

8 July 2014



Ms Rachel Cumming Director, Metropolitan Delivery (Parramatta) Department of Planning and Infrastructure GPO Box 39 SYDNEY NSW 2001

Dear Ms Cumming

Amendment to Campbelltown (Urban Areas) LEP 2002 - Planning Proposal for 194 Campbelltown Road, Denham (Lot 100 DP 1176622)

Council at its Ordinary Meeting held on 1 July 2014 resolved to proceed with a draft Planning Proposal to Gateway Determination to allow the site (known as No. 194 Campbelltown Road, Denham Court) to be used for the purpose of a service station.

Council intends to use its delegation pursuant to Section 23 of the EP&A Act 1979 as the matter is considered to be of only local significance. The delegation will be sub- delegated to the General Manager.

Attached are an electronic and hard copy of Council's report and the draft planning proposal for your consideration and referral to the Gateway Panel for determination.

If you require any further information please contact Rana Haddad (Senior Environmental Strategic Planner) on 02 4645 4570.

Yours sincerely

Andrew Spooner Manager Sustainable City and Environment

Department of Planning Received

Scanning Room

14325424

Civic Centre Queen Street Campbelltown PO Box 57 Campbelltown NSW 2560 DX5114 Telephone 02 4645 4000 Facsimile 02 4645 4111 TTY 02 4645 4615 Ernail council@campbelltown.nsw.gov.au Web www.campbelltown.nsw.gov.au ABN 31 459 914 087



Planning and Environment Committee Meeting 24/06/14

TITLE No. 194 Campbelltown Road, Denham Court - Proposed Amendment to LEP 2002

Reporting Officer

Manager Sustainable City and Environment

Attachments

- 1. Copy of the revised draft planning proposal (contained within this report)
- 2. an aerial photo of the subject site (contained within this report)
- 3. a copy of the report that was submitted to Council in October 2013 (contained within this report)
- 4. a map illustrating the proposed road access configuration to and from the site (contained within this report)
- 5. aerial Photo of the site while it was used by the RTA (contained within this report)

Purpose

The purpose of this report is to seek Council's endorsement to proceed with a draft Planning Proposal to Gateway Determination and public exhibition thereafter, to allow the site (known as No.194 Campbelltown Road, Denham Court) to be used for the purpose of a service station.

History

Council at its meeting on 10 December 2013 considered a recommendation of the Planning and Environment Committee and resolved as follows:

- That Council support in principle a proposed amendment to Campbelltown (Urban Areas) Local Environmental Plan 2002 for Lot 100 DP1176622 (No. 194 Campbelltown Road) Denham Court, to include an additional use (service station) to Schedule 2 – Additional Development subject to its consideration of the outcomes of further required investigations as detailed in the above report.
- 2. That additional requirements, as recommended by the legal advice sought by Council be included as part of any proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 to ensure that the service station would not be allowed to provide onsite truck parking and servicing.
- 3. That the applicant be requested to prepare additional studies, as identified by this report, in support of a possible amendment to Campbelltown (Urban Area) Local Environmental Plan 2002.
- 4. That this matter be reported back to Council following an assessment of the additional required investigations.

The proposed development, as described by the applicant, would be a typical service station with a cashier for the fuel bowsers located within a building. The building is also proposed to include a convenience store component, a car wash and a small food area, with a small cafeteria and seating to service customers driving cars and trucks.

It is proposed that the service station would service traffic travelling on the Campbelltown Road in both directions and would be screened so as not to be visible from the F5 Freeway.

Given the close proximity of the site to the Ingleburn industrial precinct, it is anticipated by the applicant that the service station would be providing refuelling services to trucks entering the Ingleburn industrial precinct. This is reflected in the design of the proposed service station, as a special fuelling bay for heavy vehicles is planned as part of the proposed development.

It is not considered unusual for a service station to provide refuelling services for trucks, however, it is important that a service station at this location not be permitted to refuel trucks and not provide additional services that include parking, washing, greasing, storing, repairing, installing accessories or mechanically servicing heavy vehicles. A specialised service station for heavy vehicles is not considered suitable for this site for the following reasons:

- 1. It would adversely impact on the residential amenity of nearby rural residential properties in terms of noise
- 2. It would adversely impact on the aesthetic and scenic values of the locality
- It would generate large volumes of heavy traffic which would adversely impact on the road network within the locality.

To ensure that a service station on this site would not be designed and used for providing services to trucks/heavy vehicles, Council's solicitors (Marsdens Law Group) suggested that Council include an additional clause under LEP 2002 to that effect. The legal advice was discussed in detail in the report that was submitted to Council's meeting dated 10 December 2013, a copy of which is shown as Attachment 3 of this report.

The additional proposed clause under Schedule 2 of LEP 2002 reads:

Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the manufacturer or by the Roads and Maritime Services constituted under the *Transport Administration Act 1988*).'

Draft CLEP 2014

Council's draft CLEP 2014 will be placed on public exhibition on 12 June 2014 for a period of two months and subject to the outcome of its public exhibition the draft plan may be in place early next year.

It is anticipated that this proposed amendment to LEP 2002 (the subject of this report) would be finalised ahead of the gazettal of the draft CLEP 2014. As such, it is recommended that Council proceed with this draft Planning Proposal as an amendment to LEP 2002 (so as not to delay the proposal). This proposed amendment should also be included under the draft CLEP 2014 prior to the time of its gazettal. Council will seek clarification from the Department on the legal mechanism to do so.

On 19 December 2013, the applicant was advised of Council's above resolution.

On 19 May 2014, Council received a formal draft Planning Proposal from the applicant including associated preliminary studies as required by Council.

Report

Property Description:	Lot 100 DP 1176622 (known as No. 194 Campbelltown Rd, Denham Court)
Owner:	Press Australia PTY LTD
Applicant:	Smyth Planning

Site Description

The subject site is located within the suburb of Denham Court and is bounded by major roads on all sides. Campbelltown Road lies to the west, the South Western Freeway (F5) to the east and south and the Ingleburn F5 exit off-ramp to the north. An aerial photo of the site is shown as Attachment 2 to this report.

The site is irregular in shape and has a frontage of approximately 240 metres to Campbelltown Road, 192 metres to the F5 and 116 metres to the F5 off-ramp and has an area of 1.241 hectares. The site is relatively flat with a slight slope to the north.

There is a single dwelling house on the site that is currently occupied.

The southern part of the site was previously used by the former Roads and Traffic Authority (RTA) as a storage area for road works material and equipment associated with the F5 Freeway upgrade.

Current Zoning

The site is currently zoned Zone 7 (d5) - Environmental Protection, 1 hectare Minimum Zone under LEP 2002 and is proposed to be rezoned to E4 Environmental Living under draft Campbelltown Local Environmental Plan 2014 (draft CLEP 2014).

Under the provisions of LEP 2002, service stations are not permissible on land within Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone. The same provisions apply in draft CLEP 2014 as service stations are not proposed to be permissible under the proposed E4 Environmental Living Zone.

The draft Planning Proposal

The draft Planning Proposal submitted by the applicant seeks to amend Campbelltown (Urban Areas) Local Environmental Plan 2002 (LEP 2002) by creating a 'scheduled use' for the subject site to allow it to be used for a service station. Council staff revised the applicant's draft Planning Proposal and included an additional proposed amendment to LEP 2002 to ensure that a service station on the subject site would not be utilised for refuelling parking and servicing of trucks/heavy vehicles. The revised draft Planning Proposal is shown as attachment 1 to this Report.

Outcome of Studies

A number of studies have been prepared by the applicant, the findings of which are summarised below:

1. Traffic Report

A traffic report was prepared by Colston Budd Hunt and Kafes Pty Ltd on behalf of the applicant. The Traffic Report has primarily examined two main aspects as follows:

Traffic Generation

The traffic report found that the proposed development would generate an additional 40 trips each way. An analysis of the nearby intersections shows that the road network would be able to cater for the additional traffic from the proposed development.

Access to and from the proposed service station

The applicant is proposing that traffic on both directions of Campbelltown Road be able to access the proposed service station. The proposed road access configuration is shown as attachment 4 of this report.

The traffic report found that subject to detailed design, the proposed access from Campbelltown Road to the proposed service station is appropriate. This matter will be <u>further assessed at the development application stage</u>.

Council's Technical Services reviewed the Traffic Report and advised that the proposed traffic control measures included in the proposal are considered adequate to address the impact of traffic to and from the site should the service station use be allowed. However, the traffic plans as proposed will require some adjustment that can be addressed at development application stage.

2. Arboriculture Impact Assessment

The applicant has submitted to Council an Arboriculture Impact Assessment for the site. The report has examined all trees located on the land and of the 136 trees assessed, 91 are proposed to be retained and protected.

The majority of trees on the site are highly fragmented and modified bushland which have been largely disturbed and impacted by past land use activities, particularly the use of the site by RMS while upgrading the M5. An aerial photo showing the site while it was used by the RMS is included as attachment 5 to this report.

Advice from the Council's Environmental Unit indicated that the subject site is mapped as containing <u>Cumberland Plain Woodland</u> under the 2013 Native Vegetation of the Sydney Metropolitan Area. Cumberland Plain Woodland is listed as a critically endangered ecological community (CEEC) under the *Threatened Species Conservation Act 1995* (TSC Act) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Although the site has been largely disturbed by previous land use activity, the applicant would be required prior to placing the Planning Proposal on Public Exhibition to undertake a Flora and Fauna Assessment Report prepared in accordance with the Office of Environment and Heritage's Threatened Species Survey and Assessment Guidelines and Field Survey Methods.

156 Hor. + Lecorery Mun.

3. Landscape Plan

A preliminary landscape Plan has been prepared by RFA Landscape Architects on behalf of the applicant. The preliminary landscape plan demonstrated how the visual presentation of the site would be enhanced. The Landscape Plan would be further assessed at the development assessment stage.

4. Visual Impact Assessment

A Visual Impact Assessment (VIA) has been prepared by Mosca Pserras Architects that examined the anticipated visual impact of the proposed service station when viewed from Campbelltown Road and the M5 Motorway. The VIA found that there would be minimal visual impacts arising from the proposed development when viewed from Campbelltown Road as the large trees located along the boundary of the site would screen the majority of the building. In addition, the proposed development would not be visible from the F5 because of the large embankment and existing mature trees located at the F5 site boundary.

5. Acoustic Report

Acouras Consultancy on behalf of the applicant has prepared an acoustic assessment to support the planning proposal. The report made a number of recommendations to ensure that the proposed development and ancillary activities do not produce noise levels above what is considered acceptable by the relevant Australian Standards. The recommendations were in relation to hours of operation, type of glazing and the like which are matters for consideration at the development assessment stage.

The report concluded that the traffic noise generated by the development would comply with the NSW Industrial Noise Policy and the Road Noise Policy prepared by the NSW Environmental Protection Authority.

6. Preliminary contamination assessment

A preliminary contamination assessment has been prepared by SMEC Testing Services Pty Ltd to establish if any remediation is required for the future use of the land as a service station. The assessment included soil sampling from seven locations, across the site. The results of the sampling show that the concentrations of chemical contaminants measured in the soils across the site are generally low and below criteria that are protective of human-health for a commercial/ industrial land use setting. During the testing, asbestos fibres were identified in one soil sample which would require remediation in order to make the site suitable for redevelopment into commercial/ industrial land use.

