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## Plan finalisation report – PP-2023-1943

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Campbelltown Local Environmental Plan 2015 (Map  
Amendment No. 14) - 80 O'Sullivan Road, Leumeah

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Campbelltown LEP 2015 (Map Amendment No.14)

The purpose of the Campbelltown Local Environmental Plan 2015 (Map Amendment No. 14) is to increase the current maximum height of building development standard from 12 metres to maximum heights of 33m and 38.5m and to establish a Floor Space Ratio (FSR) of 2:1. The site is zoned MU1 Mixed Use Zone under the CLEP 2015 and this will not change.

### 1.1.2 Site description

**Table 1 Site description**

Site Description	The planning proposal (Attachment A) applies to land at 80 O’Sullivan Road, Leumeah, Lot 201, DP1052199.
Type	Site
Council / LGA	Campbelltown
LGA	Campbelltown



**Figure 1 Subject site.**

### 1.1.3 Purpose of plan

The table overleaf outlines the current and proposed controls for the LEP.

**Table 2 Current and proposed controls**

Control	Current	Proposed
Zone	MU1 Mixed Use	No change
Maximum height of the building	12	33m and 38.5m
Floor space ratio	No mapped FSR	2:1
Number of dwellings	N/A	156
Number of jobs	N/A	35

### 1.1.4 State electorate and local member

The site falls within the Campbelltown state electorate. Mr Greg Warren MP is the State Member.

The site falls within the Macarthur federal electorate. Dr Mike Freelander MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 10/10/2023 (**Attachment B**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions. Whilst Transport for NSW did not raise a formal objection, they have requested Council consider certain requirements before making the plan regarding the access arrangements proposed to the site and to adjoining sites.

Council considered it prudent to refer the plan to the Department of Planning, Housing and Infrastructure (DPHI) to finalise and make the plan given the unresolved matter between Council and TfNSW.

The Gateway determination was altered on 8/05/2024 to provide a 3-month extension of time to resolve an issue with TfNSW and to report the proposal to Council. (**Attachment C**)

In accordance with the Gateway determination (as altered) the proposal was due to be finalised on 14/10/2024.

## 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 9/01/2024 to 16/02/2024, as required by section 29 of the *Local Government Act 1993*.

A total of eleven community submissions were received, including submissions on the draft DCP, comprising of four objections and four submissions supporting the proposal and three were neither in support nor against. Discussion of these submissions can be found within the updated planning proposal (**Attachment A**).

### 3.1 Submissions during exhibition

There were eleven submissions received from individuals and organisations.

Of the individual submissions, four objected to the proposal (36%), four supported the proposal (36%) and three were unclear on their position (27%).

**Table 3 Summary of Key Issues**

Issue raised	Council response and Department assessment of adequacy of response
<p>Amenity:</p> <p>Development goes against the 'spirit' of the suburb and is unsustainable. The development will make Leumeah unliveable.</p>	<p><u>Council Response:</u></p> <p>The proposal is consistent with the Glenfield to Macarthur Urban Renewal Corridor Strategy and the Reimagining Campbelltown City Centre Master Plan. The proponent also engaged with the Campbelltown Design Excellence Panel to refine the design of the site. Council will undertake further analysis of the impacts of the proposed development during the DA stage and the full details of the proposal will be put on public exhibition for further comment.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>The precinct should be redeveloped in its entirety, including adjoining landholdings.</p>	<p><u>Council Response:</u></p> <p>The landowners have undertaken to redevelop the site on a site-specific basis and other major landowners in the area are invited to meet with Council with their representatives to do the same. Council has outlined a vision for this precinct within the Reimagining Campbelltown City Centre Master Plan.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Building footprint:</p> <p>The building footprint shown in the draft DCP impacts the right of way access easement and could impact the pedestrian network. These matters should not be locked in until master planning has been completed.</p>	<p><u>Council Response:</u></p> <p>Section 17.3.3 "Building Separation and Setbacks" of the draft DCP includes development objectives and controls to ensure buildings on the site are setback appropriately. No evidence has been provided to suggest the right of way or pedestrian network will be impacted because of the proposed building footprints. The DCP controls will ensure these issues are addressed.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>

