

## Greater Sydney, Place and Infrastructure

IRF19/5134

### Gateway determination report

<b>LGA</b>	Campbelltown LGA
<b>PPA</b>	Sydney Western City Planning Panel
<b>NAME</b>	194 Campbelltown Road, Denham Court (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_CAMPB_004_00
<b>LEP TO BE AMENDED</b>	Campbelltown LEP 2015
<b>ADDRESS</b>	194 Campbelltown Road, Denham Court
<b>DESCRIPTION</b>	Lot 100 DP 1176622
<b>RECEIVED</b>	20 September 2019
<b>FILE NO.</b>	IRF19/2134
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal (**Attachment A2**) seeks to amend the Campbelltown Local Environmental Plan (LEP) 2015 by altering the additional permitted use clause for land at 194 Campbelltown Road, Denham Court to the following:

*Clause 17 Use of certain land at 194 Campbelltown Road, Denham Court*

*(1) This clause applies to land at 194 Campbelltown Road, Denham Court, being Lot 100 DP 1176622.*

*(2) Development for the purpose of a service station is permitted with development consent, if the service station is not able to be accessed from a freeway.*

The proposal will remove the prohibition of long or heavy vehicles over 7.5m in length from accessing the site in the additional permitted use clause. However, it will not amend the existing E4 Environmental Living zone or any other development control currently applying to the site.

### 1.2 Site description

The planning proposal applies to land at 194 Campbelltown Road, Denham Court (Lot 100 DP 1176622) which has a site area of approximately 1.2ha. The site is bound by Campbelltown Road to the north, the Hume Motorway to the south and the Denham Court exit off-ramp from the Hume Motorway to the east (Figure 1 next page).

The site is vacant, with bulk earthworks and site benching commenced by the proponent. Development consent (DA 3253/2015) was issued by Campbelltown City Council for the demolition of a dwelling and associated structures and the removal of trees on the site, and the construction and operation of a 24-hour service station with ancillary sales of convenience food, a car wash, a vehicle repair workshop, and associated civil and landscaping works (**Attachment D**).



Figure 1: Aerial view of the site.

To the west of the site is vacant land zoned E3 Environmental Management, while the land to the north-east of the site is zoned E4 Environmental Living with large-lot residential properties. The land to the south of the site is zoned SP2 Infrastructure for a classified road (i.e. Hume Motorway) and drainage. However, further south-east of the site is the Ingleburn Industrial Estate, which is zoned IN1 General Industrial.

The site is also located outside the Glenfield to Macarthur Urban Renewal Corridor.

### 1.3 Existing planning controls

Under the Campbelltown LEP 2015, the following zoning and development controls apply to the site:

- zoned E4 Environmental Living (Figure 2 next page);
- a maximum building height of 9m;
- a minimum lot size of 1ha;
- a minimum lot size for dual occupancy development of 1ha; and

- an additional permitted use as follows:

*Clause 17 Use of certain land at 194 Campbelltown Road, Denham Court*

*(1) This clause applies to land at 194 Campbelltown Road, Denham Court, being Lots 73 and 74, DP 22711.*

*(2) Development for the purpose of a service station is permitted with development consent, if the service station:*

*(a) does not include a diesel or gas fuelling point for long vehicles (within the meaning of rule 200 of the Road Rules 2014), and*

*(b) is not designed or constructed to be used by such long vehicles, and*

*(c) is designed and constructed to be used by heavy vehicles (within the meaning of the Road Rules 2014) only for the purpose of fuelling, and*