In summary, the report found that the site is suitable for use as a service centre provided that the asbestos contaminated soil is appropriately remediated including removal by a licenced contractor.

7. Stormwater and Flooding

The applicant did not include information in relation to stormwater and flooding. Council's Technical Services section have advised that this matter should be further investigated as part of the development application stage as the subject property is a Flood Control Lot and object to flooding from a 1% Annual Exceedance Probability (AEP) flood event.

In this regard additional work as part of a development application will be needed to determine the minimum fill and floor level controls for any further development on this site.

Comments on the findings of the studies

Based on the findings of the above studies and internal advice from Council's Technical Services section, the site is generally considered suitable for a service station type development subject to design consideration and further assessment of the vegetation on site.

In addition, a service station with a car wash, cafeteria and a convenience store will provide a number of local jobs.

It is therefore recommended that Council support the progression of the proposed draft planning proposal to Gateway Determination.

Plan making delegation

It is recommended that Council use its delegation pursuant to Section 23 of the *Environmental Planning and Assessment Act 1979* for this draft Planning Proposal. This will enable Council to streamline the processing of the draft Planning Proposal. The request for delegation will be made as part of the Gateway submission. This would allow Council to deal directly with Parliamentary Counsel for making of the plan rather than through NSW Planning and Environment. The General Manager is Council's nominated officer.

Public Exhibition and consultation with public authorities

Subject to the conditions of the Gateway Determination, it is recommended that Council upon receipt of the Gateway Determination, proceed to public exhibition without reporting this matter back to Council. Councillors would be advised of the outcome of the Gateway Determination and the dates of the public exhibition via a Councillors Weekly Memo. However, if the Gateway Determination included an unexpected advice from the Department, this matter would be reported back to Council, prior to the commencement of the public exhibition.

It is recommended that subject to the issue of a positive Gateway Determination the draft Planning Proposal be placed on public exhibition for 28 days at a Council's Civic Centre, HJ Daley Library, Greg Percival Library Ingleburn and on Council's website, in accordance with the legislative requirements of the Environmental Planning and Assessment Regulation 2000. It is also recommended that consultation with the following public authorities occurs while the draft Planning Proposal is on public exhibition:

- Office of Environment and Heritage (Environment Branch);
- Sydney Catchment Authority; Maggement (
- Roads and Maritime Service (RMS);
- Liverpool City Council;
- Rural Fire Service;
- Sydney Water; and
- Dam safety Committee

A public notice would be placed in the two local papers advising of the public exhibition of the draft Planning Proposal. Letters would also be sent to adjoining owners advising of the public exhibition.

Where to from here

Should Council resolve to support the request to create a 'scheduled use' to allow the site to be used as a 'typical service station', and to include an additional clause to ensure that the service station would not accommodate heavy vehicles/trucks, the next step would be to submit the attached draft Planning Proposal for Gateway Determination.

If Council chooses not to support the draft Planning Proposal the applicant would be entitled to, within 40 days of Council's notification of its decision, make a written application and pay a fee to the Department for a pre-gateway review. An applicant may also request a pregateway review if Council has not made a determination after 90 days from the date of submission of the LEP amendment request. The pre-gateway review is informed by advice from the relevant Joint Regional Planning Panel.

Notably, Council or a proponent may also request a review of a gateway determination within 40 days of being notified by the Department.

Conclusion

It is considered that the draft Planning Proposal to add an additional permitted use to allow a 'typical service station' at No. 194 Campbelltown Road, Denham Court has sufficient merit to progress to Gateway Determination and public exhibition thereafter. The site is considered suitable for the proposed type of development subject to future development consent. In this regard, additional clauses, as recommended by the advice sought from Marsdens, are proposed under LEP 2002 to ensure that the site would not accommodate heavy vehicle parking, refuelling, mechanical servicing nor repairing.

Officer's Recommendation

- 1. That Council support the draft Planning Proposal shown as attachment 1 to his report for referral to the Department Planning and Environment for Gateway Determination and advise that Council will be using its delegation pursuant to Section 23 of the *Environmental Planning and Assessment Act 1979*;.
- 2. That subject to the conditions of the Gateway Determination, Council place the draft Planning Proposal and associated studies on public exhibition for 28 days.
- 3. That Council undertaken any required consultation with public authorities while the draft Planning Proposal is on public exhibition.
- 5. That at the conclusion of the public exhibition, a report be submitted to Council on the submissions received.

ATTACHMENT 1

PLANNING PROPOSAL

To include a (Service Station) as a Scheduled Use in the Campbelltown (Urban Area) LEP 2002

At

194 Campbelltown Road, Denham Court NSW, 2565 Lot 100 in DP 1176622



Prepared by:

Smyth Planning

Amended by Campbelltown City Council

June- 2014

Draft Planning Proposa	I
Service Station- 194 Campbelltown Road, Denham Court	t

CON	NTENTS	
1.0	INTRODUCTION	1
2.0	SITE DESCRIPTION AND LOCATION	1
3.0	BACKGROUND	2
4.0	PART 1 – OBJECTIVES AND INTENDED OUTCOMES	3
5.0	PART 2 – EXPLANATION OF PROVISIONS	3
6.0	PART 3 – JUSTIFICATION	4
7.0	PART 4 – MAPPING	13
8.0	PART 5 – COMMUNITY CONSULTATION	14
9.0	PART 6 – PROJECT TIMELINE 14	Ļ
10.0	CONCLUSION	15

Annexures

INDEX	PLANS AND DOCUMENTATION	PREPARED BY	DATED
Annexure 1	Site Plan	J. Wyndam Prince	February 2014
Annexure 2	Traffic Report	Colston Budd Hunt & Kafes Pty Ltd	March 2014
Annexure 3	Landscape Plan	RFA Landscape Architects	March 2014
Annexure 4	Visual Impact Statement	Mosca Pserras Architects	February 2013
Annexure 5	Acoustic Assessment	Mott MacDonald	March 2014
Annexure 6	Preliminary Contamination Assessment	SMEC Testing Services Pty Ltd	March 2014
Annexure 7	Arboricultural Impact Assessment	Urban Tree Management Australia Pty Ltd	July 2013
Annexure 8	Proposed Service Station – Vehicle Turning Paths	J.Wyndham Prince	December 2013

© Smyth Levy & Associates Pty Ltd trading as Smyth Planning ABN 64 783 407 127 (Amended by Campbelltown City Council)

Draft Planning Proposal Service Station– 194 Campbelltown Road, Denham Court

1. INTRODUCTION

- 1.1 Smyth Planning has been engaged by Mr. Mark Bassal of Xpress Group Pty Ltd to prepare a Planning Proposal for Lot 100 in DP 1176622, (No. 194 Campbelltown Road, Denham Court).
 - 1.2 The Planning Proposal provides a description and justification for the proposed amendment to the Campbelltown (Urban Areas) Local Environment Plan 2002 (LEP 2002), to permit the development of a 'service station' as a scheduled use on the subject site and provides an additional clause to ensure that the service station will not be utilised for the refuelling and servicing of heavy vehicles.
- 1.3 The Planning Proposal has been prepared in accordance with the requirements of Section 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning and Infrastructure Guidelines including 'A Guide to Preparing Planning Proposals 2012', and 'A Guide to preparing Local Environment Plans'.
- 1.4 It is considered that the proposed development has local strategic merit without causing any unreasonable environmental, social and economic impacts and would service the needs of the surrounding community and visitors to the area.

2. SITE DESCRIPTION AND LOCATION

2.1 Locality Description

The site is located on the eastern side of Campbelltown Road at Denham Court within the Campbelltown City Council Local Government Area. It is situated between McCormack Place to the north and Williamson Road to the south. The M5 Motorway is east of the site. There is a northbound off-ramp from the M5 adjacent to the site's eastern and northern boundaries. The off-ramp intersects Campbelltown Road at a signalised intersection adjacent to the site (Refer to Figure 1)

Adjacent to the site, Campbelltown Road provides for one traffic lane in each direction, with sealed shoulders. It has a 70 kilometre per hour speed limit and carries moderate traffic volumes. Campbelltown Road passes over the M5, south of the site. Further south it intersects Williamson Road, which provides access to the Inglebum Industrial Estate. There is a roundabout at the Campbelltown Road/Williamson Road intersection. The fourth leg of the roundabout provides a southbound on-ramp to the M5.

There is a right tum bay for southbound traffic on Campbelltown Road, near the southern end of the site. It provides access to a horse riding ranch. Campbelltown Road is a classified Road and as such, requires the concurrence of Roads and Maritime Services (RMS) for access.



2.2 Site Description

The site is legally described as Lot 100 DP 1176622 and is known as 194 Campbelltown Road, Denham Court. The site is currently zoned 7(d5) Environmental Protection 1ha Minimum. The site is irregular in shape and has a frontage of approximately 240 metres to Campbelltown Road, 192 metres to the Hume Highway freeway and 116 metres to the off ramp from the north bound freeway lane to Campbelltown Road (Refer to Figure 2). The site has an approximate area of 1.241 hectares and is relatively flat. The site includes a brick cottage and associated metal garage and shed and swimming pool. There are a number of trees on the site. Currently on the site is a dwelling which appears to be occupied. Vehicular access to the site is via a crossover from Campbelltown Road.



Figure 2: Aerial photo showing subject site and surrounding land. Source - http://maps.six.nsw.gov.au/

3. BACKGROUND

- 3.1 In accordance with the recommendations of the Department of Planning and Environment (the Department) outlined in 'A Guide to Preparing Planning Proposals 2012', a planning proposal request was submitted to Council on 9 July 2013 to enable the subject site to be used as a service station with a small convenience store and a small food area, with a cafeteria on the subject site. Council believed there was merit in a 'typical service station' that did not provide any on-site heavy vehicle refuelling, parking nor servicing. Amended plans (Refer to Figure 3) were submitted to Council and were considered at a Council meeting on 10 December 2013 and resolved as follows:
 - That Council support in principle a proposed amendment to Campbelltown (Urban Areas) Local Environmental Plan 2002 for Lot 100 DP1176622 (No. 194 Campbelltown Road) Denham Court, to include an additional use (service station) to Schedule 2 – Additional Development subject to its consideration of the outcomes of further required investigations as detailed in the above report.
 - That additional requirements, as recommended by the legal advice sought by Council be included as part of any proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 to ensure that the service station would not be allowed to provide onsite truck parking and servicing.
 - That the applicant be requested to prepare additional studies, as identified by this report, in support of a possible amendment to Campbelltown (Urban Area) Local Environmental Plan 2002.

 That this matter be reported back to Council following an assessment of the additional required investigations.



3.2 The requested studies have been prepared by the respective consultants and support the Planning Proposal at Annexure 2 – 7.

Figure 3: Site Plan. Source - Mosca Pserras Architects

4. Part 1 – Objectives or Intended Outcomes

- 4.1 The objectives and intended outcomes for this planning proposal are as follows:
 - To enable the development of Lot 100 DP 1176622, (No. 194 Campbelltown Road, Denham Court) for the purpose of a service station.
 - To ensure that the service station is not designed nor used for the refuelling and servicing
 of vehicles larger than 4.5 tonnes in GVM.

