



Planning,  
Industry &  
Environment

IRF22/3000

## Gateway determination report – PP-2021-2824

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Schedule 1 Amendment to permit a highway service centre as an additional permitted use on land at 204 Hume Highway, Chullora

October 22



Published by NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal Report, 24 November 2020
Traffic Report, 25 September 2020
Conceptual Drawings, 29 July 2020
Strathfield Local Planning Panel Meeting Report, 3 December 2020
Strathfield Local Planning Panel Meeting Minutes, 3 December 2020
Strathfield Council Report, 2 February 2021
Council Meeting Minutes, 2 February 2021

# 1 Planning Proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Strathfield</b>
<b>PPA</b>	Strathfield Council
<b>NAME</b>	204 Hume Highway, Chullora
<b>NUMBER</b>	PP-2021-2824
<b>LEP TO BE AMENDED</b>	Strathfield Local Environmental Plan 2012
<b>ADDRESS</b>	204 Hume Highway, Chullora
<b>DESCRIPTION</b>	Lot 1, DP 547215
<b>RECEIVED</b>	25/03/202125/03/2021
<b>FILE NO.</b>	IRF22/3000
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required 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. There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal seeks to amend Schedule 1 of the Strathfield Local Environmental Plan (LEP) 2012 to permit a 'highway service centre' as an additional permitted use at 204 Hume Highway, Chullora.

The objective of the planning proposal is to enable redevelopment of an existing car sales yard to accommodate a highway service centre (including a service station and 2x food and drink premises) in accordance with the conceptual drawings prepared by TfA Group Pty Ltd dated 29 July 2020.

The objectives of the planning proposal are considered to be clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend Schedule 1 ‘Additional permitted uses’ of the Strathfield LEP 2012 as follows:

### Use of certain land at 204 Hume Highway, Chullora

- This clause applies to land at 204 Hume Highway, Chullora, being Lot 1, DP 547215.
- Development for the purposes of ‘Highway Service Centre’ is permitted with development consent.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The site is located at 204 Hume Highway, Chullora and legally referred to as Lot 1 DP 547215. It is located on the northern side of the Hume Highway and falls within both the Strathfield and Canterbury Bankstown local government area’s (**LGAs**), with the majority being within Strathfield (85% of the site within Strathfield). Both respective Local Environmental Plans (**LEPs**) apply to the site, zoned IN1 General Industrial.

The site can be described as being irregular in shape and relatively flat in nature, encompassing a total site area of approximately 3,962m<sup>2</sup>. The site has most recently been used as a car-sales retail use, which is now understood to be vacant. Notwithstanding, buildings associated with this use on the site remain. The site has a frontage of approximately 108m to the Hume Highway and is currently accessible from separate ingress and egress vehicle access points.

Development in the surrounds comprises large industrial warehouses, including an Australia Post warehousing and distribution facility to the west, Kennards self-storage warehouse to the immediate north and east of the site, and USG Boral – Sud and Track warehouse and distribution centre fronting Worth Street to the rear of Kennards. Adjacent to the site on the southern side of Hume Highway is a hotel and service station with an adjoining fast food takeaway premises.

A state-heritage listed *pressure tunnel and shafts* (Listing No. 01630) transverses the south-western corner of the site. In addition, the western portion of the site within Canterbury-Bankstown LGA (formerly Bankstown) is also affected by a local heritage listing of archaeological significance (site of the previous Royal Arms Inn, Item A2 under Schedule 5 of Bankstown LEP 2015).

The following figures provide information on the context and principal planning controls affecting the site. Note that part of the site is state-heritage listed. This is for *pressure tunnel and shafts* (Listing No. 01630) which transverses the south-western corner of the site. In addition, the western portion of the site within Canterbury-Bankstown LGA (formerly Bankstown) is also affected by a local heritage listing of archaeological significance (site of the previous Royal Arms Inn, Item A2 under Schedule 5 of Bankstown LEP 2015).





Figure 1: Site Map (Source: Nearmap)

