

Camden Local Environmental Plan No 117—Elderslie Release Area (2004 EPI 398)

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New South Wales

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New South Wales

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Camden Local Environmental Plan No 117—Elderslie Release Area (2004 EPI 398)



New South Wales

Part 1 Preliminary

1 Name of plan

This plan is *Camden Local Environmental Plan No 117—Elderslie Release Area*.

2 Land to which plan applies

This plan applies to land in the local government area of Camden shown edged heavy black on the Zoning Map.

3 Statement of desired future character

- (1) Development of the Elderslie Release Area will be in the form of an urban village, adjoining and connected to the existing suburban development in Elderslie and Narellan. The village will consist of a variety of housing forms, in landscaped garden and natural settings and a small village centre.
- (2) The new suburban area shall integrate with the existing Elderslie and Narellan communities and with Kirkham Park by suitable low level road, pedestrian and cycle links. Internally, the subdivision pattern will promote accessibility by pedestrians and cyclists. The areas of higher residential densities will be located close to the public transport corridors and in close proximity to the local commercial and educational facilities and the open space corridors.
- (3) The urban village will be serviced by local and regional public transport services that provide a viable alternative to private vehicles. The Camden Valley Way—Camden By-pass link road will facilitate improved access to the Camden By-pass and form a natural extension linking with the Macarthur Centre.
- (4) The visually and culturally significant “Rheinberger’s Hill”, the main gateway to Camden from the north, shall remain as a visually prominent rural landscape. Housing shall not encroach on to Rheinberger’s Hill. Large lot housing may be sympathetically located behind the hill to the east of the saddle in the ridgeline. It shall be of a density that provides a transition from the Studley Park Golf Course to the suburban housing

area. Studley Park and Rheinberger's Hill will form a significant open space break between Narellan and Elderslie.

- (5) Hilder Street and Lodges Road continue to provide evidence of the historic development of the area. While land in the vicinity of these roads will undergo development and change, the alignment of the roads shall be maintained.
- (6) Visually and ecologically significant vegetated areas shall be preserved, by inclusion in the open space network, based principally on the creeklines as significant biological corridors.
- (7) District views and view corridors between historic items and culturally significant places shall be preserved.
- (8) Stormwater management shall be ecologically sustainable by using local control measures, which will relate strongly to the creekline corridors.

4 Aims and objectives

- (1) The aims of this plan are:
 - (a) to rezone the area to which the plan applies to allow for its urban development, and
 - (b) to require that, prior to the subdivision of land into lots of less than 40 hectares for residential uses, that satisfactory arrangements have been made for the provision of regional transport infrastructure, and
 - (c) to describe the desired future character of the locality and set out the zones and development controls necessary to ensure that the development of the land achieves that desired future character and complements and supports the suburban and historic rural character of the Camden area, and
 - (d) to ensure that the housing, accessibility and social needs of the growing Camden community are provided for, and
 - (e) to protect the local environment, particularly in relation to air and water quality in the southwestern Sydney region, by promoting the implementation of ecologically sustainable development practices, and
 - (f) to introduce a range of heritage conservation provisions for the land and to provide for protection of potential heritage items, archaeological sites and significant views.
- (2) The objectives of this plan are:
 - (a) to facilitate achievement of the desired future character of the locality by providing for development which:

- (i) recognises and promotes the distinctive character, ecological value, heritage significance, visual and landscape values and amenity of the locality, and
 - (ii) preserves, where possible, the natural features of the Elderslie Release Area, such as pockets of remnant bushland, creek corridors, hill tops and ridge lines and fosters provision of vegetated corridors for biodiversity and migration purposes, and
 - (iii) encourages innovative and efficient forms of housing and patterns of residential subdivision, with densities that support and facilitate a viable public transport service, and
 - (iv) is designed, sited and is of a scale and form that retains identified view corridors between significant historic sites, from Camden Valley Way, Camden By-pass and from public places, and
 - (v) encourages high quality design that will provide a pleasant living environment, and
 - (vi) integrates with the adjoining residential communities, particularly in terms of connectivity and accessibility, and
 - (vii) addresses the community's regional transport needs by requiring that satisfactory arrangements for regional transport infrastructure are in place before land may be subdivided into lots of less than 40 hectares for residential uses, and
 - (viii) permits a range of activities suitable for the Elderslie Release Area, and
 - (ix) allows residents to carry out a reasonable range of activities from their homes, without affecting the living environment of neighbours, and
- (b) to address the community's housing needs by:
- (i) providing a range of lot sizes and housing forms, and
 - (ii) providing housing forms which cater for various groups within the community, including socially and physically disadvantaged people, smaller households of unrelated persons, and older persons, and
 - (iii) increasing the density of residential development near commercial and community facilities, where satisfactory transport services are available or, over time, will be provided, and
 - (iv) ensuring satisfactory acoustic amenity, and
- (c) to protect the local ecology and promote biodiversity by:

- (i) identifying those areas containing existing endangered vegetation communities and setting out measures for their conservation, and
 - (ii) incorporating existing creeklines, adjoining riparian areas and where possible, existing vegetated areas, into corridors to provide improvement of water quality and maintenance of flows, vegetation links and open space opportunities, which also serve to define village elements, and
 - (iii) identifying building controls and vegetation preservation and embellishment measures which will reduce the potential for future salinity effects, and
 - (iv) to reduce the risk of harm to human health and the biophysical environment, by ensuring that contaminated land and potentially contaminated land are identified early in the development process and that contaminated land is remediated or otherwise rendered harmless prior to the land being used for the proposed purpose, and
- (d) to promote ecologically sustainable development practices by:
- (i) ensuring that housing areas are within reasonable walking and cycling proximity to commercial areas, community services and public transport routes, and
 - (ii) requiring a subdivision pattern which allows for connectivity with the adjoining existing suburban areas, particularly for pedestrians, cyclists and buses, and
 - (iii) facilitating the orderly provision of service infrastructure, including the early provision of community facilities and amenities and access to regional roads, and
 - (iv) implementing ecologically sustainable stormwater management practices which use natural environmental elements and promote water sensitive urban design practices, and
 - (v) encouraging use of passive solar design principles in the design of buildings to conserve energy usage, and
 - (vi) providing for future mine subsidence, and
- (e) to conserve the environmental heritage of the Elderslie Release Area by:
- (i) conserving the heritage significance of Rheinberger's Hill and its setting, and
 - (ii) protecting identified potential heritage items and archaeological sites and their settings, and
 - (iii) conserving the curtilage, settings and view corridors associated with potential heritage items located on land near to or in the vicinity of the Elderslie Release

Area, and

- (iv) ensuring that new development is planned to minimise adverse impacts on potential heritage items and archaeological sites, and
- (v) ensuring that known and potential archaeological sites and places of Aboriginal heritage significance are conserved.

5 Relationship to other environmental planning instruments

Camden Local Environmental Plan No 46 is amended by inserting at the end of clause 3 (2) the following words:

or to the following land:

Land to which *Camden Local Environmental Plan No 117—Elderslie Release Area* applies.

6 Suspension of covenants

- (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, the operation of any agreement, covenant or similar instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, 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 the Minister, or the Council or any other public authority, under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

7 Adoption of model provisions

The *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purposes of this plan, except for:

- (a) the definitions of **child care centre**, **home industry**, **home occupation**, **map** and **residential flat building** in clause 4 (1), and
- (b) clauses 7, 8, 15 and 35 (c).

8 Definitions

- (1) In this plan:

advertisement has the same meaning as in the Act.

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 has the same meaning as in the Act.

appointed day means the day this plan took effect.

archaeological site means a site specified in Schedule 1. Particulars of the relics referred to in that Schedule are set out in the Elderslie Urban Release Area Local Environmental Study.