5. Part 2 – Explanation of Provisions

- 5.1 The proposed outcome, namely the development of a service station on the subject site, can/ will be achieved by amending the Campbelltown (Urban Areas) Local Environment Plan 2002 as follows:
 - Amend Schedule 2 Additional Development of the LEP 2002 to include the following:
 - 12 Development for the purpose of a service station

Lot 100 DP 1176622, 194 Campbelltown Road, Denham Court

Add a clause under Schedule 2 Additional Development of the LEP 2002 that reads:

Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the

manufacturer or by the Roads and Maritime Services constituted under the Transport Administration Act 1988).'

6. Part 3 – Justification

6.1 Section A – Need for planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic planning study or report undertaken by the Council. The proposal to create a scheduled use to allow for a 'service station' is a result of an owner initiated Press Australia PTY LTD rezoning application in response to research that shows that the site is suitable for use as a service station. It is noted that Council has provided in principle support in response to the submission of a planning proposal request to Council on 9 July 2013.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning proposal represents the best means of achieving the objectives and intended outcomes, as the current zoning of the site under LEP 2002 of 7(d5) Environmental Protection 1ha Minimum, prohibits the use of the land for a service station with a small convenience store, a car wash and a small food area, with a cafeteria.

6.2 Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within applicable Regional and sub-regional strategies?

The planning proposal is generally consistent with the relative objectives and actions contained within the following Strategic Plans:

NSW 2021 State Plan

The planning proposal is consistent with Goal 1 of the NSW 2021 State plan "Improve the performance of the NSW economy" as it will encourage employment growth. Employment will be created during the construction phase and throughout the ongoing operation of the future development.

Metropolitan Plan for Sydney 2036

The planning proposal is consistent with the following strategic directions of the Metropolitan Plan for Sydney 2036 including the following:

- Strategic Direction C- Transport for a Connected City, as the development will
 provide fuel and services related to efficient and effective road based transportation.
- Strategic Direction E- Growing Sydney's Economy, as the development will encourage employment growth throughout the construction and continued operation.

Draft Metropolitan Strategy for Sydney to 2031

The planning proposal is not inconsistent with the following key outcomes within the Draft Metropolitan Plan for Sydney 2036 including the following:

- A liveable City;
- Productivity and Prosperity; and
- Accessibility and connectivity

Draft South West Sub-Regional Strategy 2007

The planning proposal is consistent with the following key directions within the Draft South West Sub - regional including the following:

Key Direction 2 - Plan for Major Employment Growth;

The proposed development will contribute to future employment growth and provide services for residents and visitors to the area in an accessible location.

Is the planning proposal consistent with the local council's community plan or other strategic Plan?

The planning proposal is generally consistent with the long term town planning strategy plan 'Campbelltown 2025, looking forward'. In particular, the proposal is consistent with the following strategic directions:

- .
- Strategic Direction 6.2 Growing the Regional city; Strategic Direction 6.4 Getting around the city; and •
- Strategic Direction 6.6 Creating Education, employment and entrepreneurial • opportunities.

Furthermore, the subject site is considered suitable to be developed for a service station type development as it is an isolated parcel of land that is bounded by major roads on all sides, and it is located within close proximity to Ingleburn Industrial Precinct. In addition, the small convenience store would provide services for nearby rural areas and reduce the number of trips to major centres.

Is the planning proposal consistent with applicable state environmental planning policies?

Consideration has been given to the State Environmental Planning Policies that are relevant to this planning proposal.

The following table provides an assessment of the planning proposal against the State Planning Environment Planning Policies that may be relevant to the proposed development on the site:

State Environment Planning Policy	Consistency	
State Environmental Planning Policy No. 33 – Hazardous and Offensive Development	Any development lodged for a 'service station' would include fuel storage and therefore require an assessment against the criteria under Clause 13 of SEPP 33 – Hazardous and Offensive Development. The proposal is considered consistent subject to the assessment of any development application.	
State Environmental Planning Policy No. 44 – Koala Habitat Protection	The subject site is <u>not</u> affected by this SEPP. There is no Koala habitat or 'potential koala habitat' on the subject site.	
	"potential koala habitat means areas of native vegetation where the trees of the types listed in <u>Schedule 2 constitute at least 15%</u> of the total number of trees in the upper or lower strata of the tree component."	
	The arboricultural study did not identify any of the native vegetation listed in Schedule 2 on the subject site (Refer to Annexure 7)	

Draft Planning Proposal Service Station– 194 Campbelltown Road, Denham Court

State Environmental Planning Policy No. 55 – Remediation of Land	SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. A preliminary contamination assessment has been prepared in support of the application (Refer to Annexure 6). The report concluded that concentrations of chemical contaminants measured in the soils across the site are generally low and below criteria that are protective of human health for a commercial/ industrial land use setting. Some asbestos fibres were identified a soil sample which would require appropriate remediation including removal by a licenced operator prior to development. In summary, the results of the redevelopment into a commercial/ industrial use provided the asbestos contaminated soil is appropriately remediated. The planning proposal is considered consistent with this SEPP subject to the appropriate recommendations occurring.
State Environmental Planning Policy No. 64 – Advertising and Signage	Any development application for signage is subject to the provisions of this SEPP. The aim of this policy is to ensure that signage erected is compatible with the desired amenity and visual character of the area it is located in. Any signage would be assessed against this SEPP and regulated by way of conditions of development consent. It is considered that the planning proposal is consistent in this regard.
State Environmental Planning Policy (Infrastructure 2007)	Pursuant to Clause 104 – Traffic generating development, of the Infrastructure SEPP, an application for a service station (including ones which have retail outlets) must be referred to the Roads and Maritime Services (RMS) if the site has direct vehicular access or pedestrian access to a classified road or to a road that connect to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection. The subject site has direct access to a classified road, therefore any development application for a service station would be referred to the RMS in accordance with the provisions of SEPP Infrastructure 2007.

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following table provides an assessment of the planning proposal against the relevant Section 117(2) Ministerial Directions:

Section 117 Direction No. and title	Consistency
1. Employment and Resource	es a construction of the second s
Direction 1.1 - Business and Industrial Zones	Whilst the proposed planning proposal is not located within a 'Business Zone', Objective (1)(a) of this direction is to "Encourage employment growth in suitable locations". It is considered that the proposal is consistent with this direction as the site is considered suitable for a 'service station' type use and it will encourage employment growth during the construction phase and throughout the continued operation of the development.

Draft Planning Proposal Service Station- 194 Campbelltown Road, Denham Court

Direction 2.1 - Environment Protection Zones	This direction applies to the subject site as the land is currently zoned 7(d5) Environmental Protection 1ha Minimum, The objective of this direction is to protect and conserver
	environmentally sensitive areas. This Direction states what a relevant planning authority must do i this direction applies: :
	A planning proposal must include provisions tha facilitate the protection and conservation o environmentally sensitive areas.
	planning proposal that applies to land within ar environment protection zone or land otherwise identified for environment protection purposes in a LEP must no reduce the environmental protection standards tha apply to the land (including by modifying developmen standards that apply to the land). This requirement does not apply to a change to a development standard fo minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rurai Lands".
	It is considered that the draft planning proposal is consistent with the terms of this direction as it is not proposing to reduce o change the environmental protection standards that currently apply to the land.
Direction 6.3 - Site Specific Provisions	This direction applies to the planning proposal as it amends an Environmental Planning Instrument (CLEP 2002) to create a scheduled use to permit a service station.
	The main objective of this Direction states:
	The objective of this direction is to discourage <u>unnecessarily</u> restrictive site specific planning controls.
	The proposal is considered consistent with the above objective as it is necessary for this particular site to include additional provisions to ensure that the service station would not be utilised for the refuelling and servicing of trucks.
	A service station that would provide services and refuelling for heavy vehicles is not considered suitable for this site for the following reasons:
	 It would adversely impact on the residential amenity of nearby rural residential properties in terms of noise. It would adversely impact on the aesthetic and scenic values of the locality. It would generate large volumes of heavy traffic which would adversely impact on the road network within the locality.
12 1	To ensure that a service station on this site would not be designed and used for providing refuelling and services to trucks/heavy vehicles, additional clause under LEP 2002 is proposed to that effect.
	Given that the proposed clause is not inconsistent with the objective of this Direction, the inconsistency is considered of minor nature.
Direction 7.1 – Implementation of the Metropolitan Strategy	This proposal is consistent with this direction as it achieved th overall intent of the Metropolitan Plan for Sydney 2036 and wi encourage employment growth throughout the construction an ongoing operation of the development and provide fuel an services related to efficient and effective road base transportation.

6.3 Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject site is identified as containing some trees which form part of an area identified as Cumberland Plain Woodland which is listed as a critically endangered ecological community (CEEC) under the Threatened Species Conservation Act 1995 (TSC Act) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). An arboricultural assessment was prepared by Urban Tree Management on behalf of the applicant (refer to **Annexure 7**) and found that the majority of trees are highly fragmented and modified bushland which have been impacted by previous land uses (Refer to Figure 3A). The main observations of the study are as follows:

- The trees were determined to be of self-sown (remnant) & planted origin, locally indigenous, indigenous & exotic, evergreen specimens which all form part of the local canopy.
- The planted specimens were mostly located around the perimeters of the site which provide visual screening to and from the surrounding arterial roads. These are all considered common taxa and determined to be approximately between 5-10 years of age. Collectively only do they provide prominence and significant visual amenity.
- The remnant trees were considered prominent when viewed from various directions within the landscape. These formed various stands within the site which formed part of the Cumberland Plain Woodland which is listed as a critically endangered ecological community under the Threatened Species Conservation Act 1995.
- The CEEC was highly modified with predominantly only trees remaining of the Cumberland Plain Woodland. These also were fragmented in parts subjecting some trees to recent and past impacts affecting condition and vigour. The floristic diversity for the community was very poor.
- Only one tree was observed to support hollows for wildlife habitat (to be retained).
- Current land use surrounding the trees of this community currently incorporates grazing animals which are likely to have been present for several years.

The study determined that of the 136 trees assessed, 91 are proposed to be retained and protected with potential development. A total of 45 trees are proposed to be removed, of which 18 are of high retention value, 7 of medium and 20 of low retention value.

Forty one (41) trees formed part of the Cumberland Plain Woodland with 14 proposed for removal and 27 retained. Trees of the CEEC within the centre of the site only are proposed for removal, with all trees of the CEEC towards the perimeters retained and protected by tree sensitive construction methods. In summary the arboricultural assessment study made the following conclusions:

"Plant selection should be based on taxa of the Cumberland Plain Woodland with trees obtained of local provenance.

If all the recommendations and procedures detailed herein are adhered to, the subject tree/s to be retained will continue to grow and develop as important landscape component/s providing element/s of long term amenity for the property and its owners or occupants, and the local community"

The arboricultural assessment has identified that the trees within the site are highly fragmented and have been severely impacted and disturbed by previous land uses as shown on Figure 3A.

As recommended in the study, the future development of the site presents an opportunity to provide additional landscaping of Cumberland Plain Woodland species which will improve the floral diversity and have positive amenity impacts for both the property and surrounding community.