Issue raised	Council response and Department assessment of adequacy of response
<p>Building heights:</p> <p>Proposed height limit is excessive.</p>	<p><u>Council Response:</u></p> <p>The original Proposal submitted to Council sought maximum building heights of 55m and 43m. It was considered these heights were excessive and impacted the visual amenity of the area. These building heights were then revised down to 33m and 38.5m. The revised heights have been evaluated to ensure neighbouring sites maintain adequate solar access at satisfactory levels.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Building materials: Building materials may be of poor construction quality.</p>	<p><u>Council Response:</u></p> <p>Section 17.3.2 "Building Design, Orientation and Layout" of the draft DCP requires development enhances the public domain, defines the streetscape, and creates a physical and visible connection between the built form and the public space. To achieve this, Control 5 requires that: the architectural design shall incorporate the use of durable and high-quality materials and include a variety of colours together with visually integrated treatment of plant areas.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Consultation process: Lack of consultation with adjoining owners.</p>	<p><u>Council Response:</u></p> <p>The Proposal was exhibited in accordance with the Gateway Determination. The draft DCP was also exhibited for a period of 28 days. In addition to this, Council staff have met on three occasions with adjoining landowners to ensure their concerns are considered and addressed and reflected in the draft DCP. In addition to the consultation undertaken by Council staff, the proponent wrote to adjoining landowners advising of the proposal and offering the opportunity for a briefing.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Flooding: Flood risk with the site is already impacted by inundation.</p>	<p>The proponent submitted a "Flood Risk Assessment" prepared by Consulting Engineers – Taylor Thomas Whiting dated December 2023, which specifically addressed the required flood analysis and all the recommended measures which need to be implemented on site to ameliorate any potential impacts in the affected areas, located on the northern boundary.</p> <p>These measures include adopting Flood Planning Levels that are to be at the 100-year flood level or 1% AEP plus freeboard as outlined under Section 4.5 "Fill and Flood Levels of the Campbelltown Engineering Design for Development 2009 in the supporting Flood Study by Taylor Thomas Whiting (NSW).</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p>A reference scheme has been provided to show indicatively what the site might look like if it were to be developed as part of the amended LEP controls.</p> <p>Any future development on the site would be subject to a development application process and would be subject to compliance with various environmental controls including flooding and flood impact. Specific controls pertaining to flooding area also included in the draft DCP to ensure there is no impact.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Flooding: Flood risk with the site is already impacted by inundation (continued)</p>	<p>The Flood Risk Assessment was included in the public exhibition material. This advice has been provided to the relevant adjacent landowners.</p> <p>At the 1% AEP flood, the site is predominantly flood free and for the Probable Maximum Flood (PMF), there is still adequate flood free parts of the site to enable evacuation. The flood maps have identified that there are no additional flood impacts to adjoining properties.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Flooding: Flooding is shown on adjoining land, which is contested, and adjoining owners request a copy of the flood modelling.</p>	<p><u>Council Response:</u></p> <p>Council has worked with the proponent and adjoining landowners and the draft DCP provisions, relating to flooding, vehicle access and pedestrian movements through the site have been updated. Specifically, flooding objectives in the draft DCP have been updated to reinforce the requirement to prevent adverse impacts on adjoining properties.</p> <p><u>Department Response:</u></p> <p>Council's response is considered adequate.</p>
<p>Flooding: New development will cause additional flood on adjoining property.</p>	<p><u>Council response:</u></p> <p>Future development applications will be subject to the draft DCP provisions which require compliance with Council's Flood Policy and the provisions of the State Government's "Floodplain Development Manual" available from the Department of Land and Water Conservation.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>



Issue raised	Council response and Department assessment of adequacy of response
<p>Master Planning of Broader Precinct:</p> <p>Request that master planning of the broader area be completed prior to adoption of the DCP.</p> <p>Request that Council implement an additional condition under Section 17.3 of the DCP that master planning of the entire precinct be completed, with adjoining landowner input, before a DA can be lodged over Stage 2 given it impacts our Right of Way and would set pedestrian links and flooding constraints.</p>	<p><u>Council response:</u></p> <p>Council officers have met with adjoining landowners on multiple occasions to explain the Proposal process and agreed to update the draft DCP to further enforce access easement rights and mitigate any flood impacts on adjoining properties.</p> <p>The request for a broader master planning process for the precinct is unnecessary given the small nature of the proposed development and its impact on amenity or other planning consideration. Supporting studies have been submitted with the Proposal to support the proposed development.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
<p>Infrastructure and social needs study is required for the entire precinct to understand external investment to facilitate development of the entire precinct.</p>	<p>Adjoining landowners are within their landowner rights to lodge their own Proposal with Council for assessment to ensure any future vision for their sites are realised.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
<p>Noise:</p> <p>Noise generated from the stadium impacting future residents.</p>	<p><u>Council response:</u></p> <p>An acoustic report will be required as part of any future DA for the site and assessment against the draft DCP provisions relating to noise impacts. This report will advise if acoustic measures are required (e.g. double glazing) to minimise the impact on future residents.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate. Noise issues can be addressed at the DA stage.</p>
<p>Open Space:</p> <p>Open space is not provided</p>	<p><u>Council response:</u></p> <p>The Proposal will provide 2,600m<sup>2</sup> of publicly accessible open space on ground level of the development.</p> <p>The site is within acceptable walking distance to existing public open space. Council has recently opened a new park (Scriven Park) south-west of the site, that includes a children's playground, located at the corner of Tallawarra Road and Kingsclere Street.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>

Issue raised	Council response and Department assessment of adequacy of response
<p><b>Pedestrian Access:</b></p> <p>Through sitelinks are shown to adjoining properties. These have not been negotiated with landowners and may "lock in" a design that neighbouring properties will need to adhere to.</p>	<p><u>Council's response:</u></p> <p>The requirement to show through sitelinks are recommendations from the Campbelltown Design Excellence Panel, who requested that the site show how it can be connected to surrounding sites and the broader suburb.</p> <p>In negotiation with adjoining landowners and the proponent, these indicative through site links have been updated to show the site's links to surrounding features and updating the draft DCP's Vision statement to potentially connect to neighbouring properties in the future (in negotiation with adjoining landowners).</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
<p><b>Traffic:</b></p> <p>Inadequate roundabout on O'Sullivan's Road to handle increase traffic generated from the site.</p>	<p><u>Council's response:</u></p> <p>The Campbelltown Local Infrastructure Contributions Plan 2018 has identified in its works scheduled for traffic and transport facilities, to upgrade the intersection of Pembroke Road and O'Sullivan Road to a signalised intersection at a cost of \$2,500,000.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate. Council is included the upgrade of the intersection in its infrastructure contributions plan.</p>
<p>Traffic congestions is an issue in the area. The traffic report should consider impacts of development on adjoining land so that any infrastructure upgrades are a shared cost across all benefitting developers.</p>	<p><u>Council's response:</u></p> <p>Council agrees that further traffic analysis is required prior to any future development and that a traffic assessment will be required to be undertaken as part of any future DA for the site.</p> <p>TfNSW have previously provided advice that strategic investigations for the duplication of Pembroke Road corridor have been undertaken and that the status of this project remains as per the advice provided on 7 October 2021 that no funding has been allocated to develop the proposal further. Nonetheless, TfNSW has not objected to this Proposal in relation to the need for infrastructure upgrades.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
<p><b>Vehicle Access:</b></p> <p>No vehicle access from the site to Pembroke Street.</p>	<p><u>Council response:</u></p> <p>Resident has been advised that it is a requirement of Transport for NSW that the new development is only accessed from O'Sullivan Road. This requirement is reflected in the draft DCP whilst still maintaining existing access and egress arrangements for adjoining property owners and businesses.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>