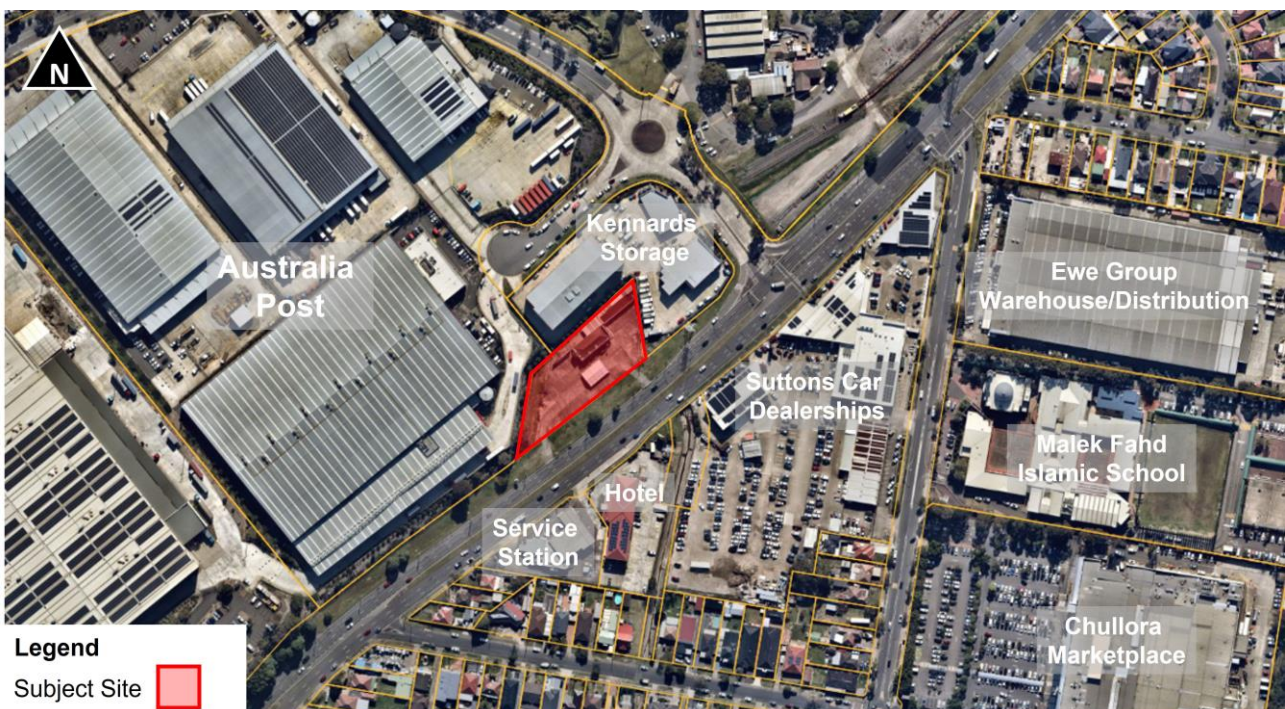
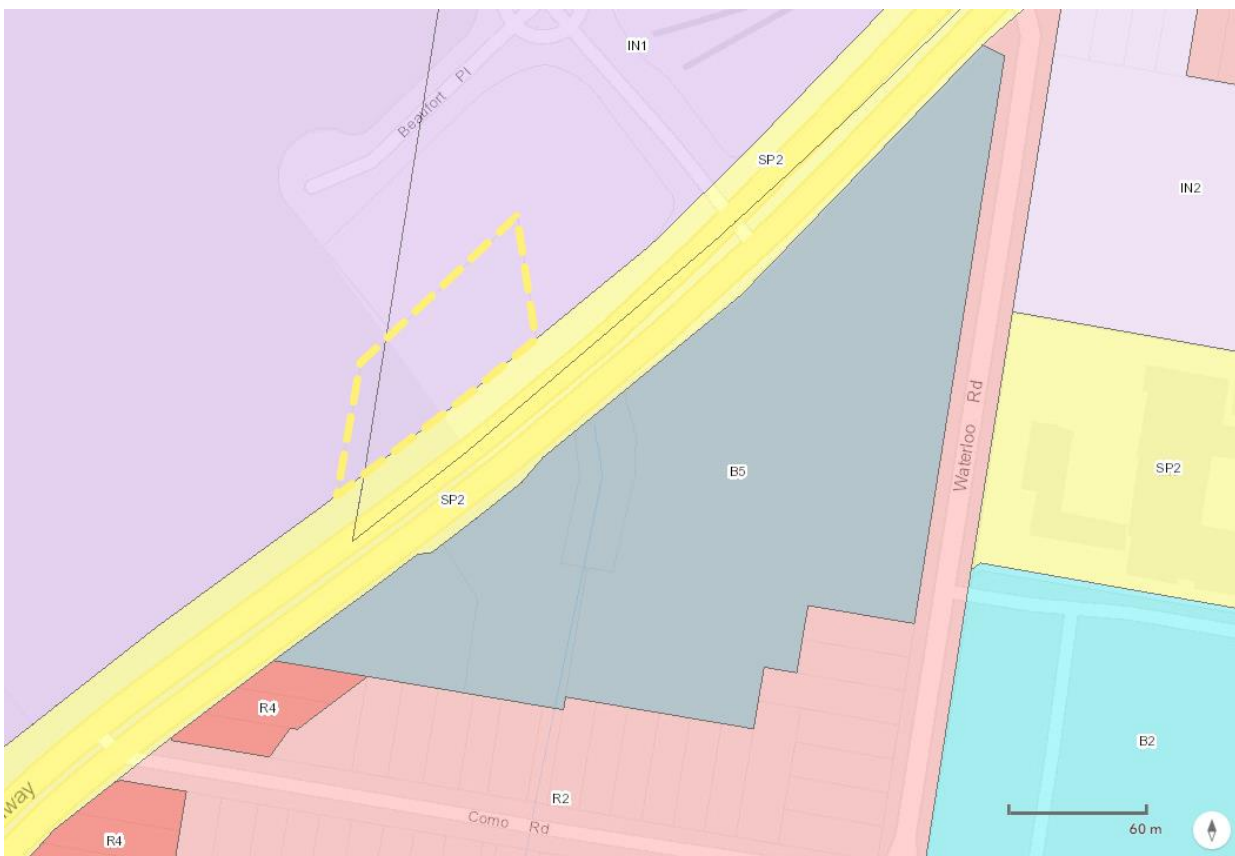