ARI means Average Recurrence Interval as defined in the *Floodplain Management Manual: the management of flood liable land* (NSW Government, January 2001).

caravan park means land used for the accommodation of caravans or other moveable dwellings.

child care centre means fixed premises at which a child care service (but not a residential child care service) is provided by a person for the purpose of educating, minding or caring 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 used to provide facilities for the physical, social, cultural, spiritual and intellectual development or welfare of the local community, and may include professional consulting rooms.

conference facilities means a building or place used for conferences or for discussion or study groups, and includes associated facilities for refreshments, meals, overnight accommodation and recreation.

conservation management plan means a document prepared in accordance with the requirements of the Heritage Office that establishes the heritage significance of an item or place and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

convenience shop means a building or place that provides a retail service to cater for the day-to-day minor shopping needs of local residents, which may include an extended hours service.

demolish a heritage item, relic, or archaeological site, means wholly or partly destroy, dismantle or deface the heritage item, relic or archaeological site.

Elderslie Release Area means the land to which this plan applies.

exhibition home means a dwelling used for display purposes.

exhibition village means a group of exhibition homes, and may include a sales office used temporarily for the sale, and financing of the selling, of land and new dwellings.

hand made goods means goods that are not mass produced but are constructed and assembled by hand.

heritage impact statement means a document consisting of a statement demonstrating the heritage significance of a heritage item, potential heritage item, or archaeological site, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

heritage item means a building, relic, work or place described in Schedule 2.

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 floor space 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 means residential development (not being two-dwelling development) resulting in two or more dwellings on one lot, whether the dwellings are attached or detached, and includes townhouses and the like.

place of Aboriginal heritage significance means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

potential archaeological site means a site known to the Council to have potential archaeological significance even if it is not so identified or shown on a map.

potential heritage item means a building, relic, work or place described in Schedule 3 and shown on the Potential Heritage Items Map.

recreation area means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities capable of promoting 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 purpose 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.

significant view means a view described in Schedule 4 associated with heritage items or potential heritage items and shown on the Significant Views Map.

storey means the space within a building situated between one floor level and the

floor level next above or, if there is no floor above, the ceiling or roof above, but does not include:

- (a) a basement level if the ceiling or roof of the basement does not extend more than 1 metre above the finished or natural ground level, or
- (b) a sub-floor area, or
- (c) a roof void if the slope of the roof does not exceed 45°.

subsurface mining means mining of an area carried out totally underground by means of access remote from the area.

the Act means the *Environmental Planning and Assessment Act 1979*.

the Council means Camden Council.

the Elderslie Urban Release Area Local Environmental Study means the publication titled *Elderslie Urban Release Area Local Environmental Study*, Patterson Britton & Partners Pty. Ltd. (2000) a copy of which is available for inspection at the office of the Council.

the Potential Heritage Items Map means the map marked “Camden Local Environmental Plan No 117—Potential Heritage Items”.

the Significant Views Map means the map marked “Camden Local Environmental Plan No 117—Significant Views”.

the Zoning Map means the map marked “Camden Local Environmental Plan No 117—Zoning”.

tree means any tree, sapling or shrub which:

- (a) is 3 metres or more in height, or
- (b) has a girth of 300 millimetres 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 as at the appointed day and the other dwelling results from the conversion of a second building that (as at the appointed day) 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 the Council is satisfied that it will not be further subdivided (whether or not under the *Strata Schemes (Freehold Development) 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 consent authority 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, and
- (f) the floor space of one of the dwellings does not exceed 60 square metres.

village centre means a group of buildings situated on land and which comprises any shops, offices and medical or other professional consulting rooms.

(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, and
- (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 11 is a reference to land shown on the map in the manner indicated in clause 10 as the means of identifying land of the zone so specified, and
- (d) a reference to *Camden Development Control Plan No 112* is a reference to that development control plan as approved by the Council on 22 May 2000.

9 Consent authority

The Council is the consent authority for the purposes of this plan, subject to the Act.