Issue raised	Council response and Department assessment of adequacy of response
Existing easements providing access to the adjoining land need to be modified to allow new access from O'Sullivan Road in accordance with advice from TfNSW	<p><u>Council response:</u></p> <p>The DCP has been amended to ensure that existing access and easements for adjoining properties are retained.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
<p>Vehicle Parking:</p> <p>Insufficient provision of on grade parking which may generate demand for existing on grade parking.</p>	<p><u>Council response:</u></p> <p>Noted, however, future developments will need to provide adequate car parking on site irrespective of whether it is basement or at grade parking. The management of parking arrangements will be a consideration at the development application stage.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
Parking at Leumeah Station is already at capacity.	<p><u>Council's response:</u></p> <p>Any future redevelopment of the site will be required to provide parking on-site for occupants and visitors. The site is within walking distance from the railway station and therefore residents of the site are unlikely to drive to the station.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
<p>Planning Proposal Mapping:</p> <p>Diagrams and representations have been used to justify the proposal that may include other land holdings.</p>	<p><u>Council response:</u></p> <p>Noted. Diagrams and visualisations in the Proposal are indicative only to assist in the assessment of the Proposal to ensure that the vision for the site can be realised and that development potential and impacts of adjoining sites are considered. They are concept in nature.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
The view corridors and green links are shown over land the applicant does not own, nor have they consulted with the owners.	<p><u>Council's response:</u></p> <p>Noted. These are visual representations only of what the land could look like and not what is proposed.</p> <p>Future DAs for the site will provide more detail of what is being proposed to be built and adjoining owners will be notified where required under Council's Community Participation Plan.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>

Issue raised	Council response and Department assessment of adequacy of response
Public Transport:  Bus connectivity could be improved in this area.	<p><u>Council's response:</u></p> <p>Noted. This is a matter for the State Government/local bus company with provision of bus services often based on demand. Increasing development in the area may improve bus services due to a higher demand for services in the area. The Proposal will provide additional housing and employment close to Leumeah train station.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 4 who have provided the following feedback. The Department also sought the advice from the Department of Climate Change, Energy, The Environment and Water (DCCEEW) and the State Emergency Service regarding whether the planning proposal met the requirements of Ministerial Section 9.1 Direction 4.1 Flooding. Comments provided by DCCEEW and SES are provided in the table below:

**Table 4 Advice from public authorities**

Agency	Key Advice raised	Council response and Department assessment of adequacy of response
Transport for NSW	<ul style="list-style-type: none"> <li>The future vehicle access to the site can be safely and practicably provided by O'Sullivan Road (an unclassified Road).</li> <li>The removal of the existing access on Pembroke Road is required to ensure that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the future development of the site. TfNSW is satisfied if this is done prior to the issue of any occupation certificate (rather than prior to the issue of any construction certificate).</li> <li>It is TfNSW view that the Proponent is responsible for ensuring that the existing easements for access across the site are appropriately varied, replaced and/or extinguished by agreement with the adjoining landowners as part of the future re-development of the site.</li> </ul>	<p>Council agrees that O'Sullivan Road is the preferred access for the future development and is reflected in the draft DCP for the site.</p> <p>Council acknowledges the request by TfNSW regarding the closure of the existing Pembroke Road access and has reflected this advice in section 17.3.7 Parking and Access, Control 2 in the draft DCP. It is proposed that Pembroke Road remain open during construction to service the site.</p> <p>Council agrees with TfNSW that the Proponent bears the responsibility for addressing existing easements in collaboration with adjoining landowners. Council consulted the proponent and adjoining landowner, who benefits from the existing easement, to negotiate a new control in the draft DCP that allows for the existing easements to be replaced and/or extinguished by agreement of both parties. Access to Pembroke Road for adjacent properties will continue.</p>