Figure 2: Site Context Map (Source: Nearmap)





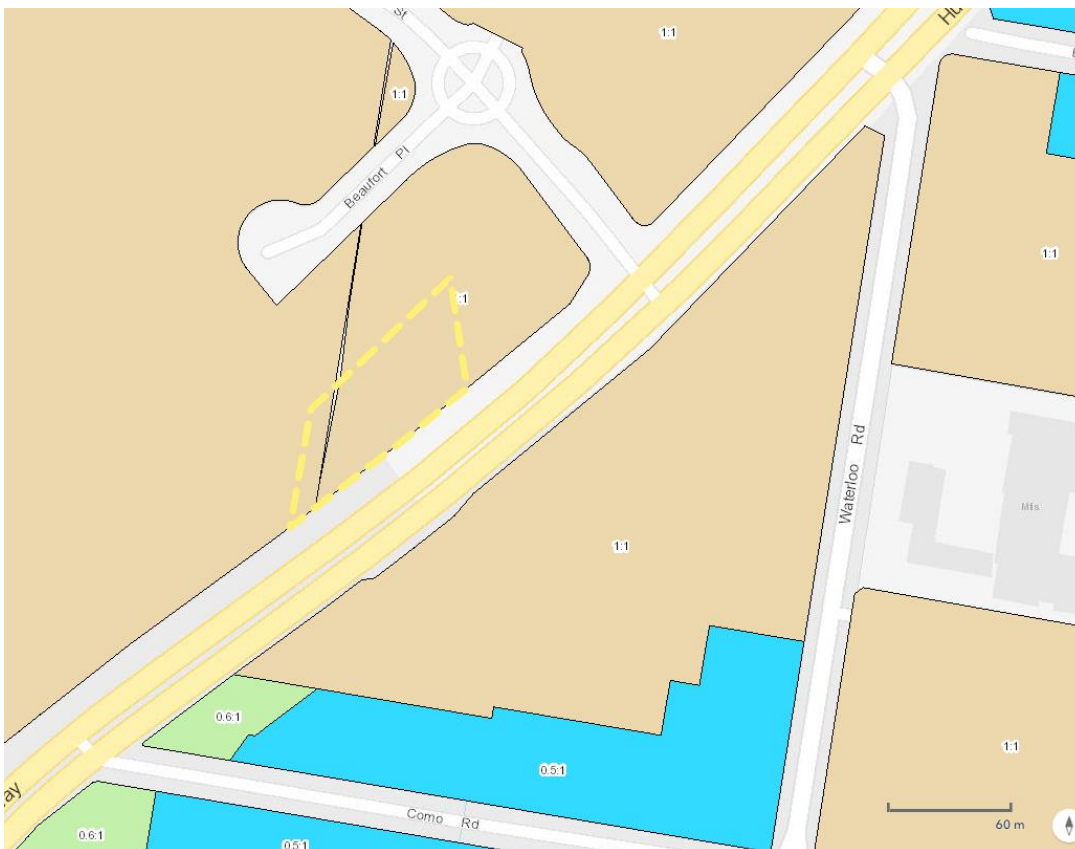
**Figure 3:** Canterbury Bankstown and Strathfield LGA boundary (Note: the blue line denotes the LGA boundary line, with the majority of the site sitting within Strathfield LGA) (Source: ePlanning Spatial Viewer)



