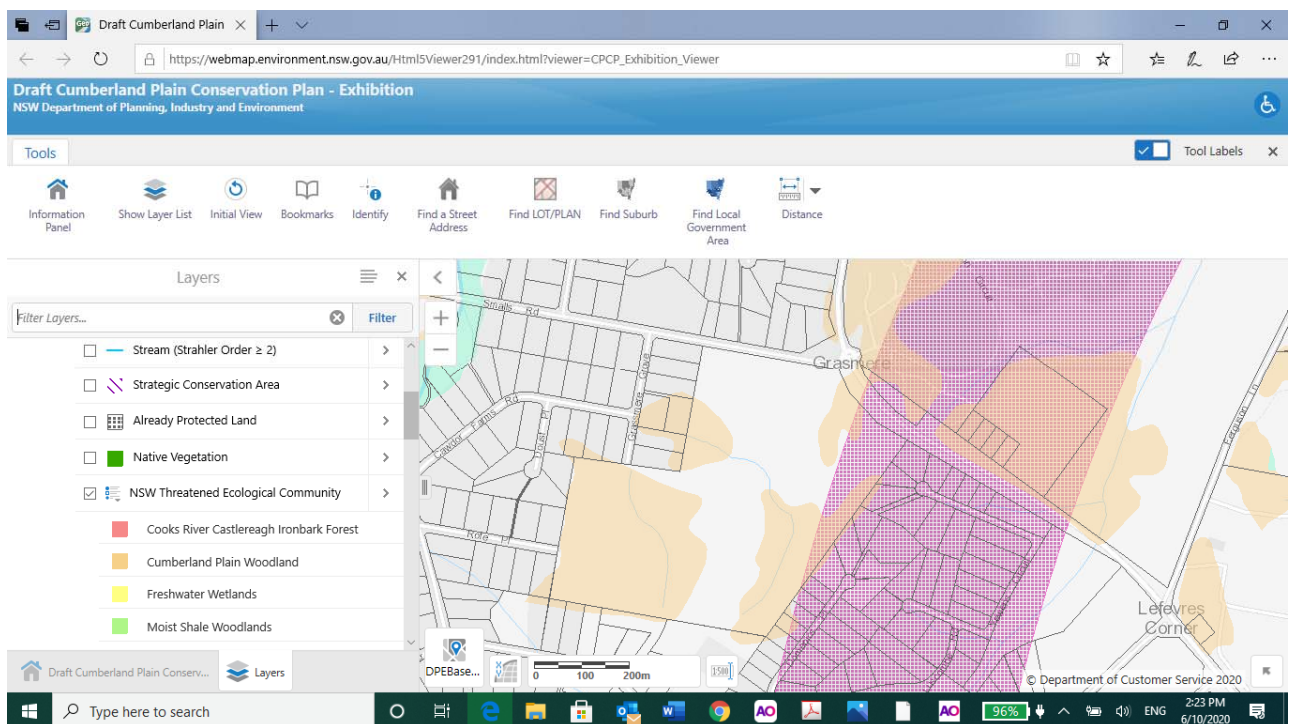
It is not possible to reasonably argue that the height and density of the proposed development would blend with its surrounds and be consistent with adjoining development.

The proposed height increase is not consistent with the LEP or DCP and is an overreach far beyond the generally accepted concept of low density.

Environmental impacts

These impacts are particularly unclear in the publicly available information.

It is understood that the location of Cumberland Plain Woodland (CPW) on the site was well known prior to PP 2018. The NSW Department of Planning¹⁰ makes the location of CPW clear in its spatial viewer accompanying the *Draft Cumberland Plain Conservation Plan*.



NSW Department of Planning 5 Smalls Road Grasmere Cumberland Plain Woodland

¹⁰ NSW Department of Planning *Draft Cumberland Plain Conservation Plan* Available at https://webmap.environment.nsw.gov.au/Html5Viewer291/index.html?viewer=CPCP_Exhibition_Viewer

The area shown in purple is the proposed corridor of the M9 tunnel which is only indicative at this stage, but may potentially have environmental impacts.

This viewer clearly shows, as reproduced above, that CPW, listed as *NSW Threatened Ecological Community*, extends well beyond the E2 zone (as shown in the above PP 2018 Indicative Plan Layout) with connections into adjoining properties. The proposed sites of the childcare centre and units on the eastern boundary of the development require removal of CPW.