Agency	Key Advice raised	Council response and Department assessment of adequacy of response
Transport for NSW	<ul style="list-style-type: none"> <li>For completeness, Section 2.119 'Development with frontage to classified road' of the SEPP (Transport and Infrastructure) 2021 will apply to any future DA for the site.</li> <li>TfNSW reserves its position in relation to any future application for consent under section 139 of the Roads Act 1993 for any proposed works in Pembroke Road relating to the future development of the site.</li> </ul>	<p>Council acknowledges that the provisions of the SEPP will apply to future DAs and will ensure compliance during the detailed DA process.</p> <p>Council notes TfNSW's reservation and understands that future applications under the Roads Act will need to be assessed in consultation with TfNSW.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
	<p>TfNSW identified the following issues that need to be addressed and updated in the supporting traffic report:</p> <ul style="list-style-type: none"> <li>Refuse collection and servicing and 7.1.2 Pembroke Road Access -</li> <li>Unclear if the vehicles turning left in and left out of the existing access arrangements at Pembroke Road have been reallocated to exit from O'Sullivan Road access.</li> <li>What are the impacts of the existing and additional development traffic at the intersection of Pembroke Road/O'Sullivan Road/Rudd Road because of the access changes?</li> <li>Validate the traffic counts used in the June 2018 study to confirm if they were conducted during school holidays.</li> </ul>	<p>As Council staff are recommending Pembroke Road access not to be closed, this can be addressed as part of the detailed design of the proposed development during the DA stage.</p> <p><u>Department's response:</u></p> <p>Noted.</p>
	<p>TfNSW provided the following advice and works:</p> <ul style="list-style-type: none"> <li>Updating section 17.3.7 Parking and Access of the draft DCP to include additional wording</li> <li>Removing the existing driveway crossover on Pembroke Road and reinstating the road reserve to TfNSW satisfaction.</li> <li>Amend the Urban Planning Study New Mixed Use Development</li> </ul>	<p>Council has adopted these recommendations and the draft DCP has been updated accordingly to reflect the staged access arrangement.</p> <p>Noted. This can be achieved following the completion of Stage 2 construction.</p> <p>Noted. This will be considered as part of the broader planning study review during the DA stage.</p>

Agency	Key Advice raised	Council response and Department assessment of adequacy of response
	Leumeah prepared by Integrated Design Group 22 March 2023	<p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
TfNSW ('continued')	<ul style="list-style-type: none"> <li>• Duplication Pembroke Road Corridor investigation - TfNSW have previously provided advice that strategic investigations for the duplication of Pembroke Road corridor have been undertaken.</li> <li>• Existing Easements on the site - The proponent is responsible for ensuring that the existing easements for access across the site are appropriately varied, replaced and/or extinguished by agreement with the adjoining landowners as part of the future redevelopment of the site.</li> </ul>	<p>Noted, the Campbelltown Local Infrastructure Plan 2018 has identified in its works scheduled for traffic and transport facilities, to upgrade the intersection of Pembroke Road and O'Sullivan Road to a signalised intersection at a cost of \$2.5 million. This work is identified as a 'Priority A' upgrade with a proposed timeframe for commencement as 0-5 years.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate.</p>
NSW Rural Fire Service (RFS)	RFS raised no objection to the Proposal, subject to a report being prepared by a suitably qualified bush fire consultant which demonstrates the finalised plans following the requirements of Planning for Bushfire Protection 2019.	<p>RFS requirement can be carried out at the DA stage.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate</p>
Endeavour Energy	There were not issues raised by Endeavour Energy in relation to the Proposal or proposed development.	Council and the Department note this response.
Sydney Water	<p>Sydney Water raised no objections and provided the following information to assist in planning the servicing needs of the proposed development:</p> <ul style="list-style-type: none"> <li>• Water and wastewater servicing should be available to service future development on the site; and</li> <li>• Amplifications, adjustments, and/or minor extensions may be required.</li> </ul>	Council and the Department note this response.
Department of Climate Change, Energy, The Environment and Water (DCCEEW)	<ul style="list-style-type: none"> <li>• Considers that the significant flood affectation has not been adequately considered in the proposal. Recommends more thorough consideration of the inconsistencies of the planning proposal with the requirements of the Section 9.1 Direction 4.1 Flooding and the principles of the Flood Risk Management Manual.</li> </ul>	Council considers that the proponent has satisfied the objectives of the direction as the Proponent responded to the Gateway Condition 1(b) requirement (specifically to provide further flood preliminary analysis in relation to the Probable Maximum Flood showing pre and post development scenarios, risks), by providing an updated Flood Risk Assessment report with the requested data. Council was satisfied this

Agency	Key Advice raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> <li>No quantitative flood impact assessment has been carried out which is a key priority.</li> <li>Reconsideration of the reference scheme may be required to ensure not adverse flood impacts to other properties. There are also significant emergency management constraints.</li> <li>Access to the site is not flood free but is flooded in the 1% AEP event with hazard category H1 flooding.</li> </ul>	<p>requirement had been met and reflected in Council's post-exhibition report and confirmed by Council's Flood Engineer.</p> <p>Detailed flood investigations for the proposal will be carried out during the Development Application process when more detailed information will be available regarding the proposed building footprint and surrounding area levels. DCCEEW's comments will be incorporated into the study outputs.</p> <p>The Flood Risk Assessment report included data from the <i>Bow Bowing Bunbury Curran Creek Strategic Floodplain Risk Management Study and Plan</i>, flood modelling results from <i>Bow Bowing Bunbury Curran Creek Flood Study</i>, the <i>Campbelltown Engineering Design for Development</i> (2009) and the <i>Floodplain Development Manual</i>, DPHI 2005, and other supporting documents. Council is satisfied that the Report's recommendations for the planning proposal would be consistent with the adopted <i>Floodplain Risk Management Study and Plan</i> data.</p> <p>Council has completed an assessment of the planning proposal against the requirements of Direction 4.1 Flooding (<b>Attachment F</b>). Council considers the inconsistencies with Direction 4.1 Flooding are justified as being of minor significance for the following reasons:</p> <ol style="list-style-type: none"> <li>The site is only partially impacted by PMF.</li> <li>The main access to the site remains flood-free.</li> <li>Both pedestrians and vehicles have flood-free access in any flood event.</li> <li>All emergency vehicles will have flood-free access to the site if needed.</li> <li>The site-specific DCP includes development controls that specifically require flood-free access from O'Sullivan Road for, both vehicles and pedestrians, as well as emergency vehicles.</li> </ol> <p>The Flood Assessment incorporates multiple layers of flood risk mitigation strategies, including elevated floor levels,</p>