Part 2 General control of development

10 Zones used in this plan

Land to which this plan applies is within a zone specified below if it is shown on the Zoning Map in the distinctive manner specified below for the zone:

Zone No 2 (d) (Residential Zone)—edged heavy black and lettered “2 (d)”.

Zone No 6 (b) (Open Space Proposed Zone)—edged heavy black and lettered “6 (b)”.

11 Zone objectives and development control table

- (1) The objectives of the zones 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 clause 10:
 - (a) the development that may be carried out without development consent, and
 - (b) the development that may be carried out only with development consent, and
 - (c) the development that is prohibited,is 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, consent must not be granted to the carrying out of development on land to which this plan applies unless the consent authority is of the opinion that the carrying out of the development is consistent with:
 - (a) the statement of desired future character for the Elderslie Release Area set out in clause 3, and
 - (b) the aims and objectives of this plan and the objectives of the zone in which the development is proposed to be carried out.

Table

Zone No 2 (d) (Residential Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to permit a range of compatible activities which will support residential development, and
- (b) to provide for a range of housing types, which takes into account accessibility, open space and scenic considerations, and
- (c) to provide for a village centre which is a focal point for transport and community activities and allows an appropriate range of retail, commercial, residential, community and recreational activities, and
- (d) to provide for a subdivision pattern which allows for connectivity with the adjoining existing suburban areas and permeability within the urban village, particularly for pedestrians and cyclists, and
- (e) to conserve the significance of Rheinberger's Hill and its setting as a prominent visual gateway to Camden, and
- (f) to ensure that development retains the heritage significance of heritage items, potential heritage items and archaeological sites and their settings and conserves significant views, and
- (g) to protect residential amenity in relation to noise from the Camden Bypass, and
- (h) to preserve areas of substantial remnant vegetation and integrate them within open space and biodiversity planning, and
- (i) to provide for a variety of recreation forms within the open space areas, and
- (j) to require urban drainage to provide a variety of sustainable water quality and quantity controls, and
- (k) to allow for educational, recreational, community and religious activities which support the wellbeing of the community.

2 Without development consent

Exempt development as listed in *Camden Development Control Plan No 112*.

3 Only with development consent

Any development other than development included in item 2 or 4.

4 Prohibited

Development for the purpose of:

airline terminals; amusement centres; bulk stores; bus depots; car repair stations; caravan parks; commercial premises (other than home businesses or as part of a village centre); extractive industries; generating works; helipads; heliports; hospitals; hotels; industries (other than home businesses); junk yards; liquid fuel depots; mining (other than subsurface mining); motor showrooms; professional consulting rooms (other than as part of a village centre or as a home business); road transport terminals; roadside stalls; sawmills; shops (other than as part of a village centre); stock and sale yards; warehouses.

Zone No 6 (b) (Open Space Proposed Zone)

1 Objectives of zone

The objective of this zone is to identify land intended to be acquired by the Council for open space and public recreation purposes.

2 Without development consent

Nil.

3 Only with development consent

Development for the purpose of:

agriculture; any building, work, place or land use ancillary to the use of the land for public recreation; drainage; recreation areas; roads; subsurface mining; utility installations (other than gas holders or generating works).

4 Prohibited

Development not included in item 3.

Part 3 Special provisions

Division 1 Pre-conditions to carrying out development

12 Development control plan required

Development consent must not be granted for any development of land to which this plan applies unless the consent authority has taken into consideration a development control

plan approved by the Council that contains the following:

- (a) proposals for stormwater and water quality management controls, incorporating:
 - (i) recommended restrictions to residential development on land at or below the 100 year ARI that take into account the necessity for the safe passage of flows in excess of the 100 year ARI, and
 - (ii) proposals for evacuation routes in extreme events,
- (b) a strategy for development of the land to which this plan applies that is consistent with the New South Wales Government's objective of achieving a minimum target density of 15 dwellings per hectare after excluding land that is substantially constrained in the manner identified in the Elderslie Urban Release Area Local Environmental Study,
- (c) proposals that will allow land for pedestrian and cycle routes between areas of activity,
- (d) subdivision, building and landscaping proposals,
- (e) recommendations for the protection and conservation of potential heritage items and archaeological sites and their settings,
- (f) proposals for the preservation of significant views and view corridors between, to and from identified heritage items, potential heritage items and landscape elements, such as Rheinberger's Hill,
- (g) recommendations for the materials to be used in the exterior of buildings, trees to be retained, plantings to be carried out, fencing and the position of building envelopes and access roads,
- (h) proposals for design controls which detail how development can achieve sustainable water quality and quantity measures and conserve energy usage by using passive solar design principles in the design of buildings,
- (i) an overall landscaping strategy for the protection and enhancement of the creek corridors and remnant vegetation, including detailed planting measures for both the public domain and private land, to achieve the ecological and cultural landscape outcomes set out in the aims and objectives of this plan,
- (j) a detailed investigation of contamination, taking into account the Council's adopted *Policy for Management of Contaminated Land*.

13 Services

Consent must not be granted for development involved in creating residential areas on land to which this plan applies unless the consent authority has taken into consideration

whether the proposed development can be adequately serviced with water, sewerage, drainage and electricity infrastructure.

14 Restrictions on certain subdivisions

- (1) The object of this clause is to require assistance towards the provision of regional transport infrastructure and services to satisfy needs that will arise from development of land to which this clause applies, but only if that land is developed intensively for urban purposes.
- (2) This clause applies to land within Zone No 2 (d).
- (3) Despite any other provision of this plan, consent must not be granted for a subdivision of land to which this clause applies that will create a lot with an area of less than 40 hectares unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure in relation to the land comprising that lot.
- (4) The reference in subclause (3) to a lot with an area of less than 40 hectares does not include a reference to any such lot:
 - (a) identified in the certificate as a residue lot, or
 - (b) that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utilities, educational facilities, or any other public purpose.
- (5) Subclause (3) does not apply to a subdivision for the purpose only of rectifying an encroachment on any existing allotment.
- (6) *State Environmental Planning Policy No 1—Development Standards* does not apply to this clause.

Division 2 Protection of the environment

15 Development affected by floodwaters etc

Consent must not be granted to the carrying out of development on any land to which this plan applies if the consent authority is satisfied that the proposed development is likely:

- (a) to be adversely affected by floodwaters or overland drainage flows, or
- (b) to adversely affect the flood peak at any point upstream or downstream of the site of the development, or
- (c) to adversely affect, to a substantial degree, the flow of floodwater on adjoining land, or
- (d) to cause avoidable erosion, siltation or unnecessary destruction of creek bank

vegetation in the area, or

- (e) to have an adverse effect on the water table to that land or any adjoining land, or
- (f) to adversely affect creek bank stability, or
- (g) to be isolated by floodwaters.

16 Development within mine subsidence district

- (1) This clause applies to land within an area that has been proclaimed as a mine subsidence district under section 15 of the *Mine Subsidence Compensation Act 1961*.
- (2) Consent must not be granted to the carrying out of development on land to which this clause applies without the concurrence of the Mine Subsidence Board.
- (3) In deciding whether concurrence should be granted as referred to in subsection (2), the Mine Subsidence Board must take into consideration:
 - (a) the potential use of the land for mining purposes, and
 - (b) whether coal resources will be sterilised by the proposed development, and
 - (c) whether conditions to prevent the surface effects of mine subsidence should be imposed on the granting of consent to the carrying out of the development, and
 - (d) whether granting concurrence to the carrying out of the development is likely to encourage development applications that, if granted, would be likely to sterilise coal resources.