Figure 3A: Arial photo Illustrating the extent of site disturbance while the site was used by RMS

Although the site has been largely disturbed by previous land use activity (Figure 3A) above, the applicant at this stage is required to undertake the following studies, given that the site contains some trees which form part of an area identified as CPW:

- A Flora and Fauna Assessment Report prepared in accordance with the Office of Environment and Heritage's Threatened Species Survey and Assessment Guidelines and Field Survey Methods is required to be lodged as part of the Planning Proposal.
- As part of the Flora and Fauna Assessment, for any threatened species and/or ecological communities found onsite an Assessment of Significance is required to be undertaken for each species, population and ecological which is likely to be directly or indirectly impacted, by the proposal. The results of which will be used to determine any further studies and management plans required as part of the gateway determination.

Are there any other likely environmental effects as a result of the planning proposal and how they are proposed to be managed?

The key environmental impacts of the proposal are addressed below:

Traffic

A detailed traffic report has been prepared by Colston Budd Hunt & Kafes Pty Ltd on behalf of the applicant (Refer to **Annexure 2**) to investigate the extent of traffic generated by the proposed service station.

Vehicular access to the site is proposed from Campbelltown Road, with driveways near the northern and southern ends of the site with a right hand turn bay proposed in Campbelltown Road for access to the site (Refer to **Figure 4**). The key findings of the report are as follows:

- The proposed access arrangements will have appropriate capacity, and should operate with no unusual safety issues;
- The internal circulation and layout will be appropriate for cars and trucks and should be designed in accordance with Australian Standards at the detailed stage;
- The proposed right hand turn bay into the site is considered appropriate as Campbelltown Road is straight in the vicinity of the site and there are good site lines for northbound traffic turning into the site, as well for traffic in both directions turning from the site. Vehicles will be able to readily turn into the site in gaps due to the modest southbound through traffic volumes on Campbelltown Road, and in gaps created by the upstream traffic signals. The report found that given the anticipated number of vehicles, it would be appropriate to facilitate right runs to and from the site.
- There is no access proposed from the M5 Motorway or the exit ramp to or from the site. It is therefore anticipated that most traffic arriving at the site will be passing traffic on Campbelltown Road or traffic already exiting the M5. It is not anticipated that a significant volume of through traffic on the M5 will exit the freeway to visit the site before re-joining the freeway.
- The majority of traffic to and from the site is expected to be passing trade, i.e. traffic already using, Campbelltown Road and the M5 Motorway exit ramp. It is predicted that the additional traffic on Campbelltown Road north and south of the site would be small at some 40 vehicles per hour two -way. Such a low volume would not have noticeable effects on the signalised intersection adjacent to the site. Further form the site, traffic volumes would dissipate further and would not generally be noticeable.



Figure 4 - Concept Layout Site Plan, Source - J. Wyndham Prince

Landscaping and Visual Impact

A Visual Impact Assessment has been prepared by Mosca Pserras Architects (Refer to **Annexure 4**) to illustrate the anticipated visual impact of the service station from Campbelltown Road and the M5 Motorway. The visual impact assessment made the following findings:

- The visual impact of the proposed building from the south bound direction of Campbelltown Road is minimal as it is hidden behind a series of existing trees (Refer to Figure 5).
- The visual impact of the proposed building from the north bound direction of Campbelltown Road is minimal as the existing trees along Campbelltown Road create a visual buffer zone (Refer to **Figure 6**).
- The visual impact of the proposed building from the north bound direction of M5 Motorway is minimal as it is hidden behind a large embankment with existing mature trees and proposed screen planting (Refer to **Figure 7**).
- The visual impact of the proposed building from the south bound direction of M5 Motorway is minimal as the existing trees along the M5 boundary create a visual buffer zone (Refer to **Figure 8**).





Figure 6 – View southbound along Campbelltown Road



Figure 7 - View northbound along M5 Motorway



Figure 8 - View southbound along M5 Motorway

A preliminary landscape Plan has been prepared by RFA Landscape Architects (Refer to **Figure 9**) to demonstrate how the visual presentation of the site can be enhanced whilst minimising providing additional vegetative screening from Campbelltown Road and the M5 Motorway to help prevent light spillage. The landscape plan proposes the planting of Cumberland Plain Woodland species on the boundary of the site to compensate for the removal of the existing native species and provide additional screening to the site. Internal garden beds are also proposed within the site between the parking bays and the around the buildings to provide visual relief and break up the expanse of hard paved areas.

Draft Planning Proposal Service Station– 194 Campbelltown Road, Denham Court



Figure 9 - Landscape sketch plan. Source- by RFA Landscape Architects

Acoustic

Acouras Consultancy on behalf of the applicant has prepared an acoustic assessment to support the planning proposal (Refer to **Annexure 4**). The report made the following recommendations on the following components of any future service station development at the site:

- Operational assessment;
- Vehicle Activity;
- Automatic Carwash;
- Mechanical Plant and Equipment;
- Façade glazing Requirements;
- Building Façade Construction; and
- Assessment of Traffic Noise Generation.

The key findings of the assessment determined that noise emitted from the proposed development and ancillary activities is predicted to comply with the acoustic requirements of the EPA noise limits and relevant Australian Standards, provided the recommendations from the report are implemented.

Preliminary Contamination Assessment

A preliminary contamination assessment has been prepared by SMEC Testing Services Pty Ltd (Refer to **Annexure 5**) to establish if any remediation is required for the future use of the land as a service station. The assessment included soil sampling from seven locations across the site. The results of the sampling show that the concentrations of chemical contaminants measured in the soils across the site are generally low and below criteria that are protective of human-health for a commercial/ industrial land use setting. During the testing, asbestos fibres were identified in one soil sample which would require remediation in order to make the site suitable for redevelopment into commercial/ industrial land use.

In summary, the report found that the site is suitable for use as a service centre provided that the asbestos contaminated soil is appropriately remediated including removal by a licenced contractor.

Stormwater and Flooding

No investigation has been undertaken in relation to stormwater and flooding as part of this draft Planning Proposal. This matter should be further investigated as part of the development application stage as the subject property is a Flood Control Lot with respect to flooding from a 1% Annual Exceedance Probability (AEP) flood from local overland flow adjacent to the M31 Hume Motorway and the local catchment.

In this regard additional work as part of a development application will be needed to determine the minimum fill and floor level controls for any further development on this site.

Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is unlikely to give rise to any adverse social or economic effects. The proposal will have a positive social and economic benefit trough the following:

- Creation of employment opportunities during construction and on-going operation of the future use.
- Improving the availability of fuel, convenience goods and food available to the surrounding residential community, the Ingleburn industrial precinct which lacks these services, and visitors to the area.
- Effective use of an isolated parcel of land that is bounded by major roads on all sides.

6.4 Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

As discussed in section 6.3 of this report it is likely that there will be the need for some minor modification to Campbelltown Road to facilitate a right turn bay into the site. The findings from the traffic report concluded that the existing road network would be able to cater for the additional traffic from the proposed development.

What are the views of state and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

No consultation with State or Commonwealth authorities has been carried out to date on the planning proposal.

It is proposed to consult with the following public authorities while the draft Planning Proposal is on public exhibition:

- Office of Environment and Heritage (Environment Branch);
- Sydney Catchment Authority;
- Roads and Maritime Service (RMS);
- Liverpool City Council;
- Rural Fire Service;
- Sydney Water; and
- Dam safety Committee

7. Part 4 – Mapping

7.1 Given the planning proposal is to include a service station as a scheduled use there are no proposed changes to the current zoning map.

8. Part 5 – Community Consultation

- 8.1 The Gateway determination will stipulate the nature and extent of required community consultation in accordance with the requirements set out in 'A guide to preparing local environment plans'.
- 8.2 It is anticipated that the planning proposal will be placed on public exhibition for a minimum period of 28 days. Notification of the public exhibition will be given to adjacent land owners and residents via:
 - A notice in the local newspaper;
 - On Councils website; and
 - In writing to adjoining landowners.

The draft Planning Proposal will be placed on public exhibition at the following locations:

- Council's Civic Centre,
- HJ Daley Library and
- Greg Percival Library Ingleburn

9. Part 6 – Project Timeline

The anticipated draft project timeline has been included in the Table below. The anticipated timeframes and dates have been assigned to each milestone starting from the anticipated date of the Gateway process.

This is a proposed amendment to draft LEP 2002; however, Council wishes to include this amendment as part of draft CLEP 2014 prior to its gazettal so as to avoid the need to undertake an amendment to the forthcoming CLEP 2014. In this regard, Council is seeking advice from the Department on the mechanism to do so. Notably, the draft CELP 2014 will be placed on public exhibition from 12 June 204 for two months. Is it a matter of including this amendment on the draft CLEP 2014 at the end of the public exhibition and prior to its gazettal, or should the applicant make a formal submission to the draft CLEP 2014 while it is on public exhibition?

Project Timeline Table

Milestone	Date
 anticipated date for Gateway determination) 	August 2014
 anticipated timeframe for the completion of any required technical information 	September 2014
 commencement and completion dates for public exhibition period – unless merged with the draft CLEP2014 	October 2013
 timeframe for the consideration of a proposal post exhibition- report to Council 	December 2014
 submission to the department to finalise the LEP 	January 2014

10. Conclusion

This report has addressed the requirements set out in the NSW Department of Planning and infrastructure 'A Guide to Preparing Planning Proposals'.

It has addressed issues such as the intended effect of, and justification for, the proposed amendment to the Campbelltown (Urban Area) Local Environment Plan 2002, to permit the development of a service station with a small convenience store and a small food area, with a cafeteria on the subject site. The planning proposal is considered appropriate for the following reasons:

- The planning proposal is generally consistent or justifiably inconsistent with all of the relevant Regional and sub-regional strategies, State Environmental Planning Policies and Ministerial Directions (s.117 directions) that are relevant to the site.
- The future development of the site presents an opportunity to provide additional landscaping of Cumberland Plain Woodland species which will improve the floral diversity and entail positive amenity impacts for both the property and surrounding community.
- The planning proposal to allow for a 'typical service station' has sufficient merit and is considered to be an appropriate land use having regard to the isolation of the site and that it is bound by major roads on all sides.
- It is necessary, as part of this proposed amendment to LEP 2002, to ensure that the service station would not be designed to cater for the refuelling and servicing of heavy vehicles, as a service station that is specialised for the refuelling and servicing of heavy vehicles is not considered suitable for this location. Subject to this draft Planning Proposal, it is Council's intention to amend Schedule 2 of LEP 2002 to permit an additional use as a service station with the following provision:

'Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the manufacturer or by the Roads and Maritime Services constituted under the Transport Administration Act 1988).'

- The proposal will unlikely result in any adverse impacts to the adjoining residential
 properties in terms of noise levels, excessive traffic generation and visual impact if the
 recommendations of the respective studies are implemented.
- A preliminary contamination assessment considered the site suitable for redevelopment into a commercial/ industrial use provided the asbestos contaminated soil is appropriately remediated including removal by a licenced contractor.
- A preliminary landscape plan has been prepared which demonstrates how the landscaping of the site can be undertaken to enhance the visual presentation of the site, reflect the sites environmental setting and values and provide additional vegetative screening to prevent light spillage.
- There is need to undertake stormwater assessment work at the development stage. To inform a suitable floor level for the proposed service station.
- The planning proposal is unlikely to give rise to any adverse social or economic effects and will have a positive social and economic benefit through the creation of employment opportunities during construction and the on-going operation and improving the availability of fuel, convenience goods and food available to the surrounding residential community, the Ingleburn industrial precinct.