Agency	Key Advice raised	Council response and Department assessment of adequacy of response
		<p>appropriate site grading, structural designs, and compliance with regulatory flood planning requirements. These measures collectively ensure that the development will not result in adverse flood impacts to adjoining properties, maintaining overall safety and flood resilience.</p> <p>The Flood Risk Assessment states that the 1% AEP flood hazard is low across the site with Hazard Category H1 which is safe for people and vehicles in accordance with the flood hazard vulnerability curves.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate</p>
<p>Department of Climate Change, Energy, The Environment and Water (DCCEEW) (Cont.)</p>	<ul style="list-style-type: none"> <li>• Access to the loading dock is highly hazardous in the PMF.</li> <li>• A flood impact and risk assessment (FIRA) should be undertaken in accordance with the Flood Risk Management Manual and its supporting flood risk management guidelines, with particular attention to Flood Impact and Risk Assessment (LU01) and Support for Emergency Management Planning (EM01). The deliverables of the FIRA should be in general accordance with Table 6 of the guideline.</li> </ul> <p>The FIRA must:</p> <ul style="list-style-type: none"> <li>○ consider the compatibility of the proposed development with the flood function and behaviour of the land.</li> <li>○ provide detailed consideration and recommendation for flood related development controls.</li> <li>○ Be undertaken by qualified engineers who have experience and advanced skills in catchment hydrology and floodplain hydraulics and have a good working knowledge of flood risk management practices and guidance in NSW.</li> </ul>	<p>Noted. Council does not propose to allow access to the loading dock via Pembroke Road.</p> <p>The Flood Risk Assessment indicates that a detailed Flood Impact Risk Assessment will be completed during the DA process to ensure any potential impacts are mitigated according to the 2023 NSW Flood Risk Management Manual and Guidelines. The preparation of a FIRA is also requirement of Council's site specific DCP chapter.</p> <p>Noted. A FIRA will be prepared at the detailed design/DA stage.</p>



Agency	Key Advice raised	Council response and Department assessment of adequacy of response
	<ul style="list-style-type: none"> <li>To demonstrate consistency with the direction, the planning proposal would need to:</li> </ul> <ol style="list-style-type: none"> <li>1. Meet the objectives of the direction including ensuring consistency with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and includes consideration of the potential flood impacts both on and off the subject land.</li> <li>2. Need to demonstrate consistency with direction clauses. <ul style="list-style-type: none"> <li>o The post-development model scenario must include the details of the proposed development</li> <li>o The increase in flood risk associated with introducing the additional population within the flood planning area requires further consideration to justify the inconsistency. Shelter in place strategies is not recommended for new development.</li> <li>o The status of the site as a low or high flood island per the Bow Bowing Bunbury Curran Creek Strategic Floodplain Risk Management Study and Plan should be confirmed.</li> <li>o Private flood emergency response plans cannot manage flood risk to the same extent as land use planning</li> </ul> </li> </ol>	<p>Council has undertaken an assessment of compliance with Direction 4.1 (<b>Attachment F</b>). Council considers the planning proposal is consistent with the direction with exception of section 3(d) of the direction as the planning proposal includes provisions (i.e. increased building height) that will permit a significant increase in the development and/or dwelling density of the land. As identified above, Council considers the inconsistency of a minor significance given the minor flood affectation on the subject land which can be addressed at the detailed design/DA stage.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate</p>
NSW State Emergency Service	<ul style="list-style-type: none"> <li>Due to the lack of flood warning time available and rapid onset of flood waters during the PMF evacuation of the site may not be suitable and a shelter in place strategy is proposed. Shelter in place is not an endorsed flood emergency management strategy by the NSW SES for future development.</li> <li>Recommends undertaking further modelling for the full range of flood events taking into consideration pre</li> </ul>	<p>During a PMF event the likely evacuation routes would be south-east along O'Sullivan Road where PMF flood depths are no more than 250mm. This is a sufficient depth for flood free access by emergency service vehicles to the site. This access would also provide flood-free ingress and egress for residents during a flood event. More detail is required to be included in the Flood Assessment to be confident of mitigation strategies and the suitability of the development footprint. However, this can be confirmed in the</p>

Agency	Key Advice raised	Council response and Department assessment of adequacy of response
	<p>and post development scenarios and associated risks</p> <ul style="list-style-type: none"> <li>• Recommend considering the impact of flooding on access/egress routes and the risk of isolation for the site, for floods up to and including the Probable Maximum Flood (PMF) event.</li> <li>• Recommend ensuring that building design considers the potential flood and debris loadings of the PMF so that structural failure is avoided during a flood, especially considering the flash flood nature at the site.</li> <li>• Recommend pursuing site design and stormwater management that reduces the impact of flooding and minimises any risk to the community. Any improvements that can be made to reduce flood risk will benefit the community.</li> </ul>	<p>Development Application stage as part of the requirements for a detailed Flood Impact Risk Assessment Report.</p> <p>These matters were assessed in the Flood Risk Assessment report. Council's site specific DCP chapter requires the preparation of a detailed Flood Impact Risk Assessment (FIRA) as part of the detailed design/DA process to ensure any potential impacts are mitigated according to the 2023 NSW Flood Risk Management Manual and Guidelines.</p> <p>This matter will be addressed in the FIRA at the detailed design/DA stage.</p> <p><u>Department's response:</u></p> <p>Council's response is considered adequate</p>

The Department considers Council has adequately addressed matters raised in submissions from public authorities.