*(d) is not able to be accessed from a freeway.*

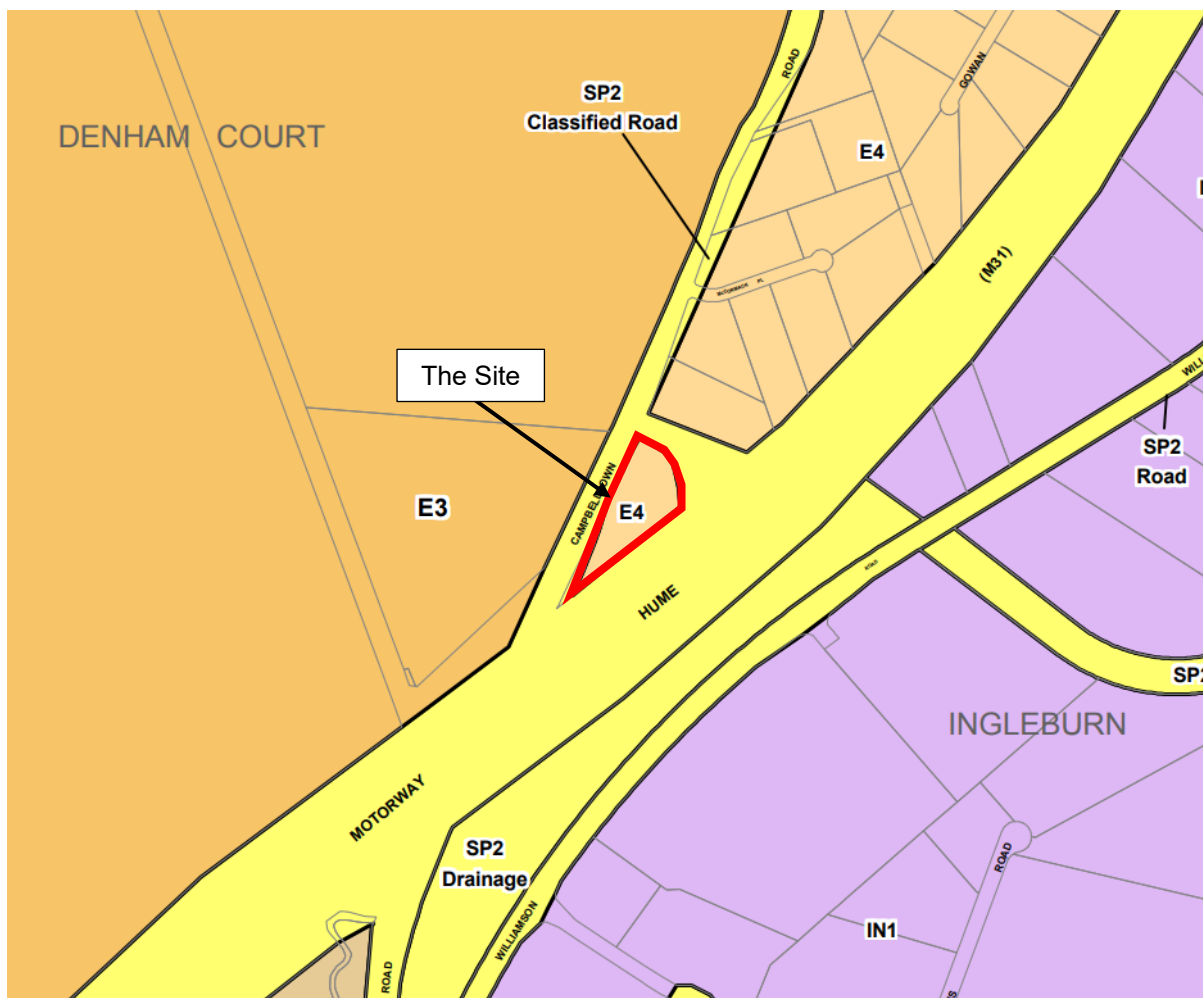


Figure 2: Current land zoning map.

#### 1.4 Summary of recommendation

It is recommended that the planning proposal proceed with conditions as it will enable the expansion of the services provided by the approved service station. It will also complement the nearby Ingleburn and Minto Industrial Estates by providing refuelling opportunities for the passing long or heavy vehicles (i.e. trucks).

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The objective of this planning proposal is to provide additional facilities for passing trucks that need to access a site large enough to refuel. It is noted that these services are not available in the immediate area considering the nearby Ingleburn and Minto Industrial Estates. It also seeks to leverage off existing infrastructure and facilitate development in an environmentally responsible manner.

