

DATE OF DETERMINATION	Friday, 17 September 2021
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli and Nicole Gurran
APOLOGIES	George Griess and Darcy Lound
DECLARATIONS OF INTEREST	None

Public meeting held Public Teleconference on 16 August 2021, opened at 11:06am and closed at 12:10pm. Papers circulated electronically on 13 September 2021.

PLANNING PROPOSAL

PP-2020-1939 – Campbelltown – AT 194 Campbelltown Road, Denham Court (AS DESCRIBED)

PANEL CONSIDERATION AND DECISION

The panel considered: the material listed at item 4, and the material presented at meetings and matters observed at site inspections listed at item 5 in Schedule 1.

As the planning proposal authority, the Panel determined to recommend to the Minister that the proposed instrument, as described in Schedule 1, should be made. At the conclusion of the public briefing meeting the Panel deliberated on the matter and formulated their decision. The decision was unanimous.

REASONS FOR THE DECISION

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

The site is located within the E4 Environmental Living zone. The objectives of the zone are directed towards preserving the bushland environment of the area for low impact residential development in the context of the treed hills zoned E3 to the north west of Campbelltown Road and rural lifestyle housing in a leafy setting to the northeast on the other side of the off ramp.

This site, is now approved for a service station and bounded on all sides by Campbelltown Road, the Hume Highway and an offramp. It is largely cleared except for a buffer of vegetation to the offramp. Approved bulk earthworks and site benching have already been largely completed by the proponent for the development of a service station, albeit one that will not under the present controls be permitted to accommodate long or heavy vehicles. In that context, the limited effects of the proposed change to the site specific zoning are unlikely to relevantly conflict with the objectives of the E4 zone.

The Panel is satisfied that due to the division between north and southbound traffic on the Hume Highway, and the absence of any means to re-enter the Hume Highway from this portion of Campbelltown Road heading north without travelling through Denham Court, the site will not attract significant traffic off the

Highway, and is more likely to be frequented by users of Campbelltown Road, which already includes large heavy vehicles generated by access between Prestons and Liverpool to the north and the industrial areas of Campbelltown, Minto, Leumeah and Ingleburn to the south and east.

The use of this site by heavy vehicles is not anticipated to significantly compromise the zoning objectives. There is sufficient separation from nearby residences, and the Department's report accepts the advice of the acoustic report, provided that noise issues can be sufficiently mitigated.

The removal of the restriction allows (assuming suitable traffic planning can resolve any traffic conflict issues) for an additional refuelling facility to service vehicles travelling to or from the industrial areas on the other side of the Hume Highway along Campbelltown Road. The Department's assessment report records favourably that the facility will fulfil a need in that regard that is not catered for in the immediate area, and as such it is consistent with Planning Priorities W10 and W17 of the Western City District Plan. It will also add additional local employment opportunities consistent with the Campbelltown Community Strategic Plan.

A remaining significant issue raised by the Council and TfNSW in relation to the zoning change is the issue of safety, with a significant concern raised in relation to potential vehicle conflict from heavy vehicles turning right into or out of the premises across a lane of traffic, with potential queuing impacts on Campbelltown Road and the off-ramp from the Hume Highway. It may be that these anticipated issues will need to be regulated through a left in and left out only restriction, possibly by median strip.

That is however a consideration that would usually be considered at DA stage. There are many service stations across Sydney on main roads to which left in and left out restrictions apply. Given the comments made above, it is not anticipated that the proposal will otherwise significantly change conditions on the local road system. TfNSW did not object to the planning proposal, but instead requested further consideration of the design at DA stage.

Indeed, it is possible that a DA or modification permitting long heavy vehicles will not be approved by the Council, or that the restrictions that must be applied to obtain development consent will be unpalatable to the operator so that the change to the presently approved use is not pursued. However, from the information now available to the Panel there is sufficient strategic and site-specific merit for the zoning restriction to be lifted to allow those matters to be duly considered under Part 4 of the EP&A Act. The Council's Local Planning Panel was supportive of that approach.

The lifting of the restriction on vehicles permitted to enter the site does not raise any issue of potential contamination of the site, but a Preliminary Contamination Assessment concludes that the site is suitable for redevelopment into a commercial/industrial use provided that the asbestos contaminated soil is appropriated remediated during the construction process.

The Panel also notes Local Planning Direction 6.3 which reads relevantly as follows:

6.3 Site Specific Provisions

What a council must do if this direction applies

Objective




- (1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.
- (4) A draft LEP that amends another environmental planning instrument in order to allow a particular development proposal to be carried out shall either:
 - (a) allow that land use to be carried out in the zone the land is situated on, or
 - (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
 - (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

- (5) A draft LEP shall not contain or refer to drawings that show details of the development proposal.

Consistency

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.

This directive is plainly intended to encourage the avoidance of bespoke controls when site specific zoning changes are made, with issues such as the vehicle length restrictions of concern in this case being left to DA stage. As such, the planning proposal is supported by that directive.

PANEL MEMBERS	
 Justin Doyle	 Louise Camenzuli
 Nicole Gurran	

SCHEDULE 1		
1	PANEL REF – LGA – PLANNING PROPOSAL NO. - ADDRESS	PP-2020-1939 – Campbelltown City Council – At 194 Campbelltown Road, Denham Court
2	LEP TO BE AMENDED	Campbelltown Local Environmental Plan 2015
3	PROPOSED INSTRUMENT	<p>The planning proposal seeks to seeks to amend the Campbelltown LEP 2015 by altering the additional permitted use clause for the site to the following:</p> <p>Clause 17 Use of certain land at 194 Campbelltown Road, Denham Court</p> <p>(1) This clause applies to land at 194 Campbelltown Road, Denham Court, being Lot 100 DP 1176622.</p> <p>(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.</p> <p>The proposed amendment will remove the prohibition for long or heavy vehicles over 7.5m in length to access the site from the additional permitted use clause. The proposal would not amend the E4 zoning or any other development control for the site.</p>
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Submissions report: 26 July 2021 • Written submissions during public exhibition: 5 • Verbal submissions at the public panel meeting: <ul style="list-style-type: none"> ○ Jeff Burton and David Smith from Campbelltown City Council ○ On behalf of the applicant – Stephen Enders from Zone Planning Group and Karim Candaten representing the landowner. • Total number of unique submissions received by way of objection: 5
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 16 August 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli and Nicole Gurran ○ <u>Department assessment staff</u>: Stuart McIntosh and Naomi Moss