### 3.3 Post-exhibition changes

Council made no changes to the planning proposal following public exhibition but has undertaken the following amendments to the draft DCP chapter to address issues raised in public and agency submissions as well as meetings with adjoining landowners:

- Updated site plans to remove access from Pembroke Road to the future development and show all existing easements that burden and benefit the site and adjoining sites.
- Updated 'Vision' and controls to reference potential pedestrian connection through the site to other areas in the future.
- Updated figures to reflect changes proposed including removing all landscaping, trees and other features in Figures from the easement areas to clearly show that it exists and will be maintained,
- Removal of references to pedestrian connections to adjoining landowners,
- Including additional flooding and stormwater management 'development objectives' to reinforce the mitigation of impacts on adjoining landowners,
- Updating supporting studies to include up to date supporting positions,
- Included additional development controls to ensure that the existing access easement benefiting adjoining landowners on Lot 101 DP1126056, Lot 1062 DP635469 and Lot 1 DP847156, will be maintained.

### 3.3.1 Council resolved changes

At Council's Ordinary Meeting on 9/07/2024, Council resolved to proceed with the planning proposal with the post-exhibition changes that are identified in section 3.3 in this report.

### 3.3.2 The Department's recommended changes

Following the receipt of the revised planning proposal from Council, the Department does not recommend making further changes to the proposal.

### 3.3.3 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Are a reasonable response to comments provided by the public authorities.
- Ensure that flooding, access/easement and other matters identified in Council's specific DCP chapter are further addressed at the development stage.
- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

## 4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment D**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains consistent with all relevant Section 9.1 Directions and inconsistencies have been justified under the terms of the directions.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

**Table 5 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

	Consistent with Gateway determination report Assessment	
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

**Table 6 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

## 4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

### 4.1.1 Direction 4.1 Flooding

The submissions provided by DCCEEW and SES raise concerns that there has not been sufficient assessment of the impact of the proposal on flooding to demonstrate compliance with the s.9.1 direction 4.1 Flooding and to justify inconsistency with the following requirements of the direction:

*(3) A planning proposal must not contain provisions that apply to the flood planning area which:*

- (b) permit development that will result in significant flood impacts to other properties,*
- (d) permit a significant increase in the development and/or dwelling density of that land,*
- (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities.*

The direction provides that a planning proposal may be inconsistent with the direction only if the planning proposal authority can satisfy the Planning Secretary (or their nominee) that:

- (a) the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or*
- (b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005 or*
- (c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the*

*Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or*

*(d) the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.*

DCCEEW and SES have recommended additional flood modelling and risk assessment is undertaken via the preparation of a flood impact risk assessment (FIRA) to justify inconsistencies with the direction.

### 3d – Increase of density on subject land

Council is satisfied the Flood Risk Assessment prepared in support of the planning proposal demonstrates that the inconsistency with clause 3(d) of the direction is minor for the following reasons:

1. The site is only partially impacted by PMF.
2. The main access to the site remains flood-free.
3. Both pedestrians and vehicles have flood-free access in any flood event.
4. All emergency vehicles will have flood-free access to the site if needed.
5. The site-specific DCP includes development controls that specifically require flood-free access from O'Sullivan Road for, both vehicles and pedestrians, as well as emergency vehicles.

In any flood event, all future residents and visitors to the site will have flood-free access for both vehicles and pedestrians from O'Sullivan Road. Consequently, there would be no issues for SES or any other emergency vehicles to access the site during any flood event.

### 3b - Impact on adjoining properties:

Council does not consider the planning proposal is inconsistent with clause 3 (b) of the direction because the Flood Risk Assessment, which incorporates multiple layers of flood risk mitigation strategies, including elevated floor levels, appropriate site grading, structural designs, and compliance with regulatory flood planning requirements, collectively ensures that the development will not result in adverse flood impacts to adjoining properties, maintaining overall safety and flood resilience.

The Planning Proposal is further supported by a draft DCP which provides detailed planning and design guidelines for the future development of the site including section 17.3.8 Flooding and Stormwater Management, which requires stormwater management and compliance with flood policies. This includes specific Development Objectives that ensure development is designed in consideration of potential flood hazards and to prevent adverse impacts on adjoining properties. Specific controls require compliance with Council's Flood Policy and the provisions of the State Government 's Flood Risk Management Manual.

### 3g - Impact on requirements for government spending on emergency management services and flood mitigation measures:

Council does not consider the planning proposal is inconsistent with clause 3(g) of the direction because based on the Flood Impact Assessment, the proposed mitigation measures and draft DCP controls, it is unlikely that the proposed development will result in a significantly increased requirement for government spending on emergency management services, flood mitigation, and emergency response measures.

Council's view that the inconsistency with the direction is minor as noted. Council also considers the planning proposal was prepared in accordance with Council's adopted Bow Bowling Bunbury Curren Creek Strategic Flood Risk Management Study and Plan which were adopted by Council in 2019 and covers the site.