### 2.2 Explanation of provisions

The planning proposal (**Attachment A3**) seeks to amend the Campbelltown LEP 2015 by altering the additional permitted use clause for the site from the following:

*Clause 17 Use of certain land at 194 Campbelltown Road, Denham Court*

*(1) This clause applies to land at 194 Campbelltown Road, Denham Court, being Lots 73 and 74, DP 22711.*

*(2) Development for the purpose of a service station is permitted with development consent, if the service station:*

*(a) does not include a diesel or gas fuelling point for long vehicles (within the meaning of rule 200 of the Road Rules 2014), and*

*(b) is not designed or constructed to be used by such long vehicles, and*

*(c) is designed and constructed to be used by heavy vehicles (within the meaning of the Road Rules 2014) only for the purpose of fuelling, and*

*(d) is not able to be accessed from a freeway.*

to the following:

*Clause 17 Use of certain land at 194 Campbelltown Road, Denham Court*

*(1) This clause applies to land at 194 Campbelltown Road, Denham Court, being Lot 100 DP 1176622.*

*(2) Development for the purpose of a service station is permitted with development consent, if the service station is not able to be accessed from a freeway.*

The proposed amendment will remove the truck access restriction from the existing additional permitted use clause. The proposal will not amend the E4 zoning or any other development control for the site.

The proponent advised that they intend to expand the services available at the approved service station (DA 3253/2015) to provide truck refuelling and parking opportunities. Refer to Figure 3 (next page) for the development plans for the expansion of the service station to enable truck access.

The additional permissible use for a service station on the site was introduced into the Campbelltown (Urban Area) Local Environmental Plan (LEP) 2002 on 22 May 2015, subject to a restriction to deny access for trucks. This additional permitted use was carried over to the Campbelltown LEP 2015 when the Standard Instrument was made. A service station is prohibited in the E4 Environmental Living zone for the site under the Campbelltown LEP 2015 and the previous Zone 7 (d5) – Environmental Protection 1ha Minimum Zone under the Campbelltown LEP 2002 therefore the additional permitted use is required.



