

# Camden Local Environmental Plan No 45 (1989 EPI 19)

[1989-19]



New South Wales

## Status Information

### Currency of version

Historical version for 15 September 2006 to 3 December 2006 (accessed 18 July 2024 at 7:15)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2006](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Camden Local Environmental Plan No 45 (1989 EPI 19)



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Camden Local Environmental Plan No 45*.

### 2 Aims, objectives etc

The aims of this plan are:

- (a) to promote the Camden Town Centre as the primary sub-regional business centre in the area,
- (b) to encourage new retail and commercial development which will reinforce the town centre, while retaining its historic character,
- (c) to encourage the conservation of historic buildings and precincts,
- (d) to protect significant vistas towards St. Johns church,
- (e) to encourage development which will complement Council works intended to improve pedestrian accessibility and amenity,
- (f) to encourage development for tourist oriented purposes in the town centre while ensuring that tourist development is sensitive to the physical characteristics of the area that provide attractions to tourists,
- (g) to encourage the retention of existing uses and new developments which provide services to the rural community,
- (h) to ensure that development is carried out in a manner which appropriately responds to the flood risk affecting the site of the development,
- (i) to enable the Council to prepare development control plans to address in more detail particular aspects of the development of particular sites, and

- (j) to promote the use of buildings which are designed, sited and constructed, using passive solar principles, so as to maximise energy efficiency by reducing the consumption of non-renewable forms of energy for heating and cooling purposes.

### **3 Land to which plan applies**

This plan applies to land within the Municipality of Camden, as shown on the map marked “*Camden Local Environmental Plan No 45*”.

### **4 Relationship to other environmental planning instruments**

This plan:

- (a) amends *Interim Development Order No 3—Municipality of Camden* in the manner set out in clause 5, and
- (b) repeals such other local environmental plans or deemed environmental planning instrument that, immediately before the appointed day, applied to the land to which this plan applies, but to the extent only to which those plans or instruments so applied to that land.

### **5 Amendment of Interim Development Order No 3—Municipality of Camden**

*Interim Development Order No 3—Municipality of Camden*, is amended by inserting after clause 1 the following clause:

#### **1A Excluded land**

This Order does not apply to land to which the following plans apply:

*Camden Local Environmental Plan No 45*.

### **6 Definitions**

(1) In this plan:

**advertisement** means the display of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not it includes the erection of an advertising structure.

**advertising sign** means an advertisement that is painted directly onto an existing part of a building (such as a fascia, wall or shop window) and requires no other supporting structure for its display.

**advertising structure** means a structure used or principally used for the display of an advertisement (such as a pole sign, flagpole, under awning, flash-mounted or projecting wall sign) and is affixed to a building or premises.

**alter**, in respect of a heritage item or a building, work or relic within a heritage

conservation area, means:

- (a) the making of structural changes to its exterior, or
- (b) the making of non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance.

**appointed day** means the day on which this plan takes effect.

**automotive use** means the use of a building or work or land for the purpose of fuelling, lubricating, cleaning, caring for, maintaining or repairing motor vehicles or of offering for sale and installing automotive accessories or parts, and includes a service station, a car repair station, a motor showroom, an auto electrician's workshop, a shop for the sale of automotive spare parts, tyres or car batteries, a tyre retreading workshop and any other establishment performing similar functions, but does not include a panel beating workshop (other than panel beating ancillary to the motor showroom).

**bed and breakfast establishment** means a dwelling-house operated by its permanent residents to provide short term paid accommodation (which may include meals) and includes ancillary buildings within the curtilage of the dwelling-house.

**brothel** means a building or place used for the purpose of prostitution by one or more prostitutes or a building that is designed for that purpose.

**car parking station** means a building or place used for the purpose of accommodating vehicles on payment of a fee or charge, but does not include:

- (a) a parking space on a public road or public place for which a fee is charged by way of a parking meter,
- (b) public car parking provided by the Council, whether or not a fee is charged, or
- (c) parking space required to be provided in a building as a condition of development consent.

