

Campbelltown City Council



Section 94A Development Contributions Plan

Adopted: 26 July 2011
Effective: 9 August 2011

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Part A: Summary Schedule

This Plan is referred to as “Campbelltown City Council Section 94A Levy Development Contributions Plan”.

The works schedule contained in Schedule 1 of this Plan identifies the public facilities and/or infrastructure for which Section 94A (S94A) levies will be required.

Levies paid to Council will be applied towards meeting the cost of the provision of new public facilities or augmentation of existing facilities. Schedule 1 provides a summary of works schedule that levies are being sought for. This Plan will be reviewed annually.

Table 1 - Summary Schedule for Campbelltown City Council Section 94A Development Contributions Plan

Type of Development	Levy
Development, comprising work valued at less than(or equal to) \$100,000.	0%
Development, comprising work valued at between \$100,001 and \$200,000 (inclusive).	0.5%
Development, comprising work valued at more than \$200,000.	1%

Part B: Expected Development and Demand for Public Facilities

This section broadly describes the relationship between the expected development and the need for public works/infrastructure.

Residential Growth

Council engaged I.D. Forecast to develop a comprehensive population forecast model for the Campbelltown Local Government Area. The forecast model is based on the analysis of the expected births/deaths, migration patterns and housing development.

Over the next 2 years it is anticipated that that the population of Campbelltown will increase by approximately 3,000 people (excluding Greenfield release areas). The new residents will increasingly need to access services and facilities located within the Campbelltown/Macarthur CBD area, causing significant impacts on the existing transport network.

Industrial Growth

In 2004 Council adopted the South Western Employment Lands Study, which was prepared on behalf of Camden, Campbelltown and Liverpool Councils by Hill PDA. This report concluded that industrial zoned land was being taken up at a rate of 60-80ha/year. This has also been linked with a strong growth of bulky goods retailing on some of the industrial land. This development is leading to an increase in traffic generation both in terms of customers and services/deliveries.

Commercial Growth

In 2006, Council adopted the Campbelltown Business Centres Strategy. The review of the Campbelltown CBD concluded that future demand for commercial/retail floor space would approximate 20,000sqm/year. This is leading to an increase in traffic generation in terms of customers, staff and services/deliveries.

This plan will enable Council to levy contributions towards the provision of improved traffic infrastructure in and around the Campbelltown Local Government Area. Council's traffic model has identified works required to enable the road and traffic management network to accommodate the demands generated by an increase in development.

Part C: Administration

1. What is the name of this contribution plan?

This Plan is called “Campbelltown City Council Section 94A Development Contributions Plan”.

2. Where does this plan apply?

This plan applies to land within the Campbelltown Local Government Area.

3. What is the purpose of this plan?

The purpose of this contribution plan is:

- to authorise the imposition of a condition on certain development consents and/or complying development certificates requiring the payment of a contribution pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 (The Act).
- to assist Council in the provision of critical infrastructure.
- to publicly identify the purpose for which levies are required.

4. When does this development contribution plan commence?

This plan commenced on 9 August 2011, following the repealing of the previous Plan that commenced on 8 May 2007.

5. Relationship with other development contribution plans

This Plan will not prevail over the following endorsed Section 94 Plans;

- District 3 (Contributions Plan No.3) - Bow Bowling (Community Facilities)
- District 4 (Contributions Plan No.1) - Raby (Community Facilities)
- District 4 (Contributions Plan No.1) - Eagle Vale & Eschol Park (Community Facilities)
- District 4 (Contributions Plan No.1) - Blairmount (Community Facilities)
- District 4 (Contributions Plan No.1) - Kearns (Community Facilities)
- District 5 (Contributions Plan No.5) - Blair Athol (Community Facilities)
- District 6 (Contributions Plan No.2) - Rosemeadow (Community Facilities)
- District 6 (Contributions Plan No.2) - St Helens Park (Community Facilities)
- District 6 (Contributions Plan No.4) - Kilbride (Community Facilities)
- District 6 (Contributions Plan No.8) - St Helens Park (Open Space)
- Glenfield Road Area (Contributions Plan)

A condition pursuant to the Section 94 Contributions Plan for Public Car Parking Facilities may instead be imposed by Council on a development consent as an alternative to imposing a condition authorised by this Section 94A Plan, depending on the Council’s assessment of the nature of the respective development and the demand for public facilities.