17 Noise reduction

- (1) Consent must not be granted to the subdivision of any land for residential purposes adjoining Camden Valley Way or Camden By-pass, unless the consent authority is satisfied that a program, detailing appropriate noise attenuation measures to reduce traffic noise to potentially affected properties, has been prepared and can be implemented.
- (2) The program detailing appropriate noise attenuation measures must be prepared by a person who, in the opinion of the consent authority, is a qualified noise consultant and who has formulated the program based on current acoustic assessment.
- (3) The environmental criteria for road noise and noise attenuation measures will be assessed in accordance with the requirements of the *Environmental Criteria for Road Traffic Noise* (Environment Protection Authority, 1999).
- (4) Noise attenuation measures must not block identified view corridors and must contribute positively to urban design outcomes of a high quality.

18 Protection of trees

- (1) A person must 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 consent authority receives a development application for a consent 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 consent authority must specify in a notice under subclause (3) a period within which written submissions may be made to the consent authority 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 the following:
 - (a) a tree declared to be a noxious plant or noxious weed by or under any Act,
 - (b) action required by Part 11 of the *Electricity Supply (General) Regulation 2001*, or required or authorised by or under any other Act,
 - (c) a tree that harbours fruit fly,
 - (d) a tree that is dead,
 - (e) the following trees:
 - (i) Privet (*Ligustrum* sp),
 - (ii) African Olive (*Olea africana*) unless located on the site of a heritage item or potential heritage item,
 - (iii) Honey Locust (*Gleditsia triacanthos*),
 - (iv) Lantana (*Lantana camara*),
 - (v) 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,
 - (g) the destruction or removal of a tree within 0.5 metre 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 *Surveying Act 2002*,

(h) bush fire hazard reduction works carried out in accordance with the provisions of a bush fire code approved under section 100M of the *Rural Fires Act 1997* and a bush fire risk management plan.

(6) The consent authority must not grant a consent 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, watercourses 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 and 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, a copy of which is available from the office of the Council, called *Camden Significant Tree and Vegetated Landscape Study*, or

(ii) plans of management or vegetation plans approved by the Council, or

(iii) tree management policies approved by the Council.

19 Certain activities affecting trees excepted

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 the approval.

Division 3 Requirements for particular development

20 Height of buildings

- (1) Subject to subclause (2), a building erected on land to which this plan applies must not exceed two storeys in height.
- (2) Consent may be granted to a building containing three storeys, if the third storey is:
 - (a) located wholly within the roof space, and
 - (b) the building is designed and located to minimise bulk, particularly when viewed from the downslope sides of the land, and
 - (c) the building will not block views.

21 Village centre

Consent must not be granted to development for the purpose of a village centre if, as a result of the development, the combined floor area of all shops, offices and medical or other professional consulting rooms in the village centre would exceed 2,500 square metres or be less than 500 square metres.

22 Exhibition homes and villages

Despite any other provision of this plan, a person may, with development consent, carry out development for the purpose of an exhibition home or an exhibition village on land within Zone No 2 (d).

23 Home businesses

Development for the purpose of home businesses on land within Zone No 2 (d) is advertised development, for the purposes of the Act.

Division 4 Acquisition of land

24 Acquisition of land—Zone No 6 (b)

- (1) The owner of land within Zone No 6 (b) may, by notice in writing, require the Council to acquire the land.
- (2) On receipt of such a notice, the Council must acquire the land if:

- (a) the land is included in a program for the acquisition of land approved by the Council and current at the time of receipt of the notice, or
- (b) the Council is of the opinion that the owner of the land will suffer hardship if the land is not acquired immediately.

Division 5 Miscellaneous

25 Residential development in Zone No 6 (b)

Despite clause 11, development for the purpose of dwellings or roads may, with development consent, be carried out on land within Zone No 6 (b) if:

- (a) it is within 50 metres of the zone boundary shown on the Zoning map, and
- (b) the consent authority is satisfied that the development will not be detrimental to the significance of Rheinberger's Hill as a potential heritage item.