The Council report and attachment submitted to Councillors on 8 May 2018 recommending endorsement in principle of PP 2018, as well as noting an OEH outstanding objection, also made observations relating to a number of specialist reports. The Concept DA and information to hand do not address many of those observations and also raise other questions about the environmental impacts of what is now proposed.

Flora & Fauna, Riparian & Bushfire Study (Offset Strategy); Conservation & Land Use Management Plan (CLUMP) and Vegetation Management Plan (VMP) dated 27 May 2016

The above Studies submitted with PP 2018 reference the previous *Threatened Species Conservation Act* but do not reference the *NSW Biodiversity Conservation Act 2016 (BC Act)*¹¹. The BC Act commenced on 25 August 2017 with Camden coming under the Act on 25 February 2018, after the date of the studies.

PP 2018 as lodged did not comply with S117 Local Planning Direction (now s9.1 (2)) of EP & A Act 1979 on protection and conservation of environmentally sensitive areas. Approximately 14.97 ha of Critically Endangered CPW¹² was identified on the site. PP 2018 had intended to conserve only approximately 7.59 ha of this vegetation within the sites Environmental Conservation zone.

Available documentation on PP 2018 shows that no agreement was reached about environmental conservation with the OEH, which also indicated it did not intend to enter into a Voluntary Conservation Agreement.

The Proponent proposed an offset within this E2 zone with protections through conditions of development consent including the implementation of the Conservation and Land Use Management Plan (CLUMP) incorporating a detailed Vegetation Management Plan (VMP) and a title instrument requiring compliance with the CLUMP and VMP.

¹¹ Available at http://classic.austlii.edu.au/au/legis/nsw/consol_act/bca2016309/

¹² Listed under both the NSW Threatened Species Conservation (TSC) Act (1995) and the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act (1999)

The OEH did not accept that these protections were secure enough. The OEH also identified concerns regarding the security and ongoing funding for the management of the E2 Environmental Conservation land and regarding the Bushfire Asset Protection Zone (APZ).

The OEH¹³ wrote on 18 January 2018 that the Indicative Layout Plan showed a large portion of E2 land is to be managed as bushfire APZ, rather than for conservation and accordingly its position remains as previously advised in May 2013 and October 2017. An APZ of approximately 60m x 300m in area (1.8 hectares) was recommended in the PP 2018 Agenda report to be moved from within the E2 Environmental Conservation zone to the residential zoned land which would increase the area of protected vegetation within E2.

It was stated in PP 2018 that

Bushfire Asset Protection Zones (APZs) will also be required to be located outside the E2 Environmental Conservation zoned land (p 9).

The 2020 Architectural Public Plans (dated 7 May 2020) shows a significant area of APZ in the E2 zone.

The extent and timing of any subsequent OEH approval is not clear from the publicly available documentation. The PP 2020 (p 24) simply states:

The subject site is largely vegetated and the majority of the vegetated areas are zoned E2 Environmental Conservation. Such area will remain largely intact, with small areas of vegetation removed. The removed vegetation is part of the BDAR¹⁴ that has been prepared for the site and was the subject of approval with OEH.

PP 2020 documentation does not include the BDA Report. Publicly available PP 2020 documents also do not provide any additional information on conservation or make mention of any definitive offsetting strategy. It is understood that biodiversity certification under the BC Act is required.

As Cumberland Plain woodland is a listed critically endangered community (reduced to less than 9% of its original extent) every effort should be made to conserve and consolidate any surviving remnants in the Camden region.

¹³ OEH 19 Jan 2018 *DOC17/646981 SC597=0217/363608*

¹⁴ Biodiversity Development Assessment Report required under the BC Act (not referenced in PP 2018).

The development footprint should be configured to conserve all existing native vegetation, and following on from the E2 conservation zoning for the western section of CPW, this remnant should be linked via vegetation corridor to the eastern remnant.

The eastern remnant (which is scheduled for removal) is well structured CPW and includes a good range of tree age classes, including some old growth mature Grey Box trees which have high habitat value. Such mature trees would take 80-100 years to reach this mature condition and provide nesting habitat. Such trees would score highly in any biodiversity assessment, and cannot be readily replaced by a tree planting program.