6. What does Section 94A of the Act provide?

Section 94A of the Act provides for:

- (1) *A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of*

the proposed cost of carrying out the development.

- (2) *A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.*
- (2A) *A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:*
- (a) *the Minister, or*
 - (b) *a development corporation designated by the Minister to give approvals under this subsection.*
- (3) *Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.*
- (4) *A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.*
- (5) *The regulations may make provision for or with respect to levies under this section, including:*
- (a) *the means by which the proposed cost of carrying out development is to be estimated or determined, and*
 - (b) *the maximum percentage of a levy.*

7. *Development to which this Plan applies*

This Plan applies to all applications for development consent and complying development certificates required to be made by or under Part 4 of the Act in respect of development on land to which this Plan applies.

8. *Exceptions to this Plan*

This Plan will not apply to the following forms of development:

- Class 10 buildings (carports, garages, pergolas and the like);
- Extensions and/or alterations to existing dwellings;
- Replacement dwellings; or
- Extensions and/or alterations to existing non-residential development (i.e., commercial/industrial etc. development) that involves the construction of servicing/utility/amenity and like spaces.

9. *How is the cost of development determined?*

Clause 25J of the Environmental Planning and Assessment Regulation 2000 sets out how the proposed cost of carrying out development is to be determined.

That clause provides as follows:

25J Section 94A levy—determination of proposed cost of development

- (1) *The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:*
 - a. *if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,*
 - b. *if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,*
 - c. *if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.*

- (2) *For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.*

- (3) *The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:*
 - a. *the cost of the land on which the development is to be carried out,*
 - b. *the costs of any repairs to any building or works on the land that are to be retained in connection with the development,*
 - c. *the costs associated with marketing or financing the development (including interest on any loans),*
 - d. *the costs associated with legal work carried out or to be carried out in connection with the development,*
 - e. *project management costs associated with the development,*
 - f. *the cost of building insurance in respect of the development,*
 - g. *the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),*
 - h. *the costs of commercial stock inventory,*
 - i. *any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law.*
 - j. *the costs of enabling access by disabled persons in respect of the development,*
 - k. *the costs of energy and water efficiency measures associated with the development,*
 - l. *the cost of any development that is provided as affordable housing,*
 - m. *the costs of any development that is the adaptive reuse of a heritage item.*

- (4) *The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.*

- (5) *To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application.*

10. Cost estimate reports must accompany an application for a complying development certificate or a construction certificate

An application for a complying development certificate or a construction certificate is to be accompanied by a report, prepared at the applicant’s cost in accordance with this clause, setting out an estimate of the proposed cost of carrying out the development for the purposes of clause 25J of the Regulation. The following types of report are required:

- where the estimate of the proposed cost of carrying out the development is less than \$500,000 - a cost summary report in accordance with Sample Cost Summary Report 1;
- where the estimate of the proposed cost of carrying out the development is \$500,000 or more - a detailed cost report in accordance with Sample Registered Quantity Surveyor Report.

11. Who may provide a report for the purposes of clause 10 of this plan?

For the purpose of clause 25J(2) of the Regulation and clause 10 of this plan, the following persons are approved by the Council to provide an estimate of the proposed cost of carrying out development in the following circumstances:

- where the proposed development cost is less than \$500,000 - a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report;
- where the proposed development cost is \$500,000 or more - a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.

Upon reviewing a cost summary report, the Council may require a further estimate to be provided by a registered quantity surveyor at the applicant’s cost. The Council may, at the applicant’s cost, engage a person referred to in this clause to review a report submitted by an applicant in accordance with clause 10.

12. What will the percentage levy be?

The Percentage Levy will be applied as per Table 2

Table 2 - Percentage Levy for Section 94A Contributions Plan

Type of Development	Levy
Development, comprising work valued at less than(or equal to) \$100,000.	0%
Development, comprising work valued at between \$100,001 and \$200,000 (inclusive).	0.5%
Development, comprising work valued at more than \$200,000.	1%

13. How will the contribution be calculated?

The following formula will be used to calculated the levy payable:

$$LP = DC * PL$$

Where:

Levy Payable - LP

Development Cost (as per Clause 10) - DC

Percentage Levy - PL

14. How will contributions be indexed?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed before payment to reflect quarterly variations in the *Consumer Price Index All Group Index Number for Sydney* between the date the proposed cost was determined by the Council and the date the levy is required to be paid.