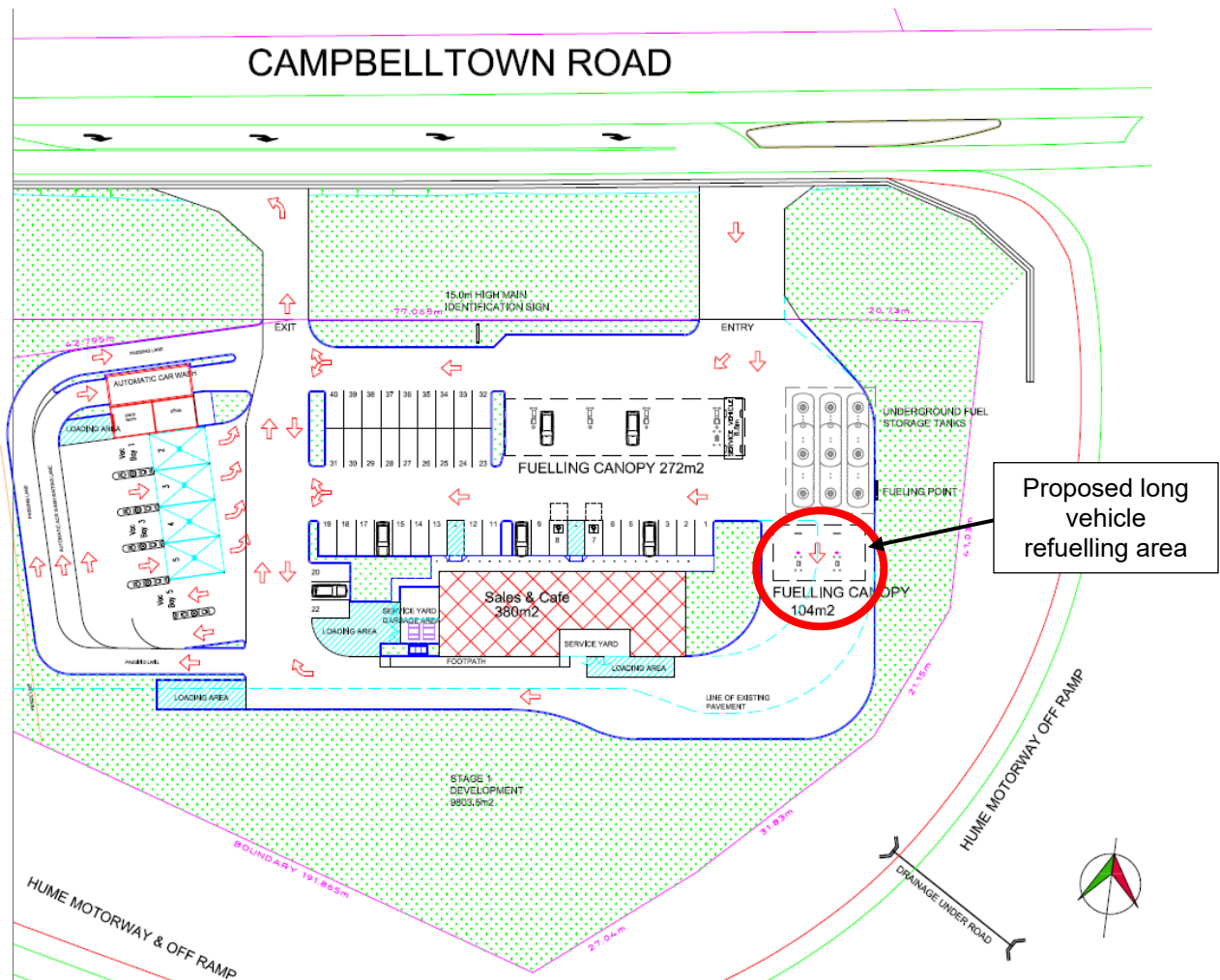


Figure 3: Architectural plans for service station expansion.

### Department comment

Prior to public exhibition, Part 2 of the planning proposal is required to be updated to include an image of plans for the proposed truck refuelling area with the location identified.

### **2.3 Mapping**

The proposal does not involve any changes to the current maps under the Campbelltown LEP 2015.

### **2.4 Rezoning review process**

A rezoning review request was submitted by Michael Brown Planning Strategies on behalf of Press Australia Pty Ltd, seeking to remove the prohibition for access of long or heavy vehicles over 7.5m in length at the service station on the site. The request was submitted as Campbelltown City Council notified the proponent that it does not support the planning proposal on 11 December 2018 as there was insufficient merit for it to support it.

The rezoning review request was reviewed by the Sydney Western City Planning Panel and the Panel determined that the planning proposal should be submitted for a Gateway determination because the proposal has demonstrated strategic and site-specific merit (**Attachment E**).

Following the review, Council was advised of the Panel's decision and given the opportunity to continue in the role of the planning proposal authority (PPA) for the proposal. Council advised that they do not wish to continue as the PPA for this proposal. Therefore, the Panel has determined to appoint itself as the PPA to finalise this proposal (**Attachment A1**).

### **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is not the result of a strategic study or report. However, it was prepared by the proponent on the intent to expand the services available at the service station.

The proposed amendment is the best and most appropriate means of achieving the proponent's intended outcome i.e. remove the prohibition for long or heavy vehicles over 7.5m in length to access the site from the existing additional permitted use clause. A planning proposal is the only means available to achieve amendments to relevant provisions under the Campbelltown LEP 2015.

### **4. STRATEGIC ASSESSMENT**

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#### **4.1 District**

##### Western City District Plan

The Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the Western City District while improving the district's social, economic and environmental assets.

The planning proposal is consistent with the priorities of the plan as it would expand the services offered by the approved service station on the site for vehicles associated with the nearby Ingleburn and Minto Industrial Estates (Planning Priority W10).

The site is also located in the metropolitan rural area (MRA) in the plan. Planning Priority W17 of the plan states that "Limited growth of rural-residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the Metropolitan Rural Area. This could include the creation of protected biodiversity corridors, buffers to support investment in rural investment in rural industries and protection of scenic landscapes (p.126)".

The proposal does not involve rezoning land in the MRA for increased density but seeks to expand the range of services available at the approved service station.

Therefore, the Department is satisfied that the proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

#### **4.2 Local**

##### Campbelltown Community Strategic Plan – Campbelltown 2027

The Community Strategic Plan represents the principal community outcome focused strategic plan guiding Council's policy initiatives and actions. The planning proposal is considered to be consistent with the Plan as it will expand the services available at the service station which supports local employment opportunities.

### Local Planning Panel

The proposal was considered by the Campbelltown Local Planning Panel (**Attachment F**). The Local Panel considered the Council officers report and was concerned that the original reasons for restricting trucking access to the proposed service station were matters that ought to be dealt with at the development application stage.

The views of the Roads and Maritime Services (RMS) on the removal of the long vehicle restriction imposed in the LEP ought to have been sought prior to approaching Council. The inspection of the site revealed what appeared to be large amounts of fill at a level that appeared to be inconstant with easy access from Campbelltown Road.