**child care centre** means fixed premises at which a child care service is provided by a person for the purpose of educating, minding or caring (but without providing residential care) for 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school.

**community centre** means a building or place owned or controlled by the Council and used to provide facilities comprising or relating to any one or more of the following:

- (a) a public library,

- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding facilities,
- (g) any other like purpose.

**conservation plan** means a document establishing the heritage significance of a heritage item or heritage conservation area and identifying conservation policies and management mechanisms that are appropriate to enable that significance to be retained in the future use and development of the item or area.

**Council** means the Council of the Municipality of Camden.

**demolish**, in respect of a heritage item or a building, work, relic, tree or place within a heritage conservation area, means wholly or partly destroying, damaging or dismantling that item, building, work, relic, tree or place.

**heritage assessment report** means an assessment of the impact of proposed development on the heritage significance of a heritage item and its setting and any heritage conservation area within which it is situated which may or may not include a management strategy for the ongoing conservation of the item or area.

**heritage conservation area** means land shown edged heavy black on Sheet 1 of the map marked “Camden Local Environmental Plan No 98—Heritage” and described in Schedule 1 and includes buildings, works, relics, trees and places situated on or within that land.

**heritage item** means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described in Schedule 1.

**heritage significance** means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

**home business** means an industry or occupation carried on in a dwelling or in a building the use of which is ancillary to a dwelling where the dwelling and the land on which the dwelling is located are primarily used for residential purposes and where the industry or occupation:

- (a) is carried on by the permanent residents of the dwelling and not more than one non-resident, if any, and

- (b) does not take up floorspace of more than 50 square metres in the whole dwelling or ancillary building, and
- (c) does not interfere with the amenity of the locality because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and
- (d) does not involve exposure to view from any adjacent premises or from any public place of any unsightly matter, goods or products, and
- (e) does not give rise to traffic levels out of keeping with those of the surrounding locality, and
- (f) does not include acts of prostitution between persons of different sexes or of the same sex, such as:
  - (i) sexual intercourse, as defined in section 61H of the *Crimes Act 1900*, for payment, and
  - (ii) masturbation of one person by another, for payment.

**multi-unit housing development** means residential development (not being two-dwelling development) resulting in two or more dwellings on one lots, whether the dwellings are attached or detached, and includes town-houses and the like.

**panel beating workshop** means a building or place used for the purpose of carrying out repairs to motor vehicles and agricultural machinery, where the work involved includes:

- (a) body building,
- (b) panel beating which may or may not involve dismantling, and
- (c) spraypainting.

**recretaion area** means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
  - (i) the Council, or
  - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,



but does not include a racecourse or a showground.

**relic** means any deposit, object or material evidence (which may consist of human remains) relating to:

- (a) the use or settlement of the area of Camden, not being Aboriginal habitation, which is more than 50 years old, or
- (b) Aboriginal habitation of the area of Camden whether before or after its occupation by persons of European extraction.

**renovation**, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair, or the painting, plastering or other decoration, of the outside of the building or work.

**retail plant nursery** means a building or place primarily used for growing plants and for selling, exposing or offering for sale by retail, plants, landscape supplies, landscape products, horticultural products and as an ancillary purpose only, for selling or offering for sale by retail items associated with outdoor gardening and food for consumption on the premises only.

**the map** means the map marked "*Camden Local Environmental Plan No 45*".

**tree** means any tree, sapling or shrub which:

- (a) is 3 metres or more in height,
- (b) has a girth of 300mm or more at a height of 1 metre above natural ground surface, or
- (c) has a branch span of 3 metres or more.