Long term management of the designated E2 conservation area will require a long term and enforceable Vegetation Management Plan which includes ongoing weed control and vegetation condition targets similar to a biobanking agreement.

The Vegetation Management Plan needs to ensure that maximum tree retention (consistent with RFS compliance) is achieved for this environmentally sensitive area.

It is imperative that the community sees the full flora and fauna assessment for all native vegetation at this site, which has not been made available through this current DA process.

Full transparency is required.

How is all of the Critically Endangered CPW identified in the *Draft Cumberland Plain Conservation Plan* to be conserved or at least offset?

What is the impact on CPW conservation of APZ being within the E2 zone?

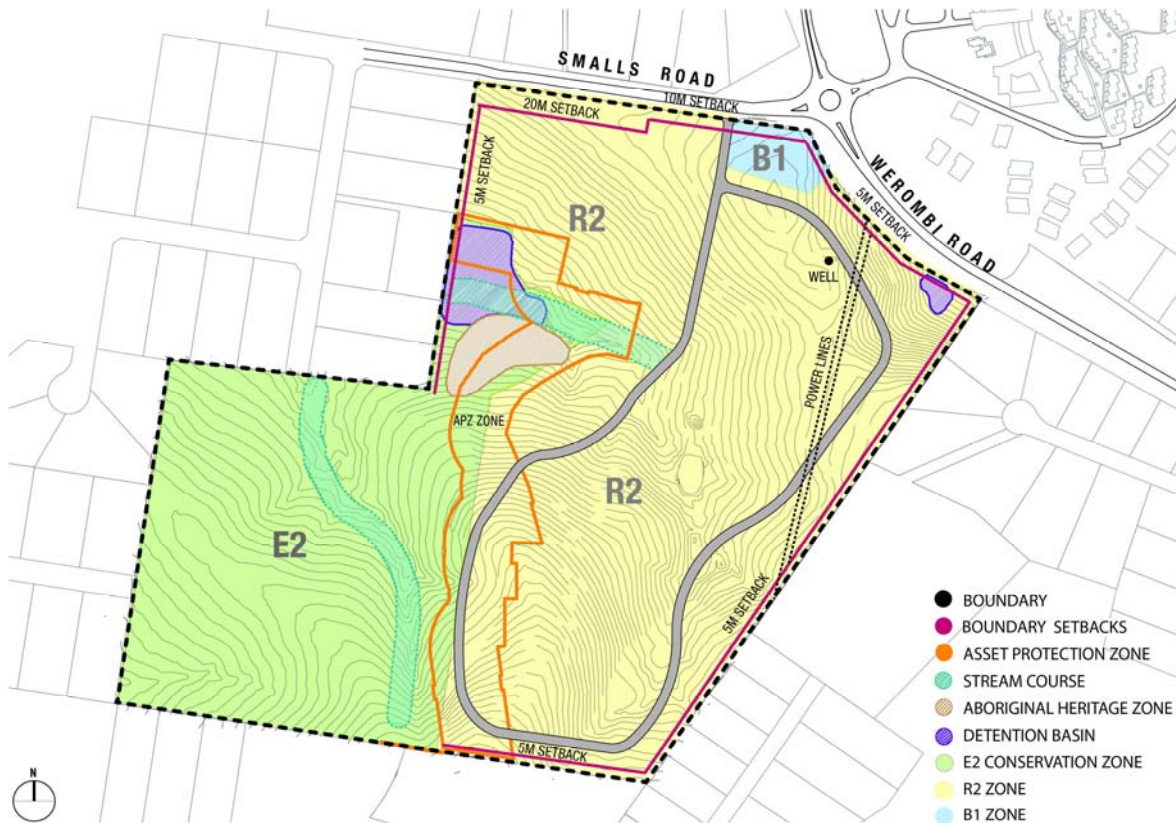
If the APZ is to fall within E2, how can fuel reduction involving removal of vegetation be ensured to be compatible with conservation of critically endangered species?

If removal of the eastern CPW vegetation is a recommended outcome, how would this vegetation loss be offset?

What arrangements have been or are to be made with OEH on conservation of CPW?

Aboriginal Heritage Preliminary Assessment dated January 2013

This 2013 Assessment report records a number of finds, most concentrated in site C4¹⁵ which is noted as Aboriginal Heritage Zone shaded brown in the 2020 Architectural Public Plans below.