The Local Panel advised that this matter should be dealt with by the utilisation of section 3.38 of the *Environmental Planning and Assessment Act 1979* (the Act) which provides for a development application to be submitted and assessed concurrently with a planning proposal. The Local Panel advised Council that it should invite a development application from the proponent in respect of the matter and that the application should be accompanied by a traffic study assessing the suitability of the proposed long vehicle movements and access and egress arrangements.

Subsequently, the proponent submitted a section 4.55 application to modify the existing DA approval (DA 3253/2015) for the service station. Whilst this application will be subject to a separate assessment, it is noted that the lodgement of a s4.55 application does not constitute a development application under the Act and does not allow for the concurrent assessment under section 3.38 of the Act as requested by the Local Panel.

Therefore, Council concluded that the above comments from the Local Panel remain unresolved as the proponent has not complied with the Local Panel's advice (**Attachment G1**).

### *Department comment*

The Department notes that a modification application to construct the prohibited long vehicle refuelling area cannot be determined until the associated planning proposal to remove the prohibition of this land use is finalised.

Additionally, the Traffic Report (**Attachment A4**) prepared for the planning proposal should be updated to address the Local Panel's concerns about "the suitability of the proposed long vehicle movements and access and egress arrangements".

Furthermore, RMS advised that they did not object to the proposal to remove the truck access restriction however any future development application for the site should consider the design in relation to the following: vehicle access and manoeuvring, queuing impacts on Campbelltown Road and the off-ramp from the Hume Highway, etc (**Attachment H**).

#### **4.3 Section 9.1 Ministerial Directions**

The planning proposal is inconsistent with the following Section 9.1 directions as discussed below.

##### Direction 2.1 Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. This direction applies to the proposal as the site is currently zoned E4 Environmental Living.

Although the proposal will enable the long and heavy vehicles to access the site for fuelling purposes, it does not reduce the protection and conservation of environmentally sensitive areas on the site as the proposed fuelling area will be within the approved service station layout.

Therefore, the inconsistency of the proposal with Direction 2.1 Environment Protection Zones is of minor significance.

##### Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. The planning proposal is inconsistent with this direction as it seeks to amend the current site-specific clause (i.e. the additional permitted use clause) for the site in the Campbelltown LEP 2015, which will remove the prohibition for long or heavy vehicles over 7.5m in length to access the site.

This inconsistency is considered to be minor as the proposed amendment seeks to introduce access for long and heavy vehicles to the site which will complement the approved service station.

Accordingly, it is recommended that the Secretary's delegate agrees that the inconsistency of the planning proposal with Direction 6.3 Site Specific Provisions is of minor significance.

#### **4.4 State environmental planning policies (SEPPs)**

The planning proposal is considered to be consistent with all State Policies, however further commentary is provided.

##### SEPP 55 – Remediation of Lands

The object of this Policy is to provide for a State-wide planning approach to the remediation of contaminated land. As the planning proposal does not involve rezoning the land but enabling access for long and heavy vehicles at the site then a contamination study is not required for the proposal.

However, a Preliminary Contamination Assessment (**Attachment I1**) was prepared for development application for a service station at the site. It concluded that the site is considered to be suitable for redevelopment into a commercial/industrial use provided that the asbestos contaminated soil is appropriated remediated including removal by a licensed contractor. In addition, a Site Fill Suitability Assessment and Waste Classification (**Attachment I2**) was also prepared.



## 5. SITE-SPECIFIC ASSESSMENT

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### 5.1 Social and economic

The proposal will not have a negative social or economic impact. The proposal also states that the proposed development will produce a net social benefit associated with broadening the range of services available to travellers including the provision of additional services and facilities.

### 5.2 Environmental

Council assessed the environmental issues, including the removal of trees on the site, as part of the development consent (**Attachment D**) for the demolition and construction of a service station on the site.

### 5.3 Access and traffic impacts

Based on the traffic report (**Attachment A4**), the planning proposal indicates that the road network can cater for the additional traffic from the proposed expansion of the approved service station to provide access for truck refuelling and parking activities. The report notes that the predicted additional traffic generation on local roads would be 5-10 trucks per hour at peak times.

However, Council has raised concerns with the potential additional traffic generated from the proposed access of long or heavy trucks to the service station and the implications it has on the surrounding road network, maintenance costs and amenity of the adjacent area (**Attachment G1**).