The Flood Risk Assessment report included data from the Bow Bowling Bunbury Curran Creek Strategic Floodplain Risk Management Study and Plan, flood modelling results from Bow Bowling

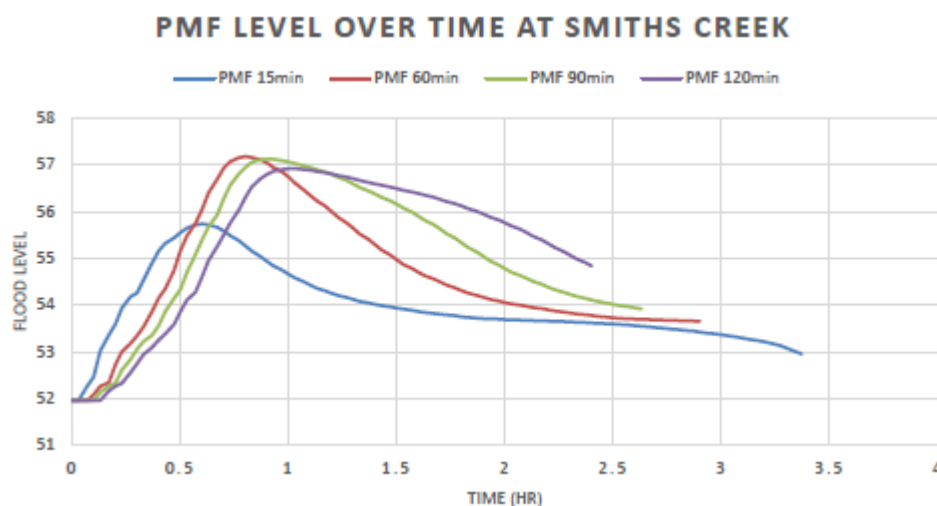
Bunbury Curran Creek Flood Study, the Campbelltown Engineering Design for Development (2009) and the Floodplain Development Manual, DPHI 2005, and other supporting documents.

Council has advised that detailed flood impact risk assessment investigations for the proposal will be carried out during the development application process when more detailed information will be available regarding the proposed building footprint and surrounding areas levels in accordance with the draft DCP chapter prepared for the site. Comments provided by DCCEEW and SES will be incorporated into the study outputs.

#### Probable Maximum Flood (PMF) and Duration

The Flood Risk Assessment advises at Smiths Creek, just downstream of Pembroke Road, the flood event that produces the maximum flood level is the 60-minute duration storm, however the 90 minute and 120 minute duration storms provide similar peak flood levels albeit slightly lower.

At this location the top of bank for Smiths Creek is approximately 54.30m. The PMF event is relatively short duration 'flash flooding'. Flood levels rise above top of bank after 15-30 minutes from the start of the storm, and peak around 45 minutes to 60 minutes. Flood water levels recede back to the top of bank level again after 2 to 2.5 hours.

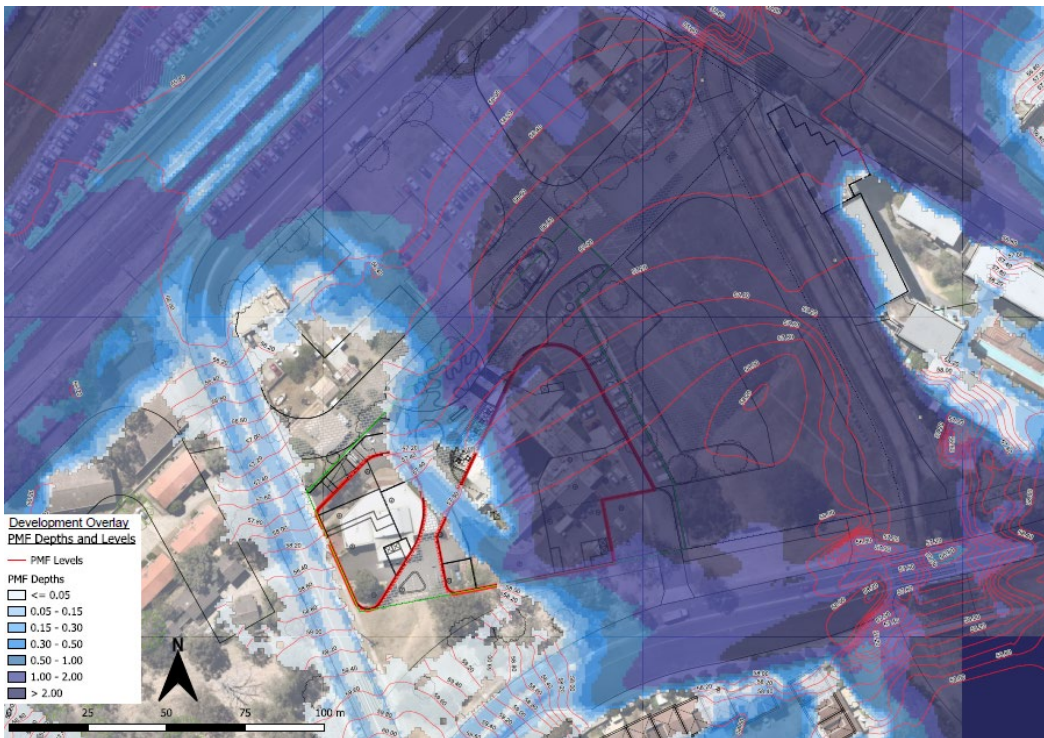


**Figure 2 Post Development Overlay on PMF Hazard Chart**

It is noted as the ground floor level and residential dwellings above level 1 are all above the PMF level, a shelter in place strategy could be adopted for the site. This strategy may also be suitable due to the relatively short duration for flood waters to recede.