The following formula will be used to calculate the levy payable:

$$ILP = OLP * CPI2 / CPI1$$

Where:

ILP = Indexed Levy Payable

OLP = Original Levy Payable

CPI1 = Consumer Price Index at the date of the original development cost was submitted to Council

CPI2 = Consumer Price Index at the time the levy is paid.

15. How will Council spend money obtained from the Plan?

Money paid under a condition authorised by this Plan will be expended in accordance with Schedule 1.

16. Pooling of levies

Pursuant to s93E(2) of the Act, this plan expressly authorises s94A levies paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule (Schedule 1).

17. What are the priorities for the expenditure of funds collected under this Plan?

In accordance with s93E(2) of the Act and clause 27(h) of the Regulation, the works schedule priorities are set out in Schedule 1.

18. Obligation of Certifying Authority

Pursuant to clause 146 of the Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it is satisfied of compliance with any condition requiring the payment of a levy before work is carried out in accordance with the consent.

The certifying authority must cause the applicant's receipt for payment of the levy to be provided to the Council at the same time as the other documents required to be provided under clause 142(2) of the EP&A Regulation.

19. *When is the levy payable?*

The levy is payable at the following times:

- a. development applications involving subdivision - prior to the release of any construction certificate related to site works or the release of the subdivision plan, whichever occurs first;
- b. development applications involving building work - prior to the release of the construction certificate;
- c. development applications involving both subdivision and building work (integrated housing developments) - prior to the release of the construction certificate or the release of the subdivision plan, whichever occurs first; and
- d. development applications where no construction certificate is required - at the time of issue of notification of consent or prior to commencement of the approved use, or prior to occupation of the premises, as may be determined by Council.

20. *Will Council accept deferred or periodic payments?*

The Council may accept a written request for a deferred or periodic payment of a contribution if the applicant or any other person entitled to act upon the relevant consent satisfies the Council that:

- a. compliance with the provisions relating to when contributions are payable is unreasonable or unnecessary in the circumstances of the case.
- b. deferred or periodic payment will not prejudice the timing or the manner of the provision of the public amenity or service for which the contribution was required, as outlined in the Works Schedule.
- c. there will be no prejudice to the community deriving benefit from the public amenity of service of facility required by the proposed development.
- d. there will be no prejudice to the operation of this Contributions Plan.

The decision to accept a deferred or periodic payment is at the sole discretion of the Council.

The Council may accept deferred or periodic settlements by way of instalments subject to the condition that the instalments are to be paid before work commences on any stage of the development, or as otherwise agreed to by the Council.

The Council may, if it decides to accept the deferred or periodic payments of a contribution, require the applicant to provide a bank guarantee by an Australian bank for the amount of the contribution, or the outstanding balance, plus any interest likely to accrue, on condition that:

- a. The bank guarantee requires the bank to pay the guaranteed amount unconditionally to the consent authority where it so demands in writing not earlier than 6 months (or other term so determined by the Council) from the provision of the guarantee or completion of the development or stage of the development to which the contribution, or the outstanding balance, relates.
- b. The guarantee prohibits the bank from:
 - having recourse to the applicant or other person entitled to act upon the

- consent; and
- having regard to any appeal, dispute, controversy, issue or other matter relating to the consent or the carrying out of development in accordance with the the consent, before paying the guaranteed amount.
- c. The bank’s obligation under the guarantee are discharged:
 - when payment is made to the consent authority in accordance with the terms of the bank guarantee; or
 - if the related consent lapses; or
 - if the consent authority otherwise notifies the bank in writing that the bank guarantee is no longer required.
- d. The applicant pays interest to the Council on the contribution, or the outstanding balance at the overdraft rate on and from the date when the contribution would have been otherwise payable, as set out in this Contribution Plan.

Where the Council does not require the applicant to provide a bank guarantee, it may require a public positive covenant under Section 88E of the Conveyancing Act 1919 to be registered on the title to the land to which the relevant application relates.

21. *Saving and Transitional Arrangements*

A development application, which is submitted after the commencement of this Plan, will be assessed in accordance with the provisions of this Plan.