PP 2020 Architectural Public Plans (p3)

Although PP 2020 and Concept DA involve significant impacts on the site, only one reference to an Aboriginal artifact was found in the submitted documentation:

There is also an aboriginal artefact located in the E2 zoned land that will be preserved (PP 2020, p 38).

¹⁵ See Figure 14 of the 2013 Assessment, p 32

The 2013 Assessment (p 14) found that

It was generally accepted that the likely presence of Aboriginal objects within the subject area did not in itself preclude rezoning, but that ongoing involvement of the Aboriginal community will be essential in relation to any future development impact.

PP 2018 (p 10) stated that the results of this assessment, particularly the demonstration of relatively higher density and significance of Aboriginal cultural heritage material in the area of Site CR4, are to be used in any early stage concept planning so that impact avoidance can be appropriately considered.

Nevertheless, the 2020 Architectural Public Plans as shown above clearly shows that much of the Aboriginal Heritage Zone is also within the APZ which would suggest future difficulty in avoiding disturbance of much of the Aboriginal Heritage Zone.

PP 2018 (p 10) recommended that the formal Aboriginal community consultation process according to the OEH Aboriginal cultural heritage consultation requirements be continued. No reference to its continuation or its outcomes is made in PP 2020.

How can much of the Aboriginal Heritage Zone avoid disturbance being within the APZ?

Has the Aboriginal community been consulted about PP 2020 and the Concept DA as recommended?

If so, what is their response?

Historical Archaeological Assessment dated April 2016

PP 2018¹⁶ (p 32) states

DCP controls also require a report be provided with the first development application considering any impact on archaeological remains of the cottage, and provision of an archival photographic record of the underground cistern

PP 2020 (p 21) states in relation to caring for urban and natural environment, including heritage sites:

Further, the subject site is not considered to impact the immediate curtilages or visual catchments of such Item.

In addition, there is cistern that has heritage values and was addressed by Extent as part of the bulk earthworks development application. This cistern will be relocated to another part of the development site with a landscape setting.

As noted at the outset, much documentation is missing, including a Heritage Report, that was listed as included with the bulk earthworks DA that was withdrawn.

Documentation that is available does not assure the public that all heritage impacts have been carefully assessed and minimised.

Resident impacts

This proposal has generated much public disquiet. CRAG has been contacted by many residents, particularly neighbours of the proposed development.

People chose to build or purchase homes in the area knowing it was a low-density rural area. Whilst people understand that small incremental changes over time may occur, they trust that Council and its planning instruments will not allow the imposition of what amounts to a high-density new suburb centred around apartment buildings.

Invariably residents are appalled by this proposal and incredulous that shortly after approval of PP 2018 that limited the maximum height to that applicable to the area, that such a height variation request be submitted. They feel deceived by the Proponent and a planning process that allows such an extreme variation to planning instruments, trustingly relied on by the community and potential purchasers in the area, to be considered.

¹⁶ Camden Council 8 May 2018 Business Paper attachment
<https://www.camden.nsw.gov.au/assets/pdfs/Council/Business-Papers/2018/BP-attach-8-May-2018-ORD01.pdf>

A summary of their concerns, with which CRAG agrees, follows.

- **Traffic and access**

Those living in the vicinity insist that the traffic impact has been grossly downplayed by a traffic count done during Covid shutdowns and foresee significant traffic issues. They believe the 2020 traffic study only surveyed one day, Wednesday 18th March, whereas PP 2018 report found Saturday was one of the busiest days. They are also cynical that the proposal still seems to require 4 lanes at the roundabout end of Smalls Road.

Drainage is a major issue. In even minor floods, Smalls Road is cut at Sickles Creek. This means that when Sheathers Lane is cut the only exit would be via The Old Oaks Road and Burrarorang Road, which created a major bottleneck last time the situation arose.

The single access point in Smalls Road will lead to trucks, heavy vehicles and ambulances all using Smalls Road, with increased traffic at the roundabout and on local roads. The right turn exit into Smalls Road is too close to the roundabout. Earlier plans had access points at Werombi Road and two on Smalls Road.

The aged care building which is positioned at the back of the site in the latest plan is of great concern as it

- is very close to neighbours which increases the impact of lights and noise;
- should be situated closer to Werombi Road for ease of evacuation.;
- is closest to the bushfire risk, furthest from the entrance, and furthest from the medical facilities.