ATTACHMENT 2



ATTACHMENT 3



Planning and Environment Committee Meeting 03/12/13

TITLE No. 194 Campbelltown Road, Denham Court - A Proposed Amendment to LEP 2002

Reporting Officer

Manager Sustainable City and Environment

Attachments

- 1. Copy of the of the applicant's submission requesting an amendment to LEP 2002 (distributed under separate cover)
- 2. Copy of the amended site plan (distributed under separate cover)
- 3. An aerial photo of the subject site (distributed under separate cover)
- 4. A map illustrating the traffic movement to and from the site to the South Western Freeway (F5) (distributed under separate cover)

To view copies of the attachments distributed under separate cover, contact Council's Corporate Support Coordinator on 4645 4405.

Purpose

The purpose of this report is to seek Council's endorsement in principle of a proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002) for Lot 100 in DP 1176622 (No. 194 Campbelltown Road), Denham Court to enable the use of the site as a 'typical service station'.

History

A planning proposal request for No. 194 Campbelltown Road, Denham Court was submitted to Council on 11 July 2013 and is provided as attachment 1 to this report. The request was accompanied by an Arboricultural Impact Assessment Report which provided a detailed assessment of the conditions of the vegetation on site. The proposal was to enable the subject site to be used as a service station, which the current environmental planning instrument prohibits.

A close examination of the drawings submitted to Council as part of the original proposal showed that the proposed service station would be servicing trucks and would provide for a number of on-site truck parking spaces, including facilities for B-double trucks.

Council officers were of the opinion that the site would not be suitable for a 'truck oriented service station', given its close proximity to rural-residential properties and potential noise and visual impacts on the environmental and scenic values of the locality.

A report was submitted to Council's Planning and Environment Committee on 3 September 2013, including a recommendation that the proposal for a 'truck oriented service station' not be supported by Council. The report noted that there may be some merit for the site to

accommodate a 'typical service station' that would not provide any on-site heavy vehicle parking nor servicing.

In response to the Officer's Recommendation in the report, the architect working on behalf of the owners contacted Council on the day the report was scheduled to be considered by Council's Planning and Environment Committee (3 September 2013) and provided a covering letter and amended plans for the proposed service station. The amended site plan removed any reference to the parking of trucks on-site. Notably, a diesel pump for truck refueling was retained on the amended plans. A copy of the amended site plan is shown as attachment 2 of this report.

Councillors were advised of the receipt of the amended plans and the insufficient time provided to staff to reconsider in detail the implications of the amended site plan. Accordingly, Council's Planning and Environment Committee resolved to defer this matter pending further information. This recommendation was supported by Council at its meeting on 10 September 2013.

Legal advice was sought from Marsdens Law Group in relation to wording and legal mechanisms to ensure that any future service station on this site would not provide services and on-site parking for trucks/heavy vehicles. This report provides further assessment of the proposal in light of this legal advice, and the additional information submitted by the applicant.

Report

Property Description:	Lot 100 DP 1176622 (known as No. 194 Campbelltown Rd, Denham Court)
Owner:	Press Australia Pty Ltd

Applicant: Smyth Planning

Site Description

The subject site is located within the suburb of Denham Court and is bounded by major roads on all sides. Campbelltown Road lies to the west, the South Western Freeway (F5) to the east and south and the Ingleburn F5 exit off-ramp to the north. An aerial photo of the site is shown as attachment 3 of this report.

The site is irregular in shape and has a frontage of approximately 240 metres to Campbelltown Road, 192 metres to the F5 and 116 metres to the F5 off-ramp and has an area of 1.241 hectares. The site is relatively flat with a slight slope to the north.

There is a single dwelling house on the site that is currently occupied.

The southern part of the site was recently used by the former Roads and Traffic Authority (RTA) as a storage area for road works material and equipment associated with the F5 upgrade.

Current Zoning of the Site

The site is currently zoned Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone under Campbelltown (Urban Area) CLEP 2002 and is proposed to be rezoned to E4

Environmental Living under draft Campbelltown Local Environmental Plan 2013 (draft CLEP 2013).

Under the provisions of CLEP 2002, service stations are not permissible on land within Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone. The same provisions apply in draft CLEP 2013 as service stations are not permissible under the proposed E4 Environmental Living Zone.

The proposal

The initial planning proposal sought to amend Campbelltown LEP 2002 by creating a 'scheduled use' for the subject site that allows the site to be used for the additional purposes of a service station.

The proposed development, as described by the applicant, would be a typical service station with a cashier for the fuel bowsers located within a building. The building is also proposed to include a convenience store and a small food area, with a small cafeteria and seating to service customers driving cars and trucks.

It is proposed that the service station would service traffic travelling on the Campbelltown Road in both directions and would be screened so as not to be visible from the F5 Freeway.

Given the close proximity of the site to the Ingleburn industrial precinct, it is anticipated by the applicant that the service station would be providing services to trucks entering the Ingleburn industrial precinct. This is reflected in the design of the proposed service station, as a special fuelling bay for heavy vehicles is planned as part of the proposed development. A copy of the original planning proposal request is shown as attachment 1 of this report.

As mentioned earlier, the applicant has recently submitted to Council a covering letter and an amended site plan for the proposed service station, as shown in attachment 2 of this report. The amended site plan removed any reference to the parking of trucks on-site. Notably, a diesel pump for truck refueling was retained on the proposed amended plans.

The removal of the truck parking bays from the proposed site plan is considered a major alteration to the proposal and the following observations are made:

- the footprint of the proposed car park is now smaller compared to that originally proposed, which included on-site truck parking
- the area for landscaping has increased, thus providing enhanced outcomes for the screening of the proposal from the F5 and Campbelltown Road
- the prevention of parking of trucks on the site would also likely alter the noise impacts on neighboring rural residential properties.

Site suitability and traffic movement

Based on the information provided, the site is considered suitable for a service station type development, as it is an isolated parcel of land that is bounded by major roads on all sides carrying significant traffic volumes. In addition, it is located within proximity to the Ingleburn industrial precinct.

The site has a number of mature trees. The applicant has submitted a detailed Arboriculture Impact Assessment, the findings of which will be later discussed as part of this report.

Although the intention of the proposed service station is to provide services to vehicles travelling on Campbelltown Road, there is still a potential that some vehicles travelling north on the F5 would utilise the service station. In this regard, a map showing the anticipated traffic movement to and from the site for those vehicles is shown in attachment 4. Such vehicles would enter the site via the Ingleburn F5 exit ramp. To re-enter the F5 and continue travelling in the same direction, vehicles would have to loop back through Williamson Road, then turn left to Brooks Road. In doing so, the vehicles would traverse through the industrial area of Ingleburn. Given that the traffic would not navigate through any residential suburbs, such traffic movement in itself is not considered unreasonable.

The extent of vehicular traffic generated by the proposed development as opposed to that travelling past the subject site to access the Ingleburn industrial area would need to be investigated.

Legislative framework

LEP 2002

Under the provisions of LEP 2002 a 'service station' is defined as:

'Service station means a building or place used for the fuelling of motor vehicles, the sale by retail of petrol, oil and other petroleum products, the ancillary sale of a limited range of food items for the convenience of patrons, and also used for any one or more of the following:

- (a) the sale by retail of spare parts and accessories for motor vehicles
- (b) the washing and greasing of motor vehicles
- (c) the installation of accessories for motor vehicles
- (d) the repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).'

The term 'truck depot' is not separately defined under LEP 2002. In addition, the term 'motor vehicles' is not defined. As such, it could be argued that a 'heavy vehicle/truck' is a type of a 'motor vehicle'. Consequently, allowing a 'service station' on the site would not provide certainty for Council that a future service station would not include the parking, refuelling and servicing of trucks, thus potentially creating a 'truck depot' on the subject site.

In this regard, legal advice was sought from Council's solicitors, Marsdens Law Group, which will be discussed in detail later in this report.

Draft CLEP 2013

Under the provisions of the forthcoming draft CLEP 2013, a service station is defined as:

'Service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles
- (b) the cleaning of motor vehicles
- (c) installation of accessories
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration)
- (e) the ancillary retail selling or hiring of general merchandise or services or both."

Notably, a truck depot is separately defined under draft CLEP 2013 as:

'Truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.'

The above definition more clearly distinguishes between a 'service station'; and a 'truck depot', unlike the provisions under LEP 2002, where there is no definition for a 'truck depot'.

Accordingly, if Council was of a mind to grant a consideration of support for an amendment to CLEP 2002 to permit a service station on the land, staff would strongly recommend the inclusion of a special clause in the LEP that would prevent the fuelling, servicing and parking of any heavy motor vehicles on the land.

Notwithstanding, if Council chooses to support the proposal to enable a 'service station' to be developed on the subject site, then additional prohibitions on the fuelling, servicing and parking of heavy motor vehicles would need to be included in any future amendment to LEP 2002 or draft CLEP 2013. The inclusion of such additional provisions would ensure that the site would be developed for a 'typical service station' only, and not for truck related purposes.

Legal advice

As discussed above, there is a need to provide additional prohibition clauses to any future amendments to LEP 2002 or draft CLEP 2013 to ensure that the subject site would be developed for a 'typical service station' and not a 'truck depot'. In this regard, Council sought legal advice in relation to two main questions as follows:

- 1 If Council permits a 'service station' use on the site, what options would it have to ensure that any future service station on the site would not provide services and on-site parking for trucks/heavy vehicles?
- 2. Are there any legal mechanisms that Council may be able to implement/utilise under the draft CLEP 2013 to ensure that the site would not provide services and on-site parking for trucks/heavy vehicles?

In response to Question 1 above, Marsdens advised:

'If the Council wanted to exclude trucks and trailers from the kinds of vehicles that could be accommodated by the service station on the subject land, it would be necessary for Schedule 2 of LEP 2002 to be amended to include a provision to the following effect in respect of the land:

Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the manufacturer or by the Roads and Maritime Services constituted under the *Transport Administration Act 1988*).'

In response to Question 2 Marsdens advised that for Council to achieve the same outcome under its draft CLEP 2013, the following is recommended:

1. 'the Land Use Table for the Zone in which the land is situated should specifically prohibit 'service stations' and

2. Schedule 1 of draft CLEP 2013 should include the same recommended clause suggested for Question 1 one above.'

The above legal advice indicates that Council would be able legally, by means of a specific provision under its LEP 2002 or draft CLEP 2013, to restrict the subject site from being developed for a service station that would provide services to heavy vehicles.

Arboriculture Impact Assessment

The applicant has submitted to Council an Arboriculture Impact Assessment for the site. The report has examined all trees located on the land and of the 136 trees assessed, 91 are proposed to be retained and protected.

The majority of trees on the site are highly fragmented and modified bushland which have been impacted by past land use activities. Some of the trees are identified as being remnant trees of Cumberland Plain Woodland. In this regard, further investigation is required to ascertain whether the vegetation on site is representative of Cumberland Plain Woodland. If this is the case, the applicant would need to undertake a flora and fauna assessment.