Council also states that a shortcoming of the traffic report is that no traffic counts or traffic analysis are provided to support the claims that the predicted impacts of the additional traffic generation would have no noticeable effects on the operation of the surrounding network.

As noted previously, RMS advised that they did not object to the proposal to remove the truck access restriction however requested further consideration of the design at the development application stage (**Attachment H**).

#### Department comment

The Traffic Report (**Attachment A4**) is required to be updated to address the Local Panel's concerns in relation to the "the suitability of the proposed long vehicle movements and access and egress arrangements".

In addition, following the update to the traffic study, RMS is required to be consulted during the public exhibition period.

### 5.4 Land contamination

The planning proposal notes there are potential contamination issues associated with the proposal, including water quality from runoff from motor vehicles at the car parking and driveway areas and the need to dispose of sewerage and wastewater effluent. It was advised that these matters were considered as part of the current development consent for the proposed service station.

#### Department comment

The Department notes these issues will need to be reassessed at the development applications stage following any modification to the existing development approval or the lodgement of a new development application to enable truck access to the site.

### **5.5 Acoustic impacts**

The acoustic report (**Attachment A5**) prepared for the planning proposal concludes that where certain measures are implemented, the potential activity noise level from the proposed service station including the long vehicle refuelling area is expected to comply with the acoustic requirements of the NSW Environment Protection Authority (EPA) noise limits and relevant Australian standards.

The report states that the increase in traffic noise levels is predicted to be less than 1dB (page 13 of **Attachment A5**) and therefore comply with the Environment Protection Authority (EPA) Road Noise Policy guideline.

### **5.4 Infrastructure**

The planning proposal notes that the public infrastructure needs to be augmented to support the development of the land for the service station. This would have been considered as part of the development consent for the service station (DA 3253/2015) issued by Council.

## **6. CONSULTATION**

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### **6.1 Community**

The proponent proposes to undertake a public exhibition period of four weeks. A public exhibition period of a minimum of 28 days is considered an appropriate amount of time to engage the community.

### **6.2 Agencies**

The Department recommends that the Panel consults the following State agencies in relation to the planning proposal:

- Roads and Maritime Services;
- Transport for NSW; and
- Campbelltown City Council.

Should these agencies require any additional information, or specify any additional matters to be addressed, the proposal is to be updated to respond to the submission, a copy of which is to be included with the updated planning proposal.

## **7. TIME FRAME**

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The planning proposal includes a timeframe of eight months to finalise this proposed amendment. Given the minor impact of the planning proposal, a 9 month timeframe is considered more appropriate and is recommended to enable sufficient time to complete the LEP process.

Prior to public exhibition, section 8 of the planning proposal is to be updated to reflect the recommended timeframe by the Department.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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The Panel is required to submit the planning proposal to the Department for finalisation to make the plan.

## 9. CONCLUSION

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It is recommended that the planning proposal proceed with conditions as it will enable the expansion of the services provided by the approved service station. It will also complement the nearby Ingleburn and Minto Industrial Estates by providing refuelling opportunities for the passing long or heavy vehicles (i.e. trucks). The proposal is also not inconsistent with the Western City District Plan.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 2.1 Environment Protection Zones and 6.3 Site Specific Provisions are minor or justified.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Roads and Maritime Services;
  - Transport for NSW; and
  - Campbelltown City Council.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, authorisation to be the local plan-making authority to make this plan is not required.
5. Prior to public exhibition, the planning proposal is to be amended as follows:
  - a) remove references to the Campbelltown City Council as the Planning Proposal Authority;
  - b) update the references to the “Campbelltown Road Planning Proposal Request” to the “planning proposal”;
  - c) update Part 2 Explanation of Provisions to include an image of the development plans for the proposed long vehicle refuelling area with the location identified;
  - d) update the consistency of the planning proposal with the Ministerial Directions 2.1 Environment Protection Zones and 6.3 Site Specific Provisions;
  - e) update the supporting Traffic Report to address the suitability of the proposed long vehicle movements and access and egress arrangements; and
  - f) update section 8 of the planning proposal to reflect the 9-month Gateway timeframe.

6. The revised planning proposal is to be updated in accordance with condition 5 and forwarded to the Department for review and approval prior to exhibition.



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