A development application, which has been submitted prior to the commencement of this Plan but not determined, shall be determined in accordance with the provisions of this Contributions Plan.

22. *Are there alternatives to the payment of the s94A levy?*

An applicant may only elect to forgo the payment of monetary contributions upon effected development through the following means:

- a. By Council accepting an offer by an applicant to satisfy the contribution by carrying out works in kind, but only where the facility is identified in the works program and it is constructed by the developer to Council’s standards and then transferred to Council. In these circumstances, Council will only transfer paid contributions on receipt of invoices not exceeding the amount already collected or committed by the fund.
- b. By both Council and the applicant entering into a written planning agreement in accordance with section 93F of Act, whose terms and conditions are voluntarily agreed to and signed by both parties. The agreement:
 - may be for the payment of a monetary contribution, the dedication of land free of cost, any other public benefit, or any combination of these, to be used for or applied toward a public purpose; and
 - is not invalid by reason only that there is no connection between the development and the works or expenditure of any money it proposes.

Part D: References

Schedule 1: Works Schedule

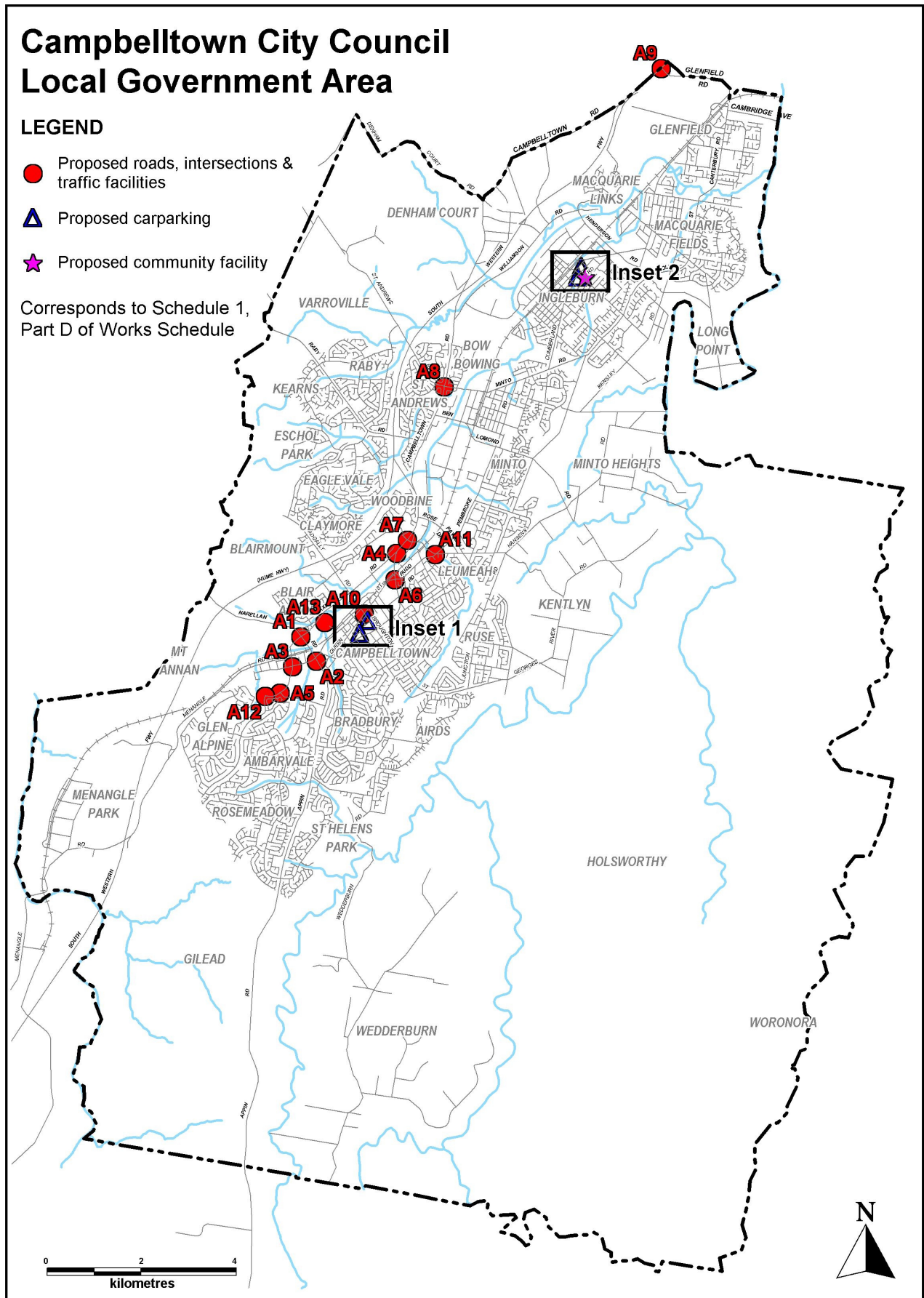
Improvements to Existing Intersections and New Public Facilities to be Funded Through Section 94A Levies:

Map Ref	Public Facilities	Description	Estimated Costs	Funding	Road Class	Priority H,M,L
Roads, Intersections & Traffic Facilities						
A1	Narellan - Blaxland Roads	Dual left turn from Gilchrist Dr into Narellan Road, left slip lane from Narellan Road into Blaxland Road	\$1,600,000	Sec 94A, Capital Funds and Grants	S/R	H
A2	Narellan - Kellicar Roads	Dual right turn from Kellicar Road into Narellan Road, and slip road into Narellan Road (westbound)	\$1,800,000	Sec 94A, Capital Funds and Grants	S/R	H
A3	Gilchrist - Kellicar Roads	Dual right turn from Gilchrist Drive into Kellicar Road, and additional through lane on Gilchrist Drive (heading east)	\$1,400,000	Sec 94A, Capital Funds and Grants	R/L	H
A4	Campbelltown - Blaxland Roads	Dual right turn from Campbelltown into Blaxland Road	\$2,100,000	Sec 94A, Capital Funds and Grants	S/R	H
A5	Gilchrist - Therry Roads	Replace roundabout with signals. This will assist with improving pedestrian safety.	\$1,500,000	Sec 94A, Capital Funds and Grants	R/R	M
A6	Campbelltown Road - Queen Street	Extra turning capacity	\$1,500,000	Sec 94A, Capital Funds and Grants	S/S	M
A7	Campbelltown - Harbord Roads	Extend right turn bays from Campbelltown Road into side roads, review dual right turn provision from Harbord Road into Campbelltown Road	\$ 800,000	Sec 94A, Capital Funds and Grants	S/L	M
A8	Campbelltown - St Andrews Road	Dual approach lanes southbound on Campbelltown Road	\$ 500,000	Sec 94A, Capital Funds and Grants	S/L	M
A9	Campbelltown - Glenfield Roads	Extend left turn slip lane from Glenfield Road	\$ 900,000	Sec 94A, Capital Funds and Grants	S/S	L
A10	Queen - Broughton Streets	Review intersection operation, widen to provide protected right turn bays	\$ 800,000	Sec 94A, Capital Funds and Grants	R/R	M
A11	Pembroke - O'Sullivan Roads	Traffic signals to replace the existing roundabout	\$1,600,000	Sec 94A, Capital Funds and Grants	S/L	M