Emergency egress and access to the site during the PMF is available from the main entrance car park from O'Sullivan Road as can be seen at the southwestern boundary of the site. There is only minor flooding in the roadway with shallow depths typically less than 150-200mm and generally low flood hazard which is seen to be acceptable.





**Figure 3 Post Development Overlay – PMF depths map**

#### Additional meetings with stakeholders on flooding

A meeting with Council, SES and DCCEEW was held post exhibition on 31 October to discuss flooding related items. SES raised at the meeting they are still concerned with some H1 flooding on site. They also raised concerns about site access in a flood event. Subsequent advice from Councils flood engineer confirms O'Sullivan Road to the southeast of the site is safe for vehicles to navigate south-east for both the 100-year AEP and PMF storm events. The Department also reconfirmed by email all the documents shared with SES as part of the planning proposal assessment.

One of the actions from that meeting was for the Department to have a further meeting with Council to see if any further information on flooding could be shared and to respond to the Departments further questions on flood items.

A further meeting was also held with Councils flood engineer on 13 November 2024. Council advised that the external consultants completed the Bow Bowing Bunbury Curran Creek Strategic Floodplain Risk Management Study and Plan (Molino Stewart, 2019). Truncated flood results from this study have been provided for the site location and are the basis for the flood analysis within the report. This appears consistent with the Council flood map information. Flood modelling undertaken during the development application period will be the additional modelling submitted. A recent updated truncated TUFLOW model is available from Catchment Simulated Solutions completed in 2024 that includes this area.

Councils flood engineer also clarified that once the final development layout has been agreed upon given the footprint and design ground levels using the Department of Planning and Environment Flood Impact and Risk Assessment Flood Risk Management Guide LU01 Flood Impact assessment would include modelling.

It was also confirmed that flood free access is not possible for all the surrounding road network, but most roads are navigable by normal motor vehicles during the PMF and 100- year AEP flood events with depths less than 200mm. The flood hazard rating is also H1, which is the lowest rating. The Department has a level of comfort based on the advice provided that the proposal can proceed.

SES have also provided additional advice to the Department on 9 December 2024. This requested a Flood Impact and Risk Assessment (FIRA) to inform an understanding of the flood risk at the site. Key points also raised includes,

- The impact of flooding on the roadways should go beyond immediately adjacent to the site to fully understand the isolation risks and evacuation constraints.
- Pedestrian evacuation should not be a primary evacuation strategy for proposed development.
- Impacts to the flood behaviour post-development should be investigated and mitigated.
- Basement Car Parks should ensure there is not an increase in risk to life.
- Buildings should be as safe as possible during flood events.

In response the Department is comfortable with the proposed solution that Council's site specific DCP chapter requires the preparation of a detailed FIRA as part of the detailed design/DA process to ensure any potential impacts are mitigated according to the 2023 NSW Flood Risk Management Manual and Guidelines released by the then Department of Planning and Environment. The FIRA is expected to provide mitigation strategies provisions in place in the DCP for further assessment at development application stage.

DPHI Conclusion

It is recommended that the Secretary's delegate agree that any inconsistency with the direction is justified under the terms of the direction. Extensive additional consultation and analysis of flood impacts to the site inclusive of PMF has been performed post exhibition. Flood free access to the site can be provided in all flood scenarios modelled.

4.1.2 Access/easements

The Department is satisfied that issues raised by Transport for NSW in its submission regarding access to the site have been satisfactorily addressed. TfNSW requested that O'Sullivan Road should provide the main access to the site and that Pembroke Road, which is a state road, be closed for access, to minimise impact on Pembroke Road. Council supports TfNSW request regarding access roads and has reflected this requirement in the final planning proposal and in its draft DCP for the site.

The adjoining landowner requested that current easements in place are protected. Council has consulted the proponent and adjoining landowner, who benefits from the existing easement, to negotiate a new control in the draft DCP for the site that allows for the existing easements to be replaced and/or extinguished by agreement of both parties.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 7 Consultation following the Department's assessment.

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Two maps have been prepared by Department's ePlanning team and were reviewed by Campbelltown City Council who support making these maps.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details



Stakeholder	Consultation	The Department is satisfied with the draft LEP
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (<b>Attachment D</b>)</p> <p>Council confirmed on 4/12/2024 that it approved the draft and that the plan should be made (<b>Attachment E</b>)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Department of Planning, Housing and Infrastructure (Policy and Legislation Team)	On 9/12/2024, the Department of Planning, Housing and Infrastructure provided a (Map Only) LEP. The LEP is provided at <b>Attachment LEP</b> .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with Greater Sydney Region Plan and the Western City District Plan.
- It is consistent with the Gateway Determination.
- Issues raised during consultation have been addressed and there are no outstanding agency objections to the proposal.
- Additional assessment in flooding matters post gateway determination and post exhibition show that the inconsistencies with Ministerial direction 4.1 – Flooding has been justified.



10/12/2024

Chantelle Chow

A/Director, Southern, Western and Macarthur Region

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Lance Collison

A/Manager, Southern, Western and Macarthur Region

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## Attachments

Attachment	Document
A	Updated Planning Proposal
B	Gateway determination
C	Gateway alteration
D	Section 3.36(1) consultation with Council
E	Council comments on draft LEP
F	Council's Direction 4.1 Flood Assessment
LEP	Draft LEP