**two-dwelling development** means residential development resulting in two dwellings (but no more) on one lot, where:

- (a) the development involves an addition or alteration to an existing dwelling-house, the erection of a single building containing two dwellings on a vacant lot or the conversion into a dwelling of a building situated on the same lot as a dwelling-house, and
- (b) both dwellings are attached and under the one roof in one building which has the appearance of a single dwelling-house, except where:
  - (i) one of the dwellings was a dwelling-house situated on the lot when *Camden*

*Local Environmental Plan No 72* commenced and the other dwelling results from the conversion of a second building that (when that plan commenced) was situated on the lot and used for a purpose ancillary to the use of that dwelling-house, and

- (ii) the conversion will not result in any extension to the second building, and
- (c) the total amount of the site area occupied by buildings does not exceed two thirds of the site area, and
- (d) the lot has an area of not less than 400 square metres and is not further subdivided (whether or not under the *Strata Titles Act 1973* or the *Community Land Development Act 1989*), and
- (e) in the case of the erection of a single building containing two dwellings, the building is of no more than single storey construction, but may be of two storey construction if:
  - (i) adjacent land is occupied by two storey dwellings or is vacant (but is not public land), and
  - (ii) the Council is satisfied that the proposed building will suit the streetscape and have no adverse effect in terms of character, design, scale, bulk, privacy and overshadowing.

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
- (b) a reference to a map is a reference to a map deposited in the office of the Council, and
- (c) a reference to land within a zone specified in the Table to clause 10 is a reference to land shown on the map in the manner indicated in clause 9 as the means of identifying land of the zone so specified.

## **7 Adoption of Model Provisions**

The *Environmental Planning and Assessment Model Provisions 1980* (except for the definitions of **child care centre**, **home industry**, **home occupation**, **map** and **residential flat building** and **retail plant nursery** in clause 4 (1) and clauses 8, 17, 22 and 33), are adopted for the purposes of this plan.

## **8 Consent authority**

The Council shall be the consent authority for the purposes of this plan.

## **Part 2 General restrictions on development of land**

### **9 Zones indicated on the map**

For the purposes of this plan, land to which this plan applies shall be within a zone specified below if the land is shown on the map in the manner specified below in relation to that zone:

Zone No 3 (e) Town Centre—coloured light blue with black edging and lettered “3 (e)”.

Zone No 3 (f) Town Centre (Support)—coloured light blue with black edging and lettered “3 (f)”.

Zone No 6 (a2) Open Space Existing—coloured dark green.

### **10 Zone objectives and development control table**

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
  - (a) development may be carried out without development consent,
  - (b) development may be carried out only with development consent, and
  - (c) development is prohibited,are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is generally consistent with one or more of the aims of this plan and the objectives of the zone within which the development is proposed to be carried out.

Table

#### **Zone No 3 (e) Town Centre**

##### **1 Objectives of zone**

The objectives of this zone are:

- (a) to encourage office, retail and service development appropriate to the town centre’s status and subregional functions,

- (b) to maintain and enhance the historic character of Argyle, Hill and John Streets in the town centre,
- (c) to ensure that development is arranged and carried out in a way that maximises convenience and comfort for pedestrians, and
- (d) to accommodate other development which complements or supports the primary office and retail functions of the zone, and
- (e) to permit development which adds to the vitality and diversity of the commercial centre while not prejudicing its principal function.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Any purpose other than a purpose included in item 4.

## **4 Prohibited**

Brothels; bulk stores; caravan parks; car repair stations; dwelling-houses (other than those used in conjunction with purposes permitted in this zone); extractive industries; gas holders; generating works; heliports; industries (other than light industries); institutions; junk yards; liquid fuel depots; mines; panel beating workshops; roadside stalls; sawmills; stock and sale yards; transport terminals (other than bus stations).

