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Alteration of Gateway determination report – PP_2018_CBANK_001_01

Bankstown Local Environment Plan 2015 - 913-925
Punchbowl Road and 21 Canterbury Road, Punchbowl

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1 Introduction

1.1 Overview

1.1.1 The proposal

The planning proposal seeks to amend Bankstown Local Environmental Plan 2015 as follows:

- amend the Land Zoning Map by rezoning properties at 913-921B Punchbowl Road, Punchbowl from R2 Low Density Residential to B1 Neighbourhood Centre;
- amend the Lot Size Map to remove lot size controls for the properties at 913-921B Punchbowl Road, Punchbowl;
- amend the Height of Buildings Map by applying a maximum 17 metre building height to the site; and
- amend the Floor Space Ratio by applying a maximum 1.8:1 floor space ratio to the site.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment B) applies to land at 913-925 Punchbowl Road and 21 