**Figure 4:** Zoning map (Source: ePlanning Spatial Viewer)

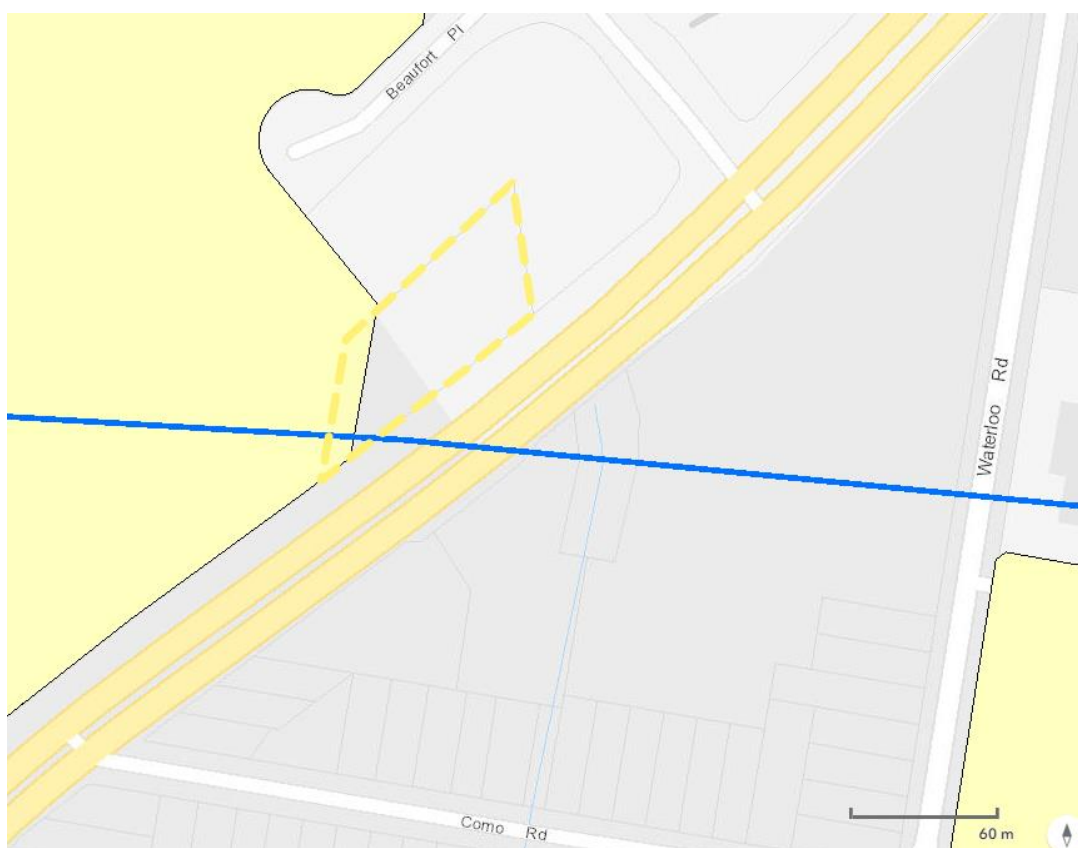


**Figure 5:** Height of building map (Source: ePlanning Spatial Viewer)



**Figure 6:** Floor Space Ratio map (Source: ePlanning Spatial Viewer)





**Figure 7:** State heritage mapping (note: the blue horizontal line denotes the state heritage curtilage, and the light yellow shaded area is the Canterbury-Bankstown local state heritage area) (Source: ePlanning Spatial Viewer)

## 1.5 Mapping

If made the planning proposal would require an amendment to the Strathfield LEP 2012 Additional Permitted Uses Map. However, the proposal does not include any proposed or draft mapping amendments.

## 1.6 Background

The following dates are relevant to the planning proposal.

**Table 3 Background Information**

Process	Outcome	Date
Proponent submission to Council	Referred to Local Planning Panel for assessment	1 October 2020
Strathfield Local Planning Panel Meeting	Recommended endorsement by Local Planning Panel.	3 December 2020
Council Ordinary Meeting	Endorsed the planning proposal and resolved to forward it for a Gateway Determination	3 February 2021
Receipt of planning proposal by the Department	Gateway Assessment commences.	25 March 2021

Process	Outcome	Date
Department formally requests Council to withdraw the planning proposal.	Council opted not to formally withdraw the planning proposal.	10 February 2022