## **Zone No 3 (f) Town Centre (Support)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to encourage development that supports or complements the primary office and retail functions of the Town Centre Zone,
- (b) to encourage development that will expand the range of services provided by the centre,
- (c) to encourage development providing services to the rural community, and
- (d) to encourage development that assists the conservation of historic buildings and streetscape, and

(e) to permit development which adds to the vitality and diversity of the commercial centre while not prejudicing its principal function.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Automotive uses; bed and breakfast establishments; bus stations; car parking stations; child care centres; clubs; commercial premises; community centres; dwelling-houses used in conjunction with purposes permitted in this zone; home businesses; hospitals; hotels; light industries; motels; places of assembly; places of public worship; public buildings; recreation facilities; refreshment rooms renovation; multi-unit housing development; retail plant nurseries; shops ancillary to a purpose permitted in this zone or which are primarily intended to serve persons occupied or employed in development within this zone; showrooms; tourist facilities; utility installations (other than gas holders or generating works); warehouses; wholesale markets.

## **4 Prohibited**

Any purpose other than a purpose included in item 3.

### **Zone No 6 (a2) Open Space Existing**

#### **1 Objectives of zone**

The objectives of this zone are to ensure there is provision of adequate open space areas and to enhance the total environmental quality of the Camden Town Centre.

#### **2 Without development consent**

Nil.

#### **3 Only with development consent**

Any purpose authorised by Division 2 or 3 of Part 13 of the [Local Government Act 1919](#); drainage; recreation facilities; roads; showgrounds; sportsgrounds; utility installations (other than generating works or gas holders).

## **4 Prohibited**

Any purpose other than a purpose included in item 3.

## **Part 3 Special provisions**

### **11 Subdivision**

A person shall not subdivide land to which this plan applies, except with the consent of the Council.

### **12 Development that must be advertised**

(1) Subject to subclause (2), the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:

- (a) multi-unit housing development, and
- (b) an application to demolish a building that is in an item of the environmental heritage, and
- (c) development for any other purpose (other than designated development) that the Council determines should require advertisement,

in the same way as those provisions apply to designated development.

(2) Subclause (1) (b) does not apply to the partial demolition of a building or work where the partial demolition is of a building or work which, in the opinion of the Council:

- (a) is a minor part of the environmental heritage of the Municipality of Camden, and
- (b) is likely to facilitate the sympathetic redevelopment of the remainder of the building or work.

### **13 Development principles—Zones Nos 3 (e) and 3 (f)**

The Council shall not grant consent to development on land within Zone No 3 (e) or 3 (f) unless it is satisfied that:

- (a) the development will not cause significant overshadowing or overlooking of public places, relative to the patterns of usage of those places,
- (b) the development will not detract from significant existing views and vistas,
- (c) the development is of a type, scale, design and character that complements the established character of the centre, having regard to the particular character of the particular part of the town centre in which the development is proposed to be carried out,
- (d) the development incorporates appropriate measures for convenient, sheltered

access for pedestrians, including access to other land,

- (e) the development makes appropriate provision for the supply of parking space demanded by the development, whether on the same land as the development or other land, or both, relative to the characteristics of the development, possible future changes of use of the development, and the capacity of the street system serving the land on which the development is to be carried out,
- (f) the development incorporates adequate facilities for deliveries,
- (g) the development will complement or reinforce the retail functions of the centre, particularly along Argyle Street frontages and associated pedestrian accessways, and
- (h) the development is unlikely to suffer significant risk of damage or increase the risk of damage to other land in the vicinity, in the event of a flood.

#### **14 Height of buildings**

- (1) A building shall not be erected on land within Zone No 3 (e) or 3 (f) to a height greater than 2 floors or 7 metres above ground level (whichever is lower) unless the Council is satisfied that the building will not unnecessarily or unreasonably intrude upon:
  - (a) an item of the environmental heritage,
  - (b) the existing character of buildings in the locality, or
  - (c) significant streetscapes or vistas.
- (2) A building must not exceed two storeys in height. A storey does not include a roof void if the pitch of the roof does not exceed 45 degrees.
- (3) Basement car parking must not extend more than 1 metre above ground level.