- **Height, Density, Setbacks**

Residents object to

- impact on their rural surroundings and amenity;
- insufficient vegetation screening and setbacks;
- the detrimental visual impacts on the landscape;
- the massive scale of earthworks required which does not respect the rural landscape and natural flow of the land;
- loss of privacy and amenity due to close proximity of buildings to neighbouring R5 properties.

Many affected Grasmere residents have watched the evolution of the Proponent's intentions for this site over the years. In 2012, as shown below, the Planning Proposal presented an ILP that provided a greater buffer with neighbours and was less intrusive in the landscape.



Attachment 1

ORD04

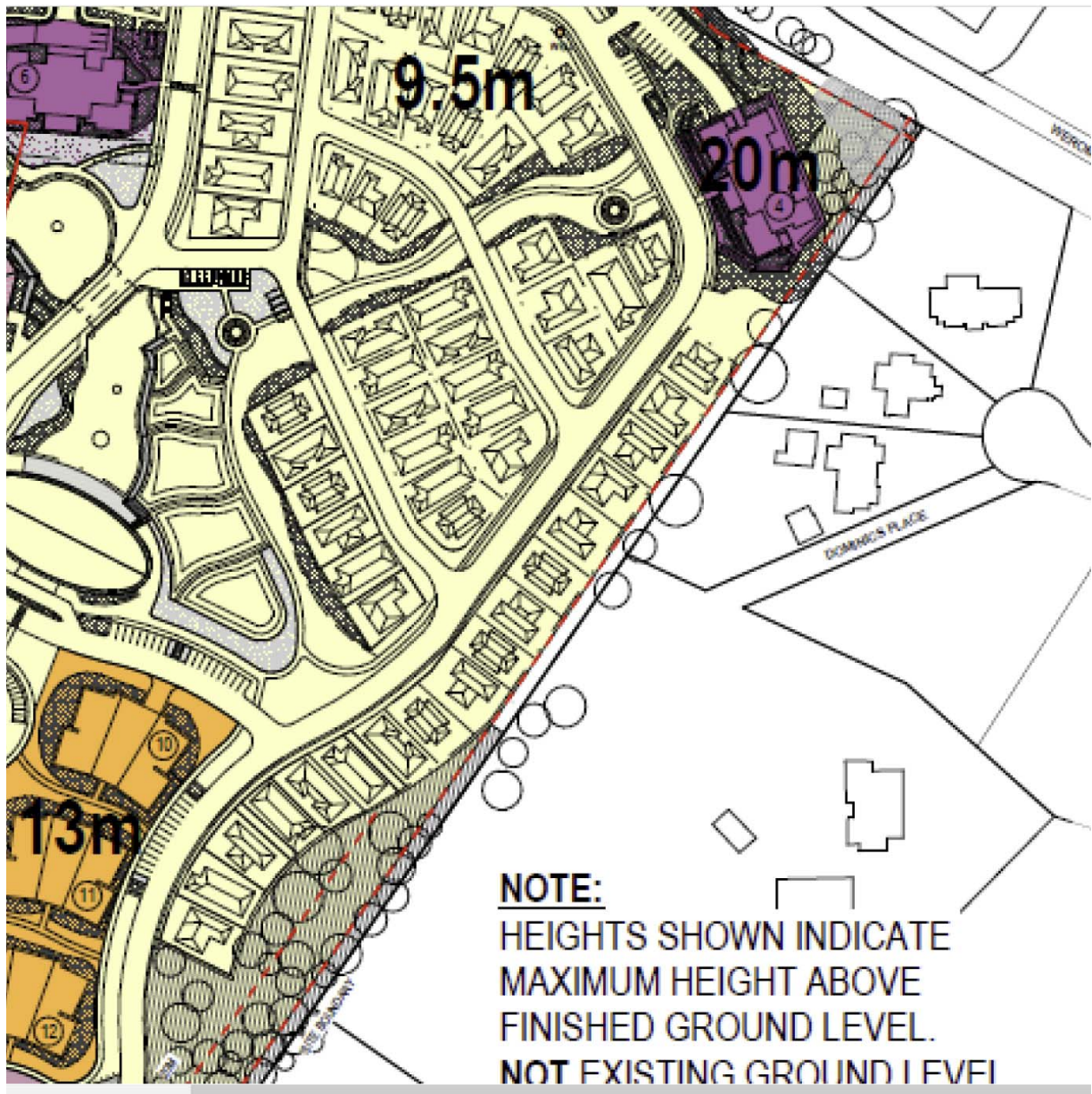
2012 Indicative Layout Plan ¹⁷

PP 2018 did not present a detailed ILP and now PP 2020 presents one that neighbours consider has the potential to significantly affect their privacy and neighbourhood amenity.