## 1.7 Concept Development

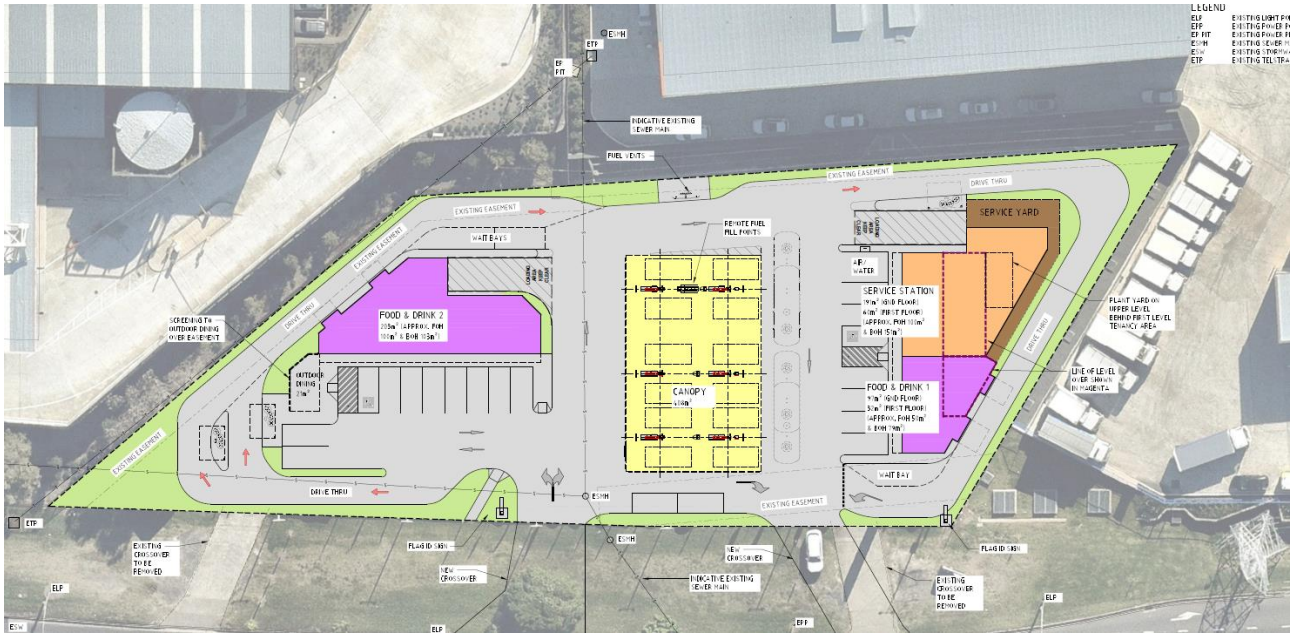
The planning proposal is supported by a series of conceptual drawings prepared by TFA Project Group (**Figure 8**).

The conceptual drawings depict how the site may be converted from its existing use as a former car sales yard, to a highway service centre, comprising a service station and two separate takeaway food and drink premises. The anticipated distribution of gross floor area is as follows:

- 353m<sup>2</sup> of food and drink premises GFA; and
- 251m<sup>2</sup> of service station GFA.

The concept development includes a service station with an associated canopy for refuelling and car parking. The two takeaway food and drink premises include associated carparking, outdoor dining areas and drive through services.

From this scheme it is concluded that the proposed development is actually a service station with food and drink premises and/or restaurant.



**Figure 8: Conceptual Drawing Extract (Source: TFA Project Group)**

## 1.8 Land Use Permissibility and Cross LGA Boundary Concerns

The planning proposal relates to land that is located across the junction of the Strathfield (85%) and Canterbury-Bankstown (15%) LGA boundaries (**Figure 3**).

The following table provides a land use matrix demonstrating the permissibility of current and proposed uses under the relevant Local Environmental Plans pertaining to the subject site. It should be noted that the Canterbury LEP 2012 does not apply to the site but has been used to illustrate what is permissible prior the Consolidation of the LEP for Canterbury Bankstown.

**Table 4 Land Use Permissibility**

Land Use	Strathfield LEP 2012	Canterbury LEP 2012	Bankstown LEP 2015	Consolidated LEP
Highway service centre	No	No	Yes	No
Service station	No	Yes (innominate)	Yes (innominate)	Yes
Takeaway food and drink premises	Yes	Yes	Yes	Yes
Restaurant or Cafe	No	Yes	Yes (innominate)	Yes

It should be noted that following the amalgamation of the Canterbury and Bankstown LGAs in May 2016, Canterbury-Bankstown Council has progressed its consolidated LEP, which is currently in the process of being finalised.

Whilst the proposed highway service centre use is currently permissible under the Bankstown LEP 2015, once the consolidated Canterbury-Bankstown LEP 2021 comes in to effect, the use will be prohibited on the Canterbury-Bankstown portion of the site.

This would make the proposed Highway service centre prohibited under both Strathfield and the Consolidated LEPs that apply to the site.

In February 2022, Strathfield Council was advised in writing by the Department that for the planning proposal to be supported to proceed to Gateway determination, consultation with Canterbury-Bankstown Council would be required to address concerns relating to land use permissibility on the Canterbury-Bankstown portion of the site.