#### **14A Development standards for two-dwelling development**

Two-dwelling development is subject to the following standard and requirement, which are intended to be development standards:

- (a) the floor space of one of the dwellings that result from carrying out the development is not to exceed 60 square metres, and
- (b) if the development involves the conversion into a dwelling of a building situated on the same lot as a dwelling-house, the building is required to be within 4 metres of the dwelling-house.

#### **15 Advertisements**

An advertising structure is prohibited from being erected on a building where such a structure projects above the building.

## **16 Roads, drainage, recreation areas, parking etc**

- (1) Nothing in this plan shall restrict or prohibit, or require the Council to obtain its own consent for, development by the Council on land within any zone for the purposes of roads, stormwater drainage, recreation areas, landscaping, gardening, bushfire hazard reduction, public amenities or parking.
- (2) A person other than the Council may, with the consent of the Council, carry out development on land within any zone for the purposes referred to in subclause (1), provided consent is not required for landscaping or gardening.
- (3) The reference in subclause (1) to roads includes a reference to the winning of extractive material for the purposes of road construction.

## **17 Protection of heritage items, heritage conservation areas and relics**

- (1) The following may be carried out only with development consent in respect of a heritage item, or a building, work, relic or tree within a heritage conservation area:
  - (a) demolishing, defacing, damaging or moving,
  - (b) external and internal structural changes,
  - (c) excavation of land for the purpose of discovering, exposing or moving a relic,
  - (d) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area,
  - (e) non-structural changes to the detail, fabric, finish or appearance of the exterior, except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance,
  - (f) damaging any tree on land on which any such item, building, work or relic is situated.
- (2) Development consent is not required by this clause if the Council is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item or the heritage conservation area.
- (3) When determining a development application required by this clause, the Council must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area.
- (4) When considering applications for consent to the erection of a building within a heritage conservation area or in the vicinity of a heritage item, the Council must consider an assessment of:
  - (a) the pitch and form of the roof, if any, and



- (b) the style, size, proportion and position of the openings for windows or doors, if any, and
- (c) whether the colour, texture, style, size, type and decoration or finish of the materials to be used on the exterior of the building are compatible with those of the materials used in existing buildings within the heritage conservation area or adjoining the heritage item, and
- (d) the bulk-massing, proportion, size and general design of the proposed development, and
- (e) the proximity of any proposed excavation to any heritage item and its likely effects.

(5) The Council must not consent to development involving a heritage item unless it has considered a heritage assessment report or a conservation plan.

#### **18 Notice of certain heritage development applications**

Sections 84, 85, 86, 87 (1) and 90 of the Act as in force on 30 June 1998 (which provided for the giving of notice, and for the making and consideration of submissions, about proposed development) apply to the:

- (a) demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area, and
- (b) use of a building or land referred to in clause 20A for a purpose which, but for that clause, would be prohibited by this plan,

in the same way as those provisions applies to designated development.

#### **19 Notice to the Heritage Council**

Before granting development consent to the demolishing, defacing or damaging of a heritage item, the Council must notify the Heritage Council of its intention to do so and take into consideration any comments received from the Heritage Council within 28 days after the notice is sent.

#### **20 Development in the vicinity of heritage items, heritage conservation areas and archaeological sites**

The Council must consider the likely effect the proposed development will have on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, when determining an application for consent to carry out development on land in its vicinity.

#### **20A Conservation incentives**

- (1) The Council may grant consent to the use, for any purpose, of a building that is a

heritage item or is within a heritage conservation area, or of the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:

- (a) the proposed use would not adversely affect the heritage significance of the heritage item or heritage conservation area, and
  - (b) the conservation of the building depends on the granting of the consent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the Council may, for the purpose of determining the floor space ratio and number of parking spaces to be provided on-site, exclude the floor space of the building erected on the land, but only if the Council is satisfied that the conservation of the building depends on such exclusion.