Required studies

A number of matters have been identified by Council staff for further investigation and the preparation of detailed studies/reports should Council support in principle the proposed amendment as follows:

1. Traffic study

A detailed traffic study is required to be prepared as part of this proposal. The traffic study should as a minimum investigate the extent of traffic generated by the proposed service station as well as the following:

- the appropriateness of the proposed right turn to and from Campbelltown Road, including road design
- the impacts of vehicle movements to and from the site, including access to and from the F5
- impacts on traffic movements in the wider locality as a result of the proposed development .

2. Landscaping and visual impact assessment

The proposal should provide information on landscaping and the anticipated visual impacts from the F5 and Campbelltown Road. It is considered important that should Council decide to support the proposal, that the landscaping of the site be undertaken in a manner that enhances the visual presentation of the site and reflects the site's environmental setting and values.

In addition, the Landscape and Visual Impact Assessment should assess the potential impact of any light spillage and include recommendations on the species of vegetation to be used on the site for screening purposes and to help minimise the impacts.

3. Noise levels and mitigation measures

The site is within close proximity to large-lot rural residential properties. It is recommended that should Council decide to support the proposal, that the applicant undertake an acoustic impact assessment to determine whether the proposed

development would generate acceptable noise levels from vehicle movements to, from and within the site. Noise mitigation measures should also be investigated to address any impacts on nearby residences.

4. Preliminary contamination assessment

The history of the land uses of the site is not known, however, in recent times parts of the site were used by the RTA as a storage area for road works. The applicant to prepare a preliminary land contamination report should Council wish to progress the matter. The outcome of the preliminary contamination report would inform whether a more detailed contamination investigation is required and whether any remediation is necessary.

Where to from here

Should Council resolve to support the request to create a 'scheduled use' to allow the site to be used as a 'typical service station', the next step would be for the applicant to prepare further studies in relation to visual impact, traffic management, land contamination, and noise.

Council officers would then prepare a draft planning proposal based on the findings of the studies prepared by the applicant. A report would subsequently be submitted to Council seeking its endorsement of the draft planning proposal, prior to submitting it to the Department of Planning and Infrastructure for gateway determination and future public exhibition.

If Council chooses not to support the request to prepare an LEP amendment, the applicant would be entitled to, within 40 days of Council's notification of its decision, make a written application and pay a fee to the Department of Planning and Infrastructure for a pre-gateway review. An applicant may also request a pre-gateway review if Council has not made a determination after 90 days from the date of submission of the LEP amendment request. The pre-gateway review is informed by advice from the relevant Joint Regional Planning Panel.

Notably, Council or a proponent may also request a review of a gateway determination within 40 days of being notified by the Department.

Conclusion

It is considered that the proposal to add an additional permitted use to allow a 'typical service station' at No. 194 Campbelltown Road, Denham Court has sufficient merit to progress the matter further. The site is considered suitable for the proposed type of development subject to future development consent. In this regard, additional clauses, as recommended by the advice sought from Marsdens, would need to be included as part of any future amendment to LEP 2002 or draft CLEP 2013 to ensure that the site would not accommodate truck fuelling, parking nor servicing/repairing.

Should Council resolve to support the proposal at this stage, the applicant would need to be requested to undertake a number of additional studies to further investigate issues relating to visual impact, traffic management, land contamination, and noise impact. The outcome of these studies would be further reported to Council together, with a recommendation as to whether Council should prepare a formal planning proposal.

Officer's Recommendation

- That Council support in principle a proposed amendment to Campbelltown (Urban Areas) Local Environmental Plan 2002 for Lot 100 DP1176622 (No. 194 Campbelltown Road) Denham Court, to include an additional use (service station) to Schedule 2 – Additional Development subject to its consideration of the outcomes of further required investigations as detailed in the above report.
- 2. That additional requirements, as recommended by the legal advice sought by Council be included as part of any proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 to ensure that the service station would not be allowed to provide onsite truck parking and servicing.
- 3. That the applicant be requested to prepare additional studies, as identified by this report, in support of a possible amendment to Campbelltown (Urban Area) Local Environmental Plan 2002.
- 4. That this matter be reported back to Council following an assessment of the additional required investigations.

ATTACHMENT 4



ATTACHMENT 5


PLANNING PROPOSAL

To include a (Service Station) as a Scheduled Use in the Campbelltown (Urban Area) LEP 2002

At

194 Campbelltown Road, Denham Court NSW, 2565 Lot 100 in DP 1176622



Prepared by:

Smyth Planning

Amended by Campbelltown City Council

June - 2014

No. 194 Campbelltown Road, Denham Court - Proposed Amendment to LEP 20...

User Instructions

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

Action Item

Unless otherwise indicated below Council at its meeting of 1 July 2014 adopted the following Committee's Recommendation with Resolution No 106.

2.4 No. 194 Campbelltown Road, Denham Court - Proposed Amendment to LEP 2002

Officer's Recommendation

- 1. That Council support the draft Planning Proposal shown as attachment 1 to his report for referral to the Department Planning and Environment for Gateway Determination and advise that Council will be using its delegation pursuant to Section 23 of the *Environmental Planning and Assessment Act* 1979.
- 2. That subject to the conditions of the Gateway Determination, Council place the draft Planning Proposal and associated studies on public exhibition for 28 days.
- 3. That Council undertaken any required consultation with public authorities while the draft Planning Proposal is on public exhibition.
- 5. That at the conclusion of the public exhibition, a report be submitted to Council on the submissions received.

Committee's Recommendation: (Rowell/Lound)

That the Officer's Recommendation be adopted.

CARRIED

Voting for the Committee's Recommendation were Councillors: Greiss, Kolkman, Lound, Oates, Rowell and Thompson.

Voting against the Committee's Recommendation: nil.

	ITENTS	
1.0	INTRODUCTION	1
2.0	SITE DESCRIPTION AND LOCATION	1
3.0	BACKGROUND	2
4.0	PART 1 – OBJECTIVES AND INTENDED OUTCOMES	3
5.0	PART 2 – EXPLANATION OF PROVISIONS	3
6.0	PART 3 – JUSTIFICATION	4
7.0	PART 4 – MAPPING	13
8.0		14
9.0	PART 6 – PROJECT TIMELINE	14
10.0	CONCLUSION	15

Annexures

INDEX	PLANS AND DOCUMENTATION	PREPARED BY	DATED
Annexure 1	Site Plan	J. Wyndam Prince	February 2014
Annexure 2	Traffic Report	Colston Budd Hunt & Kafes Pty Ltd	March 2014
Annexure 3	Landscape Plan	RFA Landscape Architects	March 2014
Annexure 4	Visual Impact Statement	Mosca Pserras Architects	February 2013
Annexure 5	Acoustic Assessment	Mott MacDonald	March 2014
Annexure 6	Preliminary Contamination Assessment	SMEC Testing Services Pty Ltd	March 2014
Annexure 7	Arboricultural Impact Assessment	Urban Tree Management Australia Pty Ltd	July 2013
Annexure 8	Proposed Service Station – Vehicle Turning Paths	J.Wyndham Prince	December 2013

1. INTRODUCTION

- 1.1 Smyth Planning has been engaged by Mr. Mark Bassal of Xpress Group Pty Ltd to prepare a Planning Proposal for Lot 100 in DP 1176622, (No. 194 Campbelltown Road, Denham Court).
 - 1.2 The Planning Proposal provides a description and justification for the proposed amendment to the Campbelltown (Urban Areas) Local Environment Plan 2002 (LEP 2002), to permit the development of a 'service station' as a scheduled use on the subject site and provides an additional clause to ensure that the service station will not be utilised for the refuelling and servicing of heavy vehicles.
- 1.3 The Planning Proposal has been prepared in accordance with the requirements of Section 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning and Infrastructure Guidelines including 'A Guide to Preparing Planning Proposals 2012', and 'A Guide to preparing Local Environment Plans'.
- 1.4 It is considered that the proposed development has local strategic merit without causing any unreasonable environmental, social and economic impacts and would service the needs of the surrounding community and visitors to the area.

2. SITE DESCRIPTION AND LOCATION

2.1 Locality Description

The site is located on the eastern side of Campbelltown Road at Denham Court within the Campbelltown City Council Local Government Area. It is situated between McCormack Place to the north and Williamson Road to the south. The M5 Motorway is east of the site. There is a northbound off-ramp from the M5 adjacent to the site's eastern and northern boundaries. The off-ramp intersects Campbelltown Road at a signalised intersection adjacent to the site (Refer to **Figure 1**)

Adjacent to the site, Campbelltown Road provides for one traffic lane in each direction, with sealed shoulders. It has a 70 kilometre per hour speed limit and carries moderate traffic volumes. Campbelltown Road passes over the M5, south of the site. Further south it intersects Williamson Road, which provides access to the Ingleburn Industrial Estate. There is a roundabout at the Campbelltown Road/Williamson Road intersection. The fourth leg of the roundabout provides a southbound on-ramp to the M5.

There is a right turn bay for southbound traffic on Campbelltown Road, near the southern end of the site. It provides access to a horse riding ranch. Campbelltown Road is a classified Road and as such, requires the concurrence of Roads and Maritime Services (RMS) for access.



Figure 1: Site Location Map showing subject site and surrounding land. Source - http://www.street-directory.com.au/

2.2 Site Description

The site is legally described as Lot 100 DP 1176622 and is known as 194 Campbelltown Road, Denham Court. The site is currently zoned 7(d5) Environmental Protection 1ha Minimum. The site is irregular in shape and has a frontage of approximately 240 metres to Campbelltown Road, 192 metres to the Hume Highway freeway and 116 metres to the off ramp from the north bound freeway lane to Campbelltown Road (Refer to **Figure 2**). The site has an approximate area of 1.241 hectares and is relatively flat. The site includes a brick cottage and associated metal garage and shed and swimming pool. There are a number of trees on the site. Currently on the site is a dwelling which appears to be occupied. Vehicular access to the site is via a crossover from Campbelltown Road.



Figure 2: Aerial photo showing subject site and surrounding land. Source - http://maps.six.nsw.gov.au/

3. BACKGROUND

- 3.1 In accordance with the recommendations of the Department of Planning and Environment (the Department) outlined in 'A Guide to Preparing Planning Proposals 2012', a planning proposal request was submitted to Council on 9 July 2013 to enable the subject site to be used as a service station with a small convenience store and a small food area, with a cafeteria on the subject site. Council believed there was merit in a 'typical service station' that did not provide any on-site heavy vehicle refuelling, parking nor servicing. Amended plans (Refer to **Figure 3**) were submitted to Council and were considered at a Council meeting on 10 December 2013 and resolved as follows:
 - That Council support in principle a proposed amendment to Campbelltown (Urban Areas) Local Environmental Plan 2002 for Lot 100 DP1176622 (No. 194 Campbelltown Road) Denham Court, to include an additional use (service station) to Schedule 2 – Additional Development subject to its consideration of the outcomes of further required investigations as detailed in the above report.
 - That additional requirements, as recommended by the legal advice sought by Council be included as part of any proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 to ensure that the service station would not be allowed to provide onsite truck parking and servicing.
 - 3. That the applicant be requested to prepare additional studies, as identified by this report, in support of a possible amendment to Campbelltown (Urban Area) Local Environmental Plan 2002.

- 4. That this matter be reported back to Council following an assessment of the additional required investigations.
- E. B() C 6 10 F B E
- 3.2 The requested studies have been prepared by the respective consultants and support the Planning Proposal at Annexure 2 – 7.