The Department notes that there could be the potential for a joint planning proposal if supported by the two respective Councils. However, it is noted that if the use was to become permissible, the proposed development would require the lodgement of the same development application (DA) with both councils to allow for simultaneous assessment of these DAs.

To the Department's knowledge Strathfield Council has not initiated discussions with Canterbury-Bankstown Council to determine whether it would be interested in preparing a joint planning proposal nor whether it would be in support of the proposed use at the subject site. This was despite the advice provided to council in the Department's letter to Strathfield in February 2022.

The planning proposal cannot be supported as it will not result in the use being made permissible across the entirety of the subject site, and it is unclear whether Canterbury-Bankstown Council would be in support of the proposed additional permitted use and any future development application for the site.

The other concern is that the concept scheme presented with the planning proposal is for a 'service station' and 'food and drink premises'. If this is the desired outcome, then it is more appropriate that any further planning proposal seek to make these uses permissible. A 'highway service station's use is more commonly located long motorways outside of suburban areas also.

If council were to pursue these uses it would also require a single planning proposal with Strathfield Council as 'service station' and 'food and drink premises', as these uses are permitted under Bankstown LEP and will be expected to remain permitted under the Consolidated Canterbury Bankstown LEP.

## 2 Need for the planning proposal

The Planning Proposal is not the result of a strategic study or report.

The need for the planning proposal is attributed to there being no highway service centres on the northern side of the Hume Highway from West Yagoona until past the M4 junction. The proposal argues that it would facilitate an in-demand urban service which supports the industrial area of Chullora, the travelling public, and local community. However, the Department has previously raised concern regarding the predominant retail uses proposed under the concept scheme which are considered to only provide for urban services as an ancillary function of the site.

An amendment to Schedule 1 Additional Permitted Uses is considered the best means of achieving the intended outcomes of the planning proposal in lieu of a site rezoning. As a Schedule 1 amendment will result in the retention of the existing IN1 General Industrial land use zoning, thereby limiting the extent of any further uses being able to be undertaken on the land.

However, as discussed, whilst it is noted that highway service centres are a permitted use under the land use table of the current Bankstown LEP 2015. It should be noted that under the imminent Canterbury-Bankstown LEP 2021 the use will also be prohibited on part of the site.

Whilst a planning proposal may be considered the best means of achieving the intended outcomes of the planning proposal, due to the cross LGA boundary concerns discussed above the intended outcomes of the proposal will not be achieved by the current planning proposal.

The need for the planning proposal is not considered to be justified as the proposed development is considered to predominately seek the establishment of retail uses with only ancillary urban services to be provided. Additionally, the current proposal is not considered to be the best means of achieving its intended outcomes as it will not allow for permissibility across the entirety of the site and therefore would not be able to achieve an actionable development consent.



## 3 Strategic assessment

### 3.1 Eastern City District Plan

The Eastern City District Plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is not satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. With particular concern relating to Planning Priority E12: Retaining and managing industrial and urban services land.

**Table 5 District Plan assessment**

District Plan Priorities	Justification
Priority E12 – Retaining and managing industrial and urban services land	<p>Although it is noted that the inclusion of an additional permitted use will result in the retention of the sites industrial zoning, the introduction of an additional permitted use will likely result in a non-industrial use of the land.</p> <p>The subject site is identified within nominated industrial and urban services land under the District Plan. The planning proposal outlines that it will retain the use of the land for a supporting service for industrial uses, commuters and the local community. However, there is no evidence provided in the form of an economic impact analysis to demonstrate that the proposal would facilitate a key urban service on the site, which would support surrounding industrial uses.</p> <p>Additionally, no employment lands study has been referenced or provided to demonstrate that the proposed use will not detract from the existing industrial precinct and nearby business centre on the opposing side of the Hume Highway.</p> <p>The Department raises concern with the proposed concept design and the portion of the GFA distribution to be dedicated to takeaway food and retail uses at the site. This is anticipated to detract from the potential urban services generating uses for the site, which under the current scheme are proposed to be ancillary to the retail component of the site.</p> <p>The Department wrote to Council on 10 February 2022, requesting that additional information be provided to justify the proposals consistency with the Priority. The Department did not receive an updated proposal from Council to address the concerns raised. As such, the proposal in its current form is not considered to satisfactorily address its consistency with the priority.</p>

### 3.2 Local Plans and Endorsed Strategies

The proposal states that it is consistent with the following local plans and endorsed strategies. It is A discussion of the proposal's consistency with relevant Priorities is provided in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement, Strathfield 2040	<p>Planning Priority 10 of Council's LSPS includes an action (A71) to prepare a local employment and productivity strategy for industrial and urban services land. One of the aims of this strategy is to determine how industrial zoned land and freight routes will be protected. Without reference to a strategy of this nature or economic impact analysis it is not considered appropriate to undermine the integrity of the sites existing industrial zoning.</p> <p>Whilst it is noted that the proposed amendment could hypothetically support the existing industrial precinct, sufficient evidence has not been provided to demonstrate this. Additionally the LSPS includes additional actions to safeguard industrial and urban services land from competing uses.</p>