Residents are surprised and extremely concerned to find that PP 2020 involves substantial removal of CPW which is an important and highly valued aspect of the local environment. The planned removal of the threatened ecological community is confirmed by a comparison of 2020 Architectural Plans with the NSW Department of Planning spatial viewer of the site as covered under *Environmental Impacts* above.

For instance, as shown below, this Proposal plans for villas close to some residents' properties, with a nearby 20m high building on the edge of the development next to Werombi Road.

¹⁷ Camden Council 10 April 2012 *Business Paper Planning Proposal Attachment 1 ORD04* Available at <https://www.camden.nsw.gov.au/assets/pdfs/Council/Business-Papers/2012/2012-04-10-BP-file-size-reduced.pdf>



PP 2020 Extract Architectural Public Plans (p7)

As can be seen in the recent photos of a couple of these residences below, CPW is not only critically endangered but is also an important buffer and intrinsic characteristic of the semi-rural area.

Retention of any trees outside E2 is subject to a future arborist report. The proposed development is now as little as 5 metres from the rear of these Grasmere properties with dwellings being built within 10 metres. Residents understood that the previously stated limit was 20 metres. There can

be as many as 5 dwellings in a row adjoining current residents' backyards, including swimming pool areas.



Residents understood from previous iterations that most trees were to be retained, including all trees on the boundary with their properties. This understanding is corroborated by the 2012 ILP shown above.

CPW at the rear of properties is a valuable buffer zone and eco-system between the development and current residential lots. It is home to many species of fauna including prolific birdlife and many kangaroos/wallabies, echidna and reptiles.

The removal of this buffer zone, damages the environment and rural character, a main reason why current residents have made their homes in the Grasmere area.

The affected residents also point out that they have taken extensive measures in relation to the valued buffer zone and spent many dollars investing in fire protection systems for their homes as set out in the building code and deposited plans for these blocks.

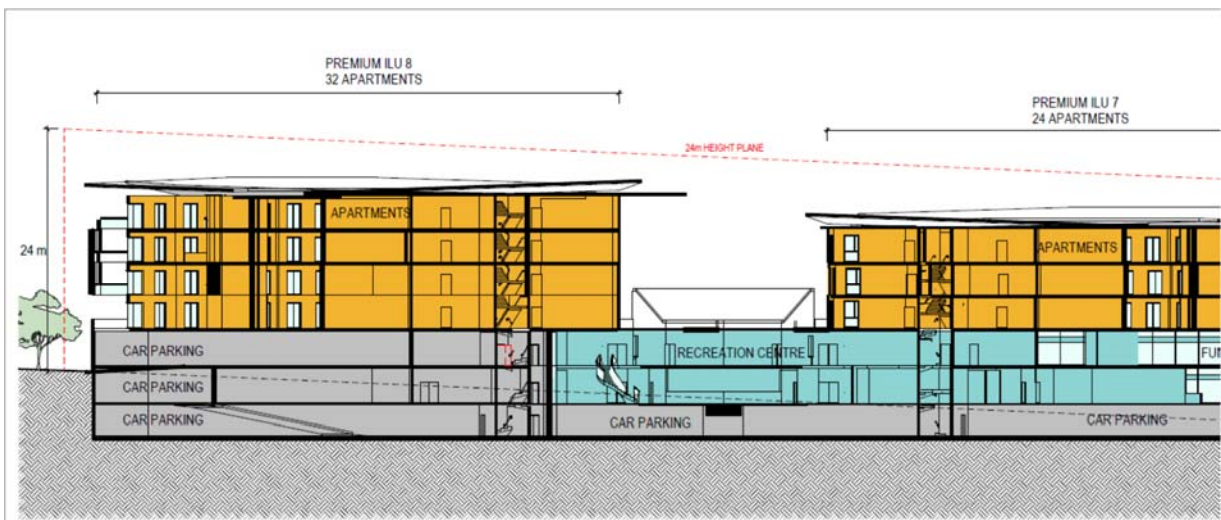
No flora and fauna impact assessment has been made publicly available. As noted elsewhere this is unusual and a serious omission. It is also highly unfair that even those most personally affected are not provided with relevant information.