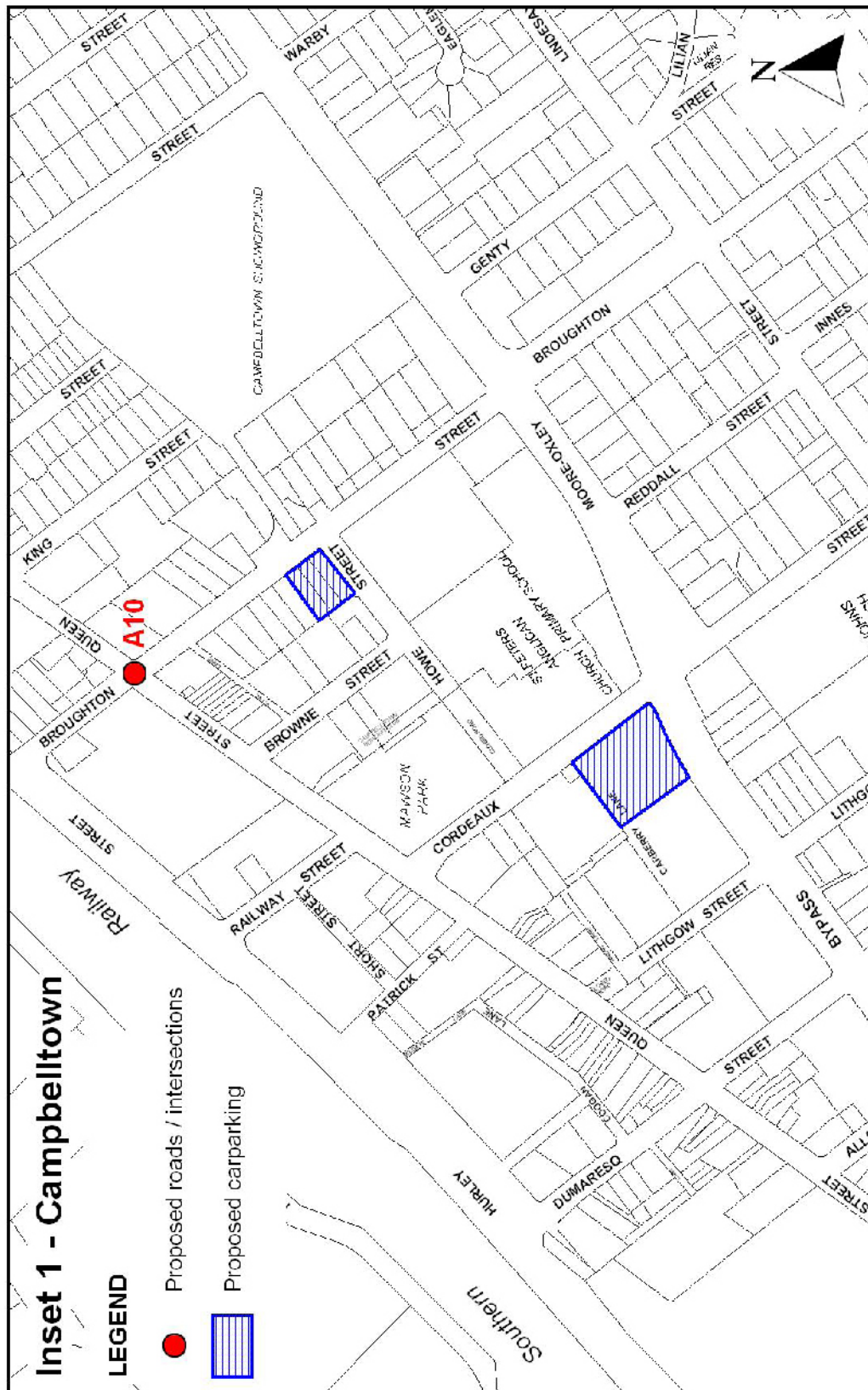
A12	Gilchrist - Englorie Park Drive	Traffic signals to replace the existing roundabout	\$1,500,000	Sec 94A, Capital Funds and Grants	L/L	M
A13	Farrow Road Extension	To provide a link between Blaxland Road and Campbelltown Railway Station	\$5,750,000	Sec 94A	L	H
	Various	Traffic Modelling over the life of the Section 94A Plan to ensure that traffic predictions reflect changes to development over time	\$ 250,000	Sec 94A		H
Community Facilities						
	Ingleburn Centre	Ingleburn Centre Library & Community Facility Upgrade	\$1,000,000	Sec 94A, Capital Funds and Grants		H
Car Parking						
	Campbelltown Business Centre	Stage 1 - Extension to existing ground level car park at Broughton Street & Browne Street	\$142,000	Sec 94A, Sec 94, Capital Funds and Grants		L
	Campbelltown Business Centre	Stage 2 - Extension to the existing multi-deck public car parking facility at Carberry Lane	\$4,320,000	Sec 94A, Sec 94, Capital Funds and Grants		L
	Ingleburn Business Centre	Extension to the existing ground level car park at Carlisle Street (East)	\$839,000	Sec 94A, Sec 94, Capital Funds and Grants		L
	Ingleburn Business Centre	Extension of the existing ground level car park at Boots Lane (West)	\$1,065,000	Sec 94A, Sec 94, Capital Funds and Grants		L
	Total		\$29,366,000			

Road Classification; L - Local, R - Regional, S - State
Priority; H - High M - Medium L - Low

Schedule 2: Map of Works within Campbelltown LGA



Works within Campbelltown



Works within Ingleburn