## **20B Development of known or potential archaeological sites**

- (1) The Council may grant consent to the carrying out of development on an archaeological site that has Aboriginal heritage significance (such as a site that is the location of an Aboriginal place or a relic, within the meaning of the *National Parks and Wildlife Act 1974*) or a potential archaeological site that is reasonably likely to have Aboriginal heritage significance only if:
- (a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Director-General of National Parks and Wildlife, and
  - (b) it has notified the Director-General of its intention to do so and taken into consideration any comments received from the Director-General within 28 days after the notice was sent, and
  - (c) it is satisfied that any necessary consent or permission under the *National Parks and Wildlife Act 1974* has been granted.
- (2) The Council may grant consent to the carrying out of development on an archaeological site that has non-Aboriginal heritage significance or a potential archaeological site that is reasonably likely to have non-Aboriginal heritage significance only if:
- (a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Heritage Council, and
  - (b) it has notified the Heritage Council of its intention to do so and taken into

consideration any comments received from the Heritage Council within 28 days after the notice was sent, and

- (c) it is satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

## **21 Flood prone land**

The Council may refuse consent to the carrying out of any development on land to which this plan applies which, in its opinion, will:

- (a) affect the flood level at any point above or below the development,
- (b) increase, to a substantial degree, the flow of flood water on any adjoining lands,
- (c) cause soil erosion, siltation or destruction of river bank vegetation,
- (d) affect the water table of any adjoining land, or
- (e) adversely affect river bank stability.

### **21A Landforming operations**

- (1) Development for the purpose of a landforming operation may be carried out on land to which this plan applies only with the consent of the Council.
- (2) In this clause, **landforming operation** means the carrying out of any work or other activity that affects an area of land greater than 100 square metres and that:
  - (a) alters a drainage pattern or a flood level, or
  - (b) raises or lowers the surface of the land at any point so as to alter the natural ground level by more than one metre, or
  - (c) raises or lowers by more than one metre at any point any level of the land that has been created by previous excavation or filling.

## **22 Suspension of certain laws etc**

- (1) For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, any covenant, agreement or instrument imposing restrictions on the carrying out of the development, to the extent necessary to serve that purpose, shall not apply to the development.
- (2) Nothing in subclause (1) shall affect the rights or interests of any statutory authority under any registered instrument.

### 23 Protection of trees

- (1) A person shall not ringbark, cut down, top, lop, remove, injure or wilfully destroy any living tree, or cause such a tree to be ringbarked, cut down, removed or wilfully destroyed, without development consent.
- (2) Subclause (1) extends to a public authority except in relation to the pruning of a tree growing on, overhanging or encroaching onto land owned by the Council or under its care, control and management.
- (3) If the Council receives an application for its consent as required by this clause, it must, within 14 days of receiving the application, give notice of it to the persons who appear to it to own or occupy the land adjoining the land to which the application relates if, in its opinion the enjoyment of the adjoining land would be detrimentally affected by the action proposed in the application.
- (4) The Council must specify in a notice under subclause (3) a period within which written submissions may be made to the Council concerning the application and must not determine the application until that period has expired and it has considered any submission received within that period.
- (5) This clause does not apply to or in respect of:
  - (a) a tree declared to be a noxious plant or noxious weed by or under any Act,
  - (b) action required by clause 23 of the [Electricity \(Overhead Line Safety\) Regulation 1991](#),
  - (c) a tree that harbours fruit fly,
  - (d) a tree that is dead,
  - (e) the following trees:
    - Privet (*Ligustrum* sp)
    - African Olive (*Olea africana*)
    - Honey Locust (*Gleditsia triacanthos*)
    - Lantana (*Lantana camara*)
    - Coccus Palm (*Syagrs rhomanzofianum*),
  - (f) a tree located on land that is subject to a development consent for the erection of a building or the carrying out of a work that authorises the removal of that tree, or
  - (g) the destruction or removal of a tree within 0.5 metres of the boundary between land owned or occupied by different persons for the purpose of enabling a survey

to be carried out along that boundary by a surveyor registered under the *Surveyors Act 1929*.