26 Development of part Lot 4 DP 558686, 37 Hilder Street

- (1) Nothing in this plan prevents a person, with development consent, from carrying out development on part Lot 4, DP 558686, known as 37 Hilder Street, as shown hatched on the Zoning Map, for the purposes of a medical centre, but only if any building used for the purpose of a medical centre is located above the level of the 1% Average Exceedance Probability Flood.
- (2) In this clause, **medical centre** means a building or place used for the purpose of providing professional health services (such as preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

27 Restricted vehicular access

- (1) Consent must not be granted to any development, except development for the purpose of a road, if the proposed development involves direct vehicular access to Camden Valley Way or the Camden By-pass.
- (2) Consent must not be granted to any development for the purpose of new roads having direct vehicular access to Camden Valley Way or the Camden By-pass, without the concurrence of the Roads and Traffic Authority.
- (3) In deciding whether to grant concurrence, the Roads and Traffic Authority must take into consideration whether the safety and efficiency of the roads referred to in subclause (1) will be adversely affected by:
 - (a) the location of the proposed direct vehicular access to the new road, and
 - (b) the design of the new road.

28 Community use of school facilities and sites

- (1) Where land to which this plan applies is used for the purpose of an educational establishment, the site and facilities of the establishment may, with development consent, be used for the purpose of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community land use, whether or not any such use is a commercial use of the land.
- (2) Development consent is not required if the other land use could be carried out on that land under another provision of this plan, or under any other environmental planning instrument, without development consent.

29 Council not required to obtain consent

Nothing in this plan prevents the Council from, or requires the Council to obtain development consent for, the carrying out of development by the Council on land to which this plan applies for the purpose of roads, stormwater drainage, recreation areas (excluding buildings), landscaping, gardening, bush fire hazard reduction, utility installations or flood mitigation works.

30 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.

Part 4 Heritage

31 Protection of heritage items and relics

- (1) The following development may be carried out only with development consent:
 - (a) demolishing or moving a heritage item or a relic,
 - (b) altering a heritage item or relic by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
 - (c) altering a heritage item or relic by making structural changes to its interior,
 - (d) disturbing or excavating an archaeological site or potential heritage item site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
 - (e) moving the whole or a part of a heritage item, potential heritage item or relic,
 - (f) erecting a building on, or subdividing, land on which a heritage item or relic is located or land that is a potential heritage item site.
- (2) **What exceptions are there?** Development consent is not required by this clause if:
 - (a) in the opinion of the Council:
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or potential heritage item concerned, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item or potential heritage item, and
 - (b) the proponent has notified the Council in writing of the proposed development and the Council has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development is excepted by this subclause and that development consent is not otherwise required by this plan.
- (3) **What must be included in assessing a development application?** Before granting a consent required by this clause for development relating to a heritage item, the consent authority must consider a report which addresses whether the heritage item has heritage significance and, if so, the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.
- (4) The report must include a heritage impact statement that addresses at least the following issues (but need not be limited to those issues, if the heritage significance concerned involves other issues):
 - (a) the heritage significance of the item as part of the environmental heritage of

Camden,

- (b) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features,
 - (c) the measures proposed to conserve the heritage significance of the item and its setting,
 - (d) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development,
 - (e) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision.
- (5) The consent authority may decline to grant consent unless it has considered a heritage impact statement or a conservation management plan to assist its assessment of the impact of proposed development on the heritage significance of the item and any measures required to conserve the heritage significance of the item and its setting.

32 Assessment and protection of potential heritage items

- (1) Before granting consent for development on a potential heritage item site the consent authority must consider a report that addresses:
 - (a) the heritage significance of the potential heritage item, and
 - (b) the extent to which the carrying out of development affects the heritage significance of the potential heritage item.
- (2) If the consent authority is satisfied that the potential heritage item does not have heritage significance, the consent authority (if it is not the Council) must inform the Council of that fact.

33 Advertising of certain heritage development applications

The following development is advertised development for the purposes of the Act:

- (a) demolishing, defacing or damaging of a heritage item, and
- (b) use of a building or land referred to in clause 34 for a purpose which, but for that clause, would be prohibited by this plan.