Figure 3: Site Plan. Source - Mosca Pserras Architects

4. Part 1 – Objectives or Intended Outcomes

- 4.1 The objectives and intended outcomes for this planning proposal are as follows:
 - To enable the development of Lot 100 DP 1176622, (No. 194 Campbelltown Road, Denham Court) for the purpose of a service station.
 - To ensure that the service station is not designed nor used for the refuelling and servicing of vehicles larger than 4.5 tonnes in GVM.

5. Part 2 – Explanation of Provisions

- 5.1 The proposed outcome, namely the development of a service station on the subject site, can/ will be achieved by amending the Campbelltown (Urban Areas) Local Environment Plan 2002 as follows:
 - Amend Schedule 2 Additional Development of the LEP 2002 to include the following:
 - 12 Development for the purpose of a service station

Lot 100 DP 1176622, 194 Campbelltown Road, Denham Court

Add a clause under Schedule 2 Additional Development of the LEP 2002 that reads:

Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the manufacturer or by the Roads and Maritime Services constituted under the Transport Administration Act 1988).'

6. Part 3 – Justification

6.1 Section A – Need for planning proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic planning study or report undertaken by the Council. The proposal to create a scheduled use to allow for a 'service station' is a result of an owner initiated Press Australia PTY LTD rezoning application in response to research that shows that the site is suitable for use as a service station. It is noted that Council has provided in principle support in response to the submission of a planning proposal request to Council on 9 July 2013.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning proposal represents the best means of achieving the objectives and intended outcomes, as the current zoning of the site under LEP 2002 of 7(d5) Environmental Protection 1ha Minimum, prohibits the use of the land for a service station with a small convenience store, a car wash and a small food area, with a cafeteria.

6.2 Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within applicable Regional and sub-regional strategies?

The planning proposal is generally consistent with the relative objectives and actions contained within the following Strategic Plans:

NSW 2021 State Plan

The planning proposal is consistent with Goal 1 of the NSW 2021 State plan "Improve the performance of the NSW economy" as it will encourage employment growth. Employment will be created during the construction phase and throughout the ongoing operation of the future development.

Metropolitan Plan for Sydney 2036

The planning proposal is consistent with the following strategic directions of the Metropolitan Plan for Sydney 2036 including the following:

- Strategic Direction C- Transport for a Connected City, as the development will provide fuel and services related to efficient and effective road based transportation.
- Strategic Direction E- Growing Sydney's Economy, as the development will encourage employment growth throughout the construction and continued operation.

Draft Metropolitan Strategy for Sydney to 2031

The planning proposal is not inconsistent with the following key outcomes within the Draft Metropolitan Plan for Sydney 2036 including the following:

- A liveable City;
- Productivity and Prosperity; and
- Accessibility and connectivity

Draft South West Sub-Regional Strategy 2007

The planning proposal is consistent with the following key directions within the Draft South West Sub – regional including the following:

Key Direction 2 - Plan for Major Employment Growth;

The proposed development will contribute to future employment growth and provide services for residents and visitors to the area in an accessible location.

Is the planning proposal consistent with the local council's community plan or other strategic Plan?

The planning proposal is generally consistent with the long term town planning strategy plan 'Campbelltown 2025, looking forward'. In particular, the proposal is consistent with the following strategic directions:

- Strategic Direction 6.2 Growing the Regional city;
- Strategic Direction 6.4 Getting around the city; and
- Strategic Direction 6.6 Creating Education, employment and entrepreneurial opportunities.

Furthermore, the subject site is considered suitable to be developed for a service station type development as it is an isolated parcel of land that is bounded by major roads on all sides, and it is located within close proximity to Ingleburn Industrial Precinct. In addition, the small convenience store would provide services for nearby rural areas and reduce the number of trips to major centres.

Is the planning proposal consistent with applicable state environmental planning policies?

Consideration has been given to the State Environmental Planning Policies that are relevant to this planning proposal.

The following table provides an assessment of the planning proposal against the State Planning Environment Planning Policies that may be relevant to the proposed development on the site:

State Environment Planning Policy	Consistency
State Environmental Planning Policy No. 33 – Hazardous and Offensive Development	Any development lodged for a 'service station' would include fuel storage and therefore require an assessment against the criteria under Clause 13 of SEPP 33 – Hazardous and Offensive Development. The proposal is considered consistent subject to the assessment of any development application.
State Environmental Planning Policy No. 44 – Koala Habitat Protection	The subject site is <u>not</u> affected by this SEPP. There is no Koala habitat or 'potential koala habitat' on the subject site.
	"potential koala habitat means areas of native vegetation where the trees of the types listed in <u>Schedule 2 constitute at least 15%</u> of the total number of trees in the upper or lower strata of the tree component."
	The arboricultural study did not identify any of the native vegetation listed in Schedule 2 on the subject site (Refer to Annexure 7)

State Environmental Planning Policy No. 55 – Remediation of Land	SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. A preliminary contamination assessment has been prepared in support of the application (Refer to Annexure 6). The report concluded that concentrations of chemical contaminants measured in the soils across the site are generally low and below criteria that are protective of human health for a commercial/ industrial land use setting. Some asbestos fibres were identified a soil sample which would require appropriate remediation including removal by a licenced operator prior to development. In summary, the results of the contamination study determined the site to be suitable for the asbestos contaminated soil is appropriately remediated. The planning proposal is considered consistent with this SEPP subject to the appropriate recommendations occurring.
State Environmental Planning Policy No. 64 – Advertising and Signage	Any development application for signage is subject to the provisions of this SEPP. The aim of this policy is to ensure that signage erected is compatible with the desired amenity and visual character of the area it is located in. Any signage would be assessed against this SEPP and regulated by way of conditions of development consent. It is considered that the planning proposal is consistent in this regard.
State Environmental Planning Policy (Infrastructure 2007)	Pursuant to Clause 104 – Traffic generating development, of the Infrastructure SEPP, an application for a service station (including ones which have retail outlets) must be referred to the Roads and Maritime Services (RMS) if the site has direct vehicular access or pedestrian access to a classified road or to a road that connect to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection. The subject site has direct access to a classified road, therefore
	any development application for a service station would be referred to the RMS in accordance with the provisions of SEPP Infrastructure 2007.

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following table provides an assessment of the planning proposal against the relevant Section 117(2) Ministerial Directions:

Section 117 Direction No. and title	Consistency
1. Employment and Resource	S
Direction 1.1 - Business and Industrial Zones	Whilst the proposed planning proposal is not located within a 'Business Zone', Objective (1)(a) of this direction is to "Encourage employment growth in suitable locations". It is considered that the proposal is consistent with this direction as the site is considered suitable for a 'service station' type use and it will encourage employment growth during the construction phase and throughout the continued operation of the development.

Direction 2.1 - Environment Protection Zones	This direction applies to the subject site as the land is currently zoned 7(d5) Environmental Protection 1ha Minimum. The objective of this direction is to protect and conserve environmentally sensitive areas.
	This Direction states what a relevant planning authority must do if this direction applies: :
	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.
	planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".
	It is considered that the draft planning proposal is consistent with the terms of this direction as it is not proposing to reduce or change the environmental protection standards that currently apply to the land.
Direction 6.3 - Site Specific Provisions	This direction applies to the planning proposal as it amends an Environmental Planning Instrument (CLEP 2002) to create a scheduled use to permit a service station.
	The main objective of this Direction states:
	The objective of this direction is to discourage <u>unnecessarily</u> restrictive site specific planning controls.
	The proposal is considered consistent with the above objective as it is necessary for this particular site to include additional provisions to ensure that the service station would not be utilised for the refuelling and servicing of trucks.
	A service station that would provide services and refuelling for heavy vehicles is not considered suitable for this site for the following reasons:
	 It would adversely impact on the residential amenity of nearby rural residential properties in terms of noise. It would adversely impact on the aesthetic and scenic values of the locality. It would generate large volumes of heavy traffic which would adversely impact on the road network within the locality. To ensure that a service station on this site would not be designed and used for providing refuelling and services to travely impact on the road network within the locality.
	trucks/heavy vehicles, additional clause under LEP 2002 is proposed to that effect. Given that the proposed clause is not inconsistent with the objective of this Direction, the inconsistency is considered of
Direction 7.1 – Implementation of the Metropolitan Strategy	minor nature. This proposal is consistent with this direction as it achieved the overall intent of the Metropolitan Plan for Sydney 2036 and will encourage employment growth throughout the construction and ongoing operation of the development and provide fuel and services related to efficient and effective road based transportation.

....

6.3 Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject site is identified as containing some trees which form part of an area identified as Cumberland Plain Woodland which is listed as a critically endangered ecological community (CEEC) under the Threatened Species Conservation Act 1995 (TSC Act) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). An arboricultural assessment was prepared by Urban Tree Management on behalf of the applicant (refer to **Annexure 7**) and found that the majority of trees are highly fragmented and modified bushland which have been impacted by previous land uses (Refer to Figure 3A). The main observations of the study are as follows:

- The trees were determined to be of self-sown (remnant) & planted origin, locally indigenous, indigenous & exotic, evergreen specimens which all form part of the local canopy.
- The planted specimens were mostly located around the perimeters of the site which provide visual screening to and from the surrounding arterial roads. These are all considered common taxa and determined to be approximately between 5-10 years of age. Collectively only do they provide prominence and significant visual amenity.
- The remnant trees were considered prominent when viewed from various directions within the landscape. These formed various stands within the site which formed part of the Cumberland Plain Woodland which is listed as a critically endangered ecological community under the Threatened Species Conservation Act 1995.
- The CEEC was highly modified with predominantly only trees remaining of the Cumberland Plain Woodland. These also were fragmented in parts subjecting some trees to recent and past impacts affecting condition and vigour. The floristic diversity for the community was very poor.
- Only one tree was observed to support hollows for wildlife habitat (to be retained).
- Current land use surrounding the trees of this community currently incorporates grazing animals which are likely to have been present for several years.

The study determined that of the 136 trees assessed, 91 are proposed to be retained and protected with potential development. A total of 45 trees are proposed to be removed, of which 18 are of high retention value, 7 of medium and 20 of low retention value.

Forty one (41) trees formed part of the Cumberland Plain Woodland with 14 proposed for removal and 27 retained. Trees of the CEEC within the centre of the site only are proposed for removal, with all trees of the CEEC towards the perimeters retained and protected by tree sensitive construction methods. In summary the arboricultural assessment study made the following conclusions:

"Plant selection should be based on taxa of the Cumberland Plain Woodland with trees obtained of local provenance.

If all the recommendations and procedures detailed herein are adhered to, the subject tree/s to be retained will continue to grow and develop as important landscape component/s providing element/s of long term amenity for the property and its owners or occupants, and the local community"

The arboricultural assessment has identified that the trees within the site are highly fragmented and have been severely impacted and disturbed by previous land uses as shown on Figure 3A.

As recommended in the study, the future development of the site presents an opportunity to provide additional landscaping of Cumberland Plain Woodland species which will improve the floral diversity and have positive amenity impacts for both the property and surrounding community.