- (6) The Council must not grant consent as required by this clause unless it has taken into consideration such of the following matters as are of relevance to the application:
- (a) the aesthetic, botanical, environmental, historic and heritage importance of the tree,
  - (b) whether the tree presents or is likely to present a health or safety hazard to persons,
  - (c) whether the tree has damaged (or would be likely to damage) property,
  - (d) the extent to which the tree diminishes sunlight to habitable rooms in buildings and outdoor areas,
  - (e) whether the tree obstructs or would be likely to obstruct accessways, footpaths, roads, utility services, drainage lines or the like or would otherwise cause a nuisance to, or endanger the movement of, persons or their vehicles,
  - (f) the impact of the action or work on the appearance, health or stability of the tree and the general amenity of the surrounding area,
  - (g) in the case of an application for consent to remove a tree;
    - (i) whether the pruning of the tree would be a more practical and desirable alternative, or
    - (ii) whether a replacement tree or trees should be planted,
  - (h) guidelines, plans and policies adopted by the Council from time to time that are available for public inspection at the Council's offices concerning the preservation and protection of trees, including those identified in:
    - (i) the document called "*Camden Significant Tree and Vegetated Landscape Study*", or
    - (ii) plans of management or vegetation plans, or
    - (iii) tree management policies.

#### **24 Development affecting trees**

Anything affecting a tree that must be done to carry out an activity in accordance with an approval granted under Part 1 of Chapter 7 of the *Local Government Act 1993* may be done without development consent, if the tree and the thing that must be done were specified in the application for approval.

## 25 What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in Chapter 2 of Part B of *Camden Development Control Plan (DCP) 2006* as adopted by the Council on 10 July 2006 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in Chapter 3 of Part B of *Camden Development Control Plan (DCP) 2006* as adopted by the Council on 10 July 2006 is **complying development** if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by Part B of *Camden Development Control Plan (DCP) 2006* as adopted by the Council on 10 July 2006.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Chapter 3 of Part B of *Camden Development Control Plan (DCP) 2006* adopted by the Council, as in force when the certificate is issued.

## Schedule 1

(Clause 6 (1))

### Heritage items

#### Argyle Street

No 75-79 lot 18 DP 228845 (Plough and Harrow)—181-00000-1,

No 135 por 15 (Post Office)—192-00000-8,

No 44-50 cor B, C and D resub, part 18, section 3 (White House)—166-00000-0,

No 64-74, cor part 2 (A) sec 3 (John Lowe)—163-00000-3,

No 151 cor part 1 DP 340911 (Butcher) (Tildsley)—195-00000-5,

No 110 cor 2 DP 202740 (Butcher) (Boardman)—158-00000-0,

No 191 lot 2 DP 522565 (Agricultural Hall)—196-05000-9,

No 125 cor pt 1, DP 193308 sec 3 (National Bank) (Commercial Banking Co.)—190-00000-0.

#### Edward Street

No 38 lot 1 DP 219757 (Old Dairy Farmers Co-Op. Milk Depot)—1259-00000-6.

**John Street**

No 39 lot 9 DP 621053 (Cottage Centre Cottage) (Mififo Pty. Limited)—2172-00000-8,

No 37 lot 1 DP 216189 (Macaria) (Camden Municipal Council)—2171-00000-9,

No 33-37 lot 1 DP 634060 (Police Station, Residence and Court House),

No 26-36 lot 1 DP 526782 4/5 portion 17 (St Paul's Roman Catholic Church)—2159-10000-3,

No 66 lot 11 DP 243170 (Lochreagh Investments Pty Limited—Marsdens)—2152-00000-2,