34 Conservation incentives

- (1) Consent may be granted to the use, for any purpose, of a building that is a heritage item or of the land on which such a building is erected, even though the use would otherwise be prohibited by this plan, if the consent authority is satisfied that:
 - (a) the proposed use would not adversely affect the heritage significance of the

heritage item, and

(b) the conservation of the heritage item depends on the granting of the consent.

(2) When determining an application for consent to erect a building on land on which a heritage item is located, the consent authority 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 heritage item, but only if the consent authority is satisfied that the conservation of the heritage item depends on the exclusion.

35 Development affecting places or sites of known or potential Aboriginal heritage significance

Before granting consent for development that will be carried out on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic of Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of the Department of Environment and Conservation of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

36 Development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance

(1) Before granting consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
- (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.

(2) This clause does not apply if the proposed development:

- (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or

(b) is integrated development for the purposes of the Act.

37 Development in the vicinity of a heritage item or potential heritage item

- (1) Before granting consent to development in the vicinity of a heritage item or potential heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the item and its setting.
- (2) This clause extends to development:
 - (a) that may have an impact on the setting of a heritage item or potential heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item or potential heritage item, or
 - (c) that will otherwise have any adverse impact on the heritage significance of or physical damage to a heritage item or potential heritage item.
- (3) The consent authority may decline to grant consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item or potential heritage item.
- (4) The heritage impact statement should include, among other matters to be addressed, details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item or potential heritage item.

38 Protection of significant views and view corridors

Before granting consent to development that, in the opinion of the consent authority, is likely to have an impact on significant views associated with heritage items or potential heritage items, the consent authority must consider a statement addressing the visual impact of the proposed development, including associated landscaping, on the preservation of significant views.

Schedule 1 Archaeological sites

(Clause 8 (1))

| No | Site |
|-----------|---|
| 1 | Site of stone artefact located in eroded area 40 metres west of creek channel (Isolated Find, EL-IF-1). |
| 2 | Site of stone artefact located in dam cutting 5 metres east of creek channel (Isolated Find, EL-IF-2). |

3 Oxley Creek between Lodges Road and Kirkham Park.

Schedule 2 Heritage items

(Clause 8 (1))

Note—

There were no heritage items at the commencement of this plan.

Schedule 3 Potential heritage items

(Clause 8 (1))

| No | Property | Item |
|----|-----------------------|---|
| 1 | 180 Camden Valley Way | residence and associated structures |
| 2 | 168 Camden Valley Way | residence and associated structures |
| 3 | 43 Hilder Street | residence |
| 4 | 49 Hilder Street | residence |
| 5 | 63 Hilder Street | residence |
| 6 | 64 Hilder Street | Washingtonia Palm and peppercorn tree |
| 7 | 120 Lodges Road | residence and associated structures (on adjacent block) |
| 8 | 125 Lodges Road | residence and associated structures |
| 9 | 141 Lodges Road | residence and surrounding garden |
| 10 | 150 Lodges Road | residence and associated structures |
| 11 | 167 Lodges Road | residence and associated structures |
| 12 | 175A Lodges Road | residence |
| 13 | 175B Lodges Road | residence and associated structures (on adjacent block) |
| 14 | Rheinberger's Hill | place |

Schedule 4 Significant views

(Clause 8 (1))

Notation on the Significant Views Map

Significant views

V1

Views between Studley Park House and Kirkham, Camelot and St John's Church, Camden and views to St John's Church from Rheinberger's Hill and Lodges Road. Views from the Camden By-pass to Camden and beyond to the Blue Mountains.

- V2 Views to and from Studley Park House from Camden Valley Way, Hilder Street, Kirkham (Recreational Park) and from within the Elderslie Release Area itself.
- V3 Views to and from Rheinberger’s Hill.
- V4 Views between potential heritage items within the Release Area (Lodges Road Group) and Hilsyde.