### 3.3 Local planning panel (LPP) recommendation

The Strathfield Local Planning Panel meeting (3 December 2020) resulted in support for the planning proposal. The panel recommended that Council endorse the proposal and seek a Gateway Determination from the Department.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's inconsistency with relevant section 9.1 Directions is discussed in Table 7 below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Inconsistent	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Inconsistent, but justified	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>A state heritage listed pressure tunnel and shafts (Listing No. 01630) traverses the south western corner of the site. Furthermore, the portion of the site within Canterbury-Bankstown LGA is also affected by a local archaeological heritage listing (Item A2 under Schedule 5 of the Bankstown LEP 2015).</p> <p>The planning proposal has not provided any discussion relating to heritage considerations of the site..</p>
4.4 Remediation of Contaminated Land	Inconsistent	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The proposal is not considered to compromise the intent of this objective. However, The subject site has had a history of industrial uses and it is noted that if approved the site would likely contain future food and drink premises</p> <p>The Department notes that the planning proposal has not provided any discussion relating to any contaminated land on the site, or to outline if there is a need for remediation. As such, the planning proposal is deemed to be inconsistent with the objectives of the direction.</p>
4.5 Acid Sulfate Soils	Inconsistent	<p>The subject site is identified as having Class 5 Acid Sulfate soils. Acid sulfate soils are not typically found in Class 5 areas and are classed as such if they are located within 500 metres on adjacent class 1,2,3 or 4 land.</p> <p>The proposal is not considered to compromise the intent of this objective and is also minor in nature. However, the planning proposal has not provided any discussion relating to acid sulfate soils.</p>

Directions	Consistent/ Inconsistent	Reasons for Consistency or Inconsistency
7.1 Business and Industrial Zones	Inconsistent	<p>The planning proposal relates to land zoned IN1 industrial under the Strathfield LEP 2012 and therefore this direction applies. The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations,</li> <li>• protect employment land in business and industrial zones, and</li> <li>• support the viability of identified centres.</li> </ul> <p>Section 1.1(4)(d) identifies that a planning proposal must not reduce the total potential floor space area for industrial uses in industrial zones.</p> <p>The planning proposal seeks to permit highway service centres at the subject site as a Schedule 1 additional permitted use. While a highway service centre is not an industrial use, the planning proposal will result in the site remaining zoned IN1 General Industrial under Strathfield LEP 2012.</p> <p>Whilst it is noted that the site would continue to not be used for industrial purposes, the underlying potential to develop the site for industrial uses in the future would remain.</p> <p>The Department notes that the proposal may be considered technically consistent with a series of the terms of the direction. However, the Department is not satisfied that the proposal is entirely considered with the objectives of the direction.</p> <p>The Department notes that the potential use of the site for urban services land may be beneficial in supporting the surrounding industrial precinct. However, raises concern with the extent of floor space proposed for retail and food and drink premises to be provided at the site, making the urban services component of the development ancillary.</p> <p>The Department has previously noted its concerns with Council and requested additional justification, which has not been received. As such, the planning proposal in its current form is considered to be inconsistent with the objectives of the direction</p>

### 3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Resilience and Hazards SEPP 2021.	Consistent	<p>The service station component of the highway service centre would involve the installation of underground, double-walled tanks, storing predominantly unleaded petroleum of varying grades and diesel.</p> <p>As such, any future development at the site for the purpose of a service station would require consideration of the SEPP.</p>

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Transport and Infrastructure SEPP 2021	Consistent	<p>The SEPP permits development for the purposes of a highway service centre, with consent.</p> <p>The entirety of the site is affected by a Corridor Protection Zone, which if to proceed would require referral to Transport for NSW.</p> <p>A portion of the site is affected by the Infrastructure Protection Zone, which would also require concurrence with the rail authority at the DA stage if the proposal was to proceed.</p>

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 9 Environmental impact assessment**

Environmental Impact	Assessment
Hazardous material storage	The Highway Service Centre is understood to be classified as potentially hazardous due to the nature of the materials stored on site. If the proposal was to proceed it would therefore be considered appropriate that the Environment Protection Authority be consulted to confirm the suitability of the site for the proposed development.
Heritage	<p>A small portion of the subject site is affected by a State Heritage listed item, and the portion of the site that sits within the Canterbury-Bankstown LGA is affected by a local heritage listing. No supporting evidence has been provided to indicate what level of impact is expected from the planning proposal on the state listed item, (underground pressure tunnel and shaft), or how impacts could be appropriately mitigated.</p> <p>While these concerns could largely be dealt with at the DA Stage, it is noted that if the proposal were to proceed that it would be required to be updated to address heritage considerations of the proposal.</p>
Land contamination	Whilst it is noted that a remediation action plan can be prepared and submitted at the DA stage to ensure that contamination is appropriately managed. The Department notes that the current proposal does not include any consideration of potential land contamination issues.
Acid Sulfate Soils	The site is identified as Class 5. Any specific measures required to address could be dealt with at the DA stage. However, the planning proposal includes no consideration regarding acid sulfate soils.