Contradictory sources of information

Grasmere residents are also concerned about a letter from the CEO of the Proponent dated 28 September 2020 that contains information at variance to that in the Planning Proposal and Concept DA. This letter claims that it is the topography of the site that means that some buildings will be higher than 9.5m, and due to the undulating nature of the land that they will mainly not present as more than two-storey.

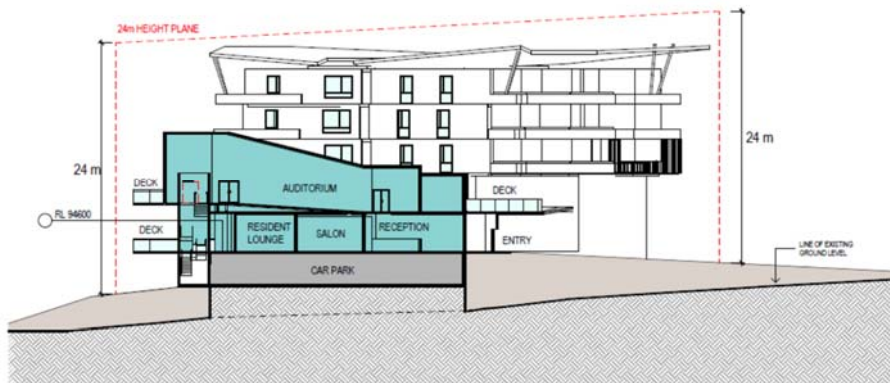
As covered above it is clear that significant earthworks are planned, although the information is not publicly available.

The Architectural Public Plans show maximum height relating to 24m as above finished ground level, not existing ground level, and the publicly available architectural diagrams, some of which are included below, clearly demonstrate the impact of building height and number of stories.