Figure 3A: Arial photo illustrating the extent of site disturbance while the site was used by RMS

Although the site has been largely disturbed by previous land use activity (Figure 3A) above, the applicant at this stage is required to undertake the following studies, given that the site contains some trees which form part of an area identified as CPW:

- A Flora and Fauna Assessment Report prepared in accordance with the Office of Environment and Heritage's Threatened Species Survey and Assessment Guidelines and Field Survey Methods is required to be lodged as part of the Planning Proposal.
- As part of the Flora and Fauna Assessment, for any threatened species and/or ecological communities found onsite an Assessment of Significance is required to be undertaken for each species, population and ecological which is likely to be directly or indirectly impacted, by the proposal. The results of which will be used to determine any further studies and management plans required as part of the gateway determination.

Are there any other likely environmental effects as a result of the planning proposal and how they are proposed to be managed?

The key environmental impacts of the proposal are addressed below:

Traffic

A detailed traffic report has been prepared by Colston Budd Hunt & Kafes Pty Ltd on behalf of the applicant (Refer to **Annexure 2**) to investigate the extent of traffic generated by the proposed service station.

Vehicular access to the site is proposed from Campbelltown Road, with driveways near the northern and southern ends of the site with a right hand turn bay proposed in Campbelltown Road for access to the site (Refer to **Figure 4**). The key findings of the report are as follows:

- The proposed access arrangements will have appropriate capacity, and should operate with no unusual safety issues;
- The internal circulation and layout will be appropriate for cars and trucks and should be designed in accordance with Australian Standards at the detailed stage;
- The proposed right hand turn bay into the site is considered appropriate as Campbelltown Road is straight in the vicinity of the site and there are good site lines for northbound traffic turning into the site, as well for traffic in both directions turning from the site. Vehicles will be able to readily turn into the site in gaps due to the modest southbound through traffic volumes on Campbelltown Road, and in gaps created by the upstream traffic signals. The report found that given the anticipated number of vehicles, it would be appropriate to facilitate right runs to and from the site.
- There is no access proposed from the M5 Motorway or the exit ramp to or from the site. It is therefore anticipated that most traffic arriving at the site will be passing traffic on Campbelltown Road or traffic already exiting the M5. It is not anticipated that a significant volume of through traffic on the M5 will exit the freeway to visit the site before re-joining the freeway.
- The majority of traffic to and from the site is expected to be passing trade, i.e. traffic already using, Campbelltown Road and the M5 Motorway exit ramp. It is predicted that the additional traffic on Campbelltown Road north and south of the site would be small at some 40 vehicles per hour two –way. Such a low volume would not have noticeable effects on the signalised intersection adjacent to the site. Further form the site, traffic volumes would dissipate further and would not generally be noticeable.



Figure 4 – Concept Layout Site Plan. Source - J. Wyndham Prince

Landscaping and Visual Impact

A Visual Impact Assessment has been prepared by Mosca Pserras Architects (Refer to **Annexure 4**) to illustrate the anticipated visual impact of the service station from Campbelltown Road and the M5 Motorway. The visual impact assessment made the following findings:

- The visual impact of the proposed building from the south bound direction of Campbelltown Road is minimal as it is hidden behind a series of existing trees (Refer to Figure 5).
- The visual impact of the proposed building from the north bound direction of Campbelltown Road is minimal as the existing trees along Campbelltown Road create a visual buffer zone (Refer to Figure 6).
- The visual impact of the proposed building from the north bound direction of M5 Motorway is minimal as it is hidden behind a large embankment with existing mature trees and proposed screen planting (Refer to **Figure 7**).
- The visual impact of the proposed building from the south bound direction of M5 Motorway is minimal as the existing trees along the M5 boundary create a visual buffer zone (Refer to **Figure 8**).





Figure 5 – View southbound along Campbelltown Road





Figure 7 – View northbound along M5 Motorway



Figure 8 – View southbound along M5 Motorway

A preliminary landscape Plan has been prepared by RFA Landscape Architects (Refer to **Figure 9**) to demonstrate how the visual presentation of the site can be enhanced whilst minimising providing additional vegetative screening from Campbelltown Road and the M5 Motorway to help prevent light spillage. The landscape plan proposes the planting of Cumberland Plain Woodland species on the boundary of the site to compensate for the removal of the existing native species and provide additional screening to the site. Internal garden beds are also proposed within the site between the parking bays and the around the buildings to provide visual relief and break up the expanse of hard paved areas.

Draft Planning Proposal Service Station– 194 Campbelltown Road, Denham Court



Figure 9 - Landscape sketch plan. Source- by RFA Landscape Architects

Acoustic

Acouras Consultancy on behalf of the applicant has prepared an acoustic assessment to support the planning proposal (Refer to **Annexure 4**). The report made the following recommendations on the following components of any future service station development at the site:

- Operational assessment;
- Vehicle Activity;
- Automatic Carwash;
- Mechanical Plant and Equipment;
- Façade glazing Requirements;
- Building Façade Construction; and
- Assessment of Traffic Noise Generation.

The key findings of the assessment determined that noise emitted from the proposed development and ancillary activities is predicted to comply with the acoustic requirements of the EPA noise limits and relevant Australian Standards, provided the recommendations from the report are implemented.

Preliminary Contamination Assessment

A preliminary contamination assessment has been prepared by SMEC Testing Services Pty Ltd (Refer to **Annexure 5**) to establish if any remediation is required for the future use of the land as a service station. The assessment included soil sampling from seven locations across the site. The results of the sampling show that the concentrations of chemical contaminants measured in the soils across the site are generally low and below criteria that are protective of human-health for a commercial/ industrial land use setting. During the testing, asbestos fibres were identified in one soil sample which would require remediation in order to make the site suitable for redevelopment into commercial/ industrial land use.

In summary, the report found that the site is suitable for use as a service centre provided that the asbestos contaminated soil is appropriately remediated including removal by a licenced contractor.

Stormwater and Flooding

No investigation has been undertaken in relation to stormwater and flooding as part of this draft Planning Proposal. This matter should be further investigated as part of the development application stage as the subject property is a Flood Control Lot with respect to flooding from a 1% Annual Exceedance Probability (AEP) flood from local overland flow adjacent to the M31 Hume Motorway and the local catchment.

In this regard additional work as part of a development application will be needed to determine the minimum fill and floor level controls for any further development on this site.

Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is unlikely to give rise to any adverse social or economic effects. The proposal will have a positive social and economic benefit trough the following:

- Creation of employment opportunities during construction and on-going operation of the future use.
- Improving the availability of fuel, convenience goods and food available to the surrounding residential community, the Ingleburn industrial precinct – which lacks these services, and visitors to the area.
- Effective use of an isolated parcel of land that is bounded by major roads on all sides.

6.4 Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

As discussed in section 6.3 of this report it is likely that there will be the need for some minor modification to Campbelltown Road to facilitate a right turn bay into the site. The findings from the traffic report concluded that the existing road network would be able to cater for the additional traffic from the proposed development.

What are the views of state and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

No consultation with State or Commonwealth authorities has been carried out to date on the planning proposal.

It is proposed to consult with the following public authorities while the draft Planning Proposal is on public exhibition:

- Office of Environment and Heritage (Environment Branch);
- Sydney Catchment Authority;
- Roads and Maritime Service (RMS);
- Liverpool City Council;
- Rural Fire Service;
- Sydney Water; and
- Dam safety Committee

7. Part 4 – Mapping

7.1 Given the planning proposal is to include a service station as a scheduled use there are no proposed changes to the current zoning map.

8. Part 5 – Community Consultation

- 8.1 The Gateway determination will stipulate the nature and extent of required community consultation in accordance with the requirements set out in 'A guide to preparing local environment plans'.
- 8.2 It is anticipated that the planning proposal will be placed on public exhibition for a minimum period of 28 days. Notification of the public exhibition will be given to adjacent land owners and residents via:
 - A notice in the local newspaper;
 - On Councils website; and
 - In writing to adjoining landowners.

The draft Planning Proposal will be placed on public exhibition at the following locations:

- Council's Civic Centre,
- HJ Daley Library and
- Greg Percival Library Ingleburn

9. Part 6 – Project Timeline

The anticipated draft project timeline has been included in the Table below. The anticipated timeframes and dates have been assigned to each milestone starting from the anticipated date of the Gateway process.

This is a proposed amendment to draft LEP 2002; however, Council wishes to include this amendment as part of draft CLEP 2014 prior to its gazettal so as to avoid the need to undertake an amendment to the forthcoming CLEP 2014. In this regard, Council is seeking advice from the Department on the mechanism to do so. Notably, the draft CELP 2014 will be placed on public exhibition from 12 June 204 for two months. Is it a matter of including this amendment on the draft CLEP 2014 at the end of the public exhibition and prior to its gazettal, or should the applicant make a formal submission to the draft CLEP 2014 while it is on public exhibition?

Project Timeline Table

	Milestone	Date
-	anticipated date for Gateway determination)	August 2014
-	anticipated timeframe for the completion of any required technical information	September 2014
:=	commencement and completion dates for public exhibition period – unless merged with the draft CLEP2014	October 2014
đ	timeframe for the consideration of a proposal post exhibition- report to Council	December 2014
9 4	submission to the department to finalise the LEP	January 2014

10. Conclusion

This report has addressed the requirements set out in the NSW Department of Planning and Infrastructure 'A Guide to Preparing Planning Proposals'.

It has addressed issues such as the intended effect of, and justification for, the proposed amendment to the Campbelltown (Urban Area) Local Environment Plan 2002, to permit the development of a service station with a small convenience store and a small food area, with a cafeteria on the subject site. The planning proposal is considered appropriate for the following reasons:

- The planning proposal is generally consistent or justifiably inconsistent with all of the relevant Regional and sub-regional strategies, State Environmental Planning Policies and Ministerial Directions (s.117 directions) that are relevant to the site.
- The future development of the site presents an opportunity to provide additional landscaping of Cumberland Plain Woodland species which will improve the floral diversity and entail positive amenity impacts for both the property and surrounding community.
- The planning proposal to allow for a 'typical service station' has sufficient merit and is considered to be an appropriate land use having regard to the isolation of the site and that it is bound by major roads on all sides.
- It is necessary, as part of this proposed amendment to LEP 2002, to ensure that the service station would not be designed to cater for the refuelling and servicing of heavy vehicles, as a service station that is specialised for the refuelling and servicing of heavy vehicles is not considered suitable for this location. Subject to this draft Planning Proposal, it is Council's intention to amend Schedule 2 of LEP 2002 to permit an additional use as a service station with the following provision:

Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the manufacturer or by the Roads and Maritime Services constituted under the Transport Administration Act 1988).'

- The proposal will unlikely result in any adverse impacts to the adjoining residential properties in terms of noise levels, excessive traffic generation and visual impact if the recommendations of the respective studies are implemented.
- A preliminary contamination assessment considered the site suitable for redevelopment into a commercial/ industrial use provided the asbestos contaminated soil is appropriately remediated including removal by a licenced contractor.
- A preliminary landscape plan has been prepared which demonstrates how the landscaping of the site can be undertaken to enhance the visual presentation of the site, reflect the sites environmental setting and values and provide additional vegetative screening to prevent light spillage.
- There is need to undertake stormwater assessment work at the development stage. To inform a suitable floor level for the proposed service station.
- The planning proposal is unlikely to give rise to any adverse social or economic effects and will have a positive social and economic benefit through the creation of employment opportunities during construction and the on-going operation and improving the availability of fuel, convenience goods and food available to the surrounding residential community, the Ingleburn industrial precinct.