Environmental Impact	Assessment
Traffic and Transport	<p>A Traffic Impact Assessment was prepared by the Transport Planning Partnership (25 September 2020) which assessed a variety of traffic considerations related to the proposal. This included an assessment of existing traffic conditions and modelling of the impact of the proposal on the road network.</p> <p>The assessment concluded that the anticipated impact of the proposal on the existing and future (2030) road network will be negligible.</p> <p>A number of considerations would need to be dealt with at the DA stage, including provision of car parking spaces, and relocation of existing ingress and egress points to the Hume Highway. As the proposal is not supported to proceed, further consideration of these matters is not required.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 10 Social and economic impact assessment**

Social and Economic Impact	Assessment
Economic Impact	<p>The planning proposal briefly summarises that it will facilitate the development of the Strathfield industrial area and employment generating uses which will lead to stronger economic outcomes and thereby benefit the community.</p> <p>The proposal states that it will not be of a scale or type which could reasonably be considered to detrimentally impact upon the economic viability of the surrounding industrial or business centres.</p> <p>The Department notes the commentary provided within the planning proposal. However, notes that the above-mentioned statements are not supported by an economic study. Additionally, no consideration of an employment lands study has been undertaken to determine whether the proposed amendment would be beneficial to the surrounding area.</p>
Social Impact	<p>The planning proposal notes that the proposed uses would provide lighting, CCTV and improve passive surveillance to deter anti-social behaviour in the area.</p>

## 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 11 Infrastructure assessment**

Infrastructure	Assessment
Roads	<p>The proposal would be developed adjacent to the Hume Highway, and the Traffic Impact Assessment submitted as part of the proposal has modelled that the development would result in negligible traffic impacts, both existing and in the future (modelled to 2030).</p>

Infrastructure	Assessment
	<p>The application also included concept plans which show that the proposal will remove both existing crossover points and create two new crossovers to facilitate a left in, left out access arrangement from the Hume Highway.</p> <p>It is considered that adequate road infrastructure would be available to serve the development, subject to further consultation with the Roads and Maritime Services to confirm the suitability of the proposed arrangements.</p>
Utilities	It is noted that the site has existing access to: telecommunications, sewage, water, electricity and stormwater drainage.

## 5 Assessment Summary

The planning proposal is not supported to proceed for the following reasons:

- The planning proposal is inconsistent with the state, regional and local strategic planning framework, including the Regional Plan, Eastern City District Plan and Local Strategic Planning Statement;
- The planning proposal fails to demonstrate consistency with the relevant Section 9.1 Ministerial Directions;
- The planning proposal does not satisfactorily address concerns raised by the Department regarding land use permissibility as the site is located across the boundary of two local government areas.
- Whilst it is noted that the proposal may provide some urban services uses to support the existing industrial precinct, the proposal primarily seeks to accommodate retail uses on the site and does not satisfactorily safeguard industrial zoned land.

## 6 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should not proceed because:

- The proposal does not satisfactorily address its consistency with strategic directions relating to the safeguarding of industrial land including; Planning Priority E12 of the Eastern City District Plan and Section 9.1 Direction 7.1 Business and Industrial Zones.
- The planning proposal does not sufficiently address cross LGA boundary matters including land use permissibility and implications for future development applications.
- The imminent consolidated Canterbury-Bankstown Local Environmental Plan proposes to prohibit highway service centres in the IN1 General Industrial zone, this will result in highway service centres being prohibited on 15% of the site. The planning proposal does not address this.
- The proposal has not been updated to address the recent employment zone reforms as requested by the Department.
- The proposed uses indicated by the supporting scheme appear to be for 'service station' and 'food and drink premises,' which are notably not proposed by this planning proposal.
- The proposal does not provide mapping to demonstrate the effect of its proposed changes.
- The proposal has failed to demonstrate consistency with the additional following section 9.1 Ministerial Directions:
  - 3.2 Heritage Conservation
  - 4.4 Remediation of Contaminated Land

○ 4.5 Acid Sulfate Soils



17 September 2022

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20 October 2022

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