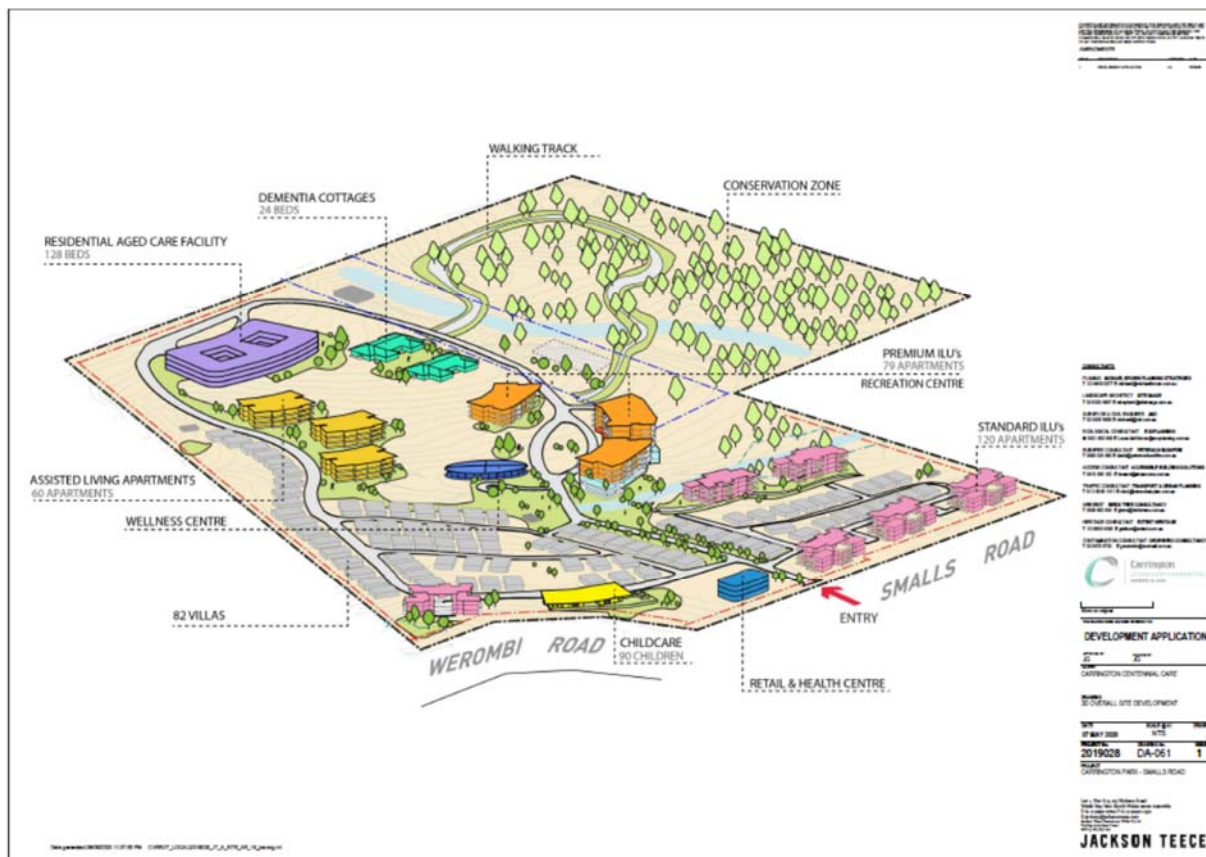


1 RECREATION CENTRE & PREMIUM ILU8 - LONG SECTION
SCALE 1:200

2 RECREATION CENTRE & PREMIUM ILU8 - SECTION 2
SCALE 1:200



2 RECREATION CENTRE & PREMIUM ILU8 - SECTION 2
SCALE 1:200



Jackson Teece 7 May 2020 Architectural Public Plans 5 Smalls Road Grasmere

- **Other issues raised**

- Residents understood that much more protection of the Cumberland Plain Woodland on site existed, and that this protection provided a safe refuge for a significant number of kangaroos/wallabies and other wildlife. They are concerned that this is reduced under the guise of ‘fire’ prevention, which also removes the scrub underneath. As it stands with a pedestrian path meandering through the E2 zone and fire prevention activities the ecology relied on by the fauna will be significantly disturbed.

They consider that the APZ should reduce the development footprint not the woodland, and that anything less is profiteering at the expense of conservation of precious environment.

- Residents do not want commercial development and shops open to the public and are concerned about establishing competition to local Camden businesses that have served the community well.
 - Residents are unhappy that this development adds in excess of 1,000 individuals in close proximity to families living in single dwellings on large lots which changes the demographics of the Grasmere community.
 - Residents foresee problems with evacuation of so many extra people during fire and flood events.
 - Residents are concerned about 24-hour lighting on the site.
 - Residents see the portrayal of size and scale of buildings as inconsistent and misleading about the impacts on the landscape and nearby properties.
 - Residents believe the Proponent has caused reputational damage to what is regarded as a local institution. Carrington is registered as a charity but much of this proposal seems purely commercially driven.
 - Residents have formed the judgment that many of the units appear to be a commercial proposition of urban-style independent living residential apartments for ‘over 55s’, with no social imperative and not associated with aged-care.
-

Conclusion

We request that Council require this Planning Proposal and Concept DA to be withdrawn.

The application needs to go back to the drawing board with due respect paid to State and local planning rules. We take this opportunity to refer to the position of NSW Department of Planning¹⁸ on the eradication of spot rezoning through individual applications, such as this one, that would significantly breach the local LEP. The requirement for Councils to update LEPs every five years is seen as obviating the need for this type of Planning Proposal.

In any case, what has been submitted for public exhibition is seriously lacking in supporting documentation to such an extent we believe that the proposal would need to be re-exhibited. We trust that it will not be assessed and not considered for referral to Gateway determination.

CRAG and most people would make no objection to seniors housing on the site, and indeed it is zoned to accommodate such housing. The community knows and appreciates that the Proponent already provides quality aged care in a peaceful rural setting. Unfortunately, the plans presented for public exhibition clearly overreach what is acceptable to the community and neighbouring residents.

We look forward to being notified of a proposal that does not require spot rezoning, limits the maximum building height to 9.5m and makes every effort to minimise its impact on neighbours and the environment.

Yours sincerely,



Glenda Davis

President

¹⁸ Jacob Saulwick and Megan Gorrey 15 May 2019 *'The culture needs to change': Stokes targets high-rise development* SMH Available at <https://www.smh.com.au/national/nsw/the-culture-needs-to-change-stokes-targets-high-rise-development-20190511-p51mel.html>