No 68 lot 10 DP 243170 (Ahmad)—2151-00000-3,

No 70 lot 9 DP 243170 (Levy)—2150-00000-4,

No 72 lot 8 DP 243170 (Schofield)—2149-00000-8,

No 74 lot 7 DP 243170 (Ward)—2148-00000-9,

No 76 lot 15 sec 2, DP 4039 (Heighington)—2147-00000-0,

No 78 lot 14 sec 2, DP 4039 (Rajah)—2146-00000-1,

No 80 lot 13 sec 2, DP 4039 (Ban)—2145-00000-2,

No 75 cor 2 DP 552468 (Mr and Mrs Bowring's Residence) (Nepean House Pty Limited)—2179-00000-1,

No 38 lot 1 DP 112893 (Former Fire Station building) (Camden Council)—4375/180,

No 40 lot 1 DP 112965 (Library) (Camden Council)—4375/210.

**Hill Street**

No 33 sec 2 cor 12 (Old Methodist Parsonage) (Brandt)—1703-00000-8,

No 30 sec 3 lot 9 (Terrace) (Idolight Pty Limited)—1683-00000-2,

No 32 sec 3 lot 10 (Terrace) (Edwards/Hawkins)—1682-00000-3,

No 28 lot 2 DP 531945 (Presbytery) (Aye Myitta Nominees Pty Limited)—1683-10000-0,

No 25 lot 5 DP 243170 (McCaldin)—1699-0000-4,

No 27 lot 6 DP 243170 (McGowan)—1700-00000-1,

No 29 sec 2 lot 10 (Lim)—1701-00000-0,

No 21 lot 101 DP 845949 (Arany)—3950/125,

No 18 sec 3 lot 6 (Hayter)—1688-00000-7,

No 20 sec 3 part 7 (Fuller and Goff)—1687-00000-8,

No 22 sec 3 pts 7, 8 (Doust)—1686-00000-9,

No 24 pt 8 13 and Rear (Roberts)—1684-10000-9,

No 12 sec 3 lot 3 (Bowring) (Hajana Pty Limited)—1691-00000-2,

No 14 sec 3 lot 4 (Johnson) (W.J. and N. Pty Limited)—1690-00000-3,

### **Mitchell Street**

No 1-3 (Nepean House),

No 7 pt 2 sec 8 (Cottage) (Funnell)—2666-00000-1,

No 9 pts 2, 3 sec 8 (Cottage) (Funnell)—2667-00000-0,

No 17 lot 11 DP 525948 (Taplin Cottage)—2669-10000-6,

No 18 lot 1 DP 519629 (Clowes)—2685-20000-4,

No 29-31 lot 7 and pt 6, DP 193308, sec 9 (Mitchell House) (Skinner)—2677-00000-8.

### **Broughton Street**

Pt cor lot—St Johns The Evangelist Anglican Church—427-00000-5.

### **Menangle Road**

Lot 56 pt 55 DP 239467—St John's Rectory and Stables, Lynch Gates and Grassed Slopes and Anglican Cemetery—2616-00000-2,

No 1, lot 2, DP 504765 (Drzymala)—2573-00000-3,

No 3, lot B, DP 504765 (Clark)—2573-10000-1,

No 5, lot 4, DP 4542 (Coates)—2576-00000-0,

No 7, lot 3, DP 4542 (Peters)—2577-00000-9,

No 9, lot D, DP 412293 (Berry)—2578-00000-8.

### **Exeter Street**

Lots 15, 16 DP 193308 (Nant Gwylan and Garden) (Davies)—1465-00000-6,

Lots A and 1 DP 532049 and 2 (Old Dairy House) (Davies)—1461-11000-7.

### **Heritage conservation areas**

#### **St Johns Hill Heritage Conservation Area**

Land shown edged heavy black on Sheet 1 of the map marked "*Camden Local Environmental Plan No 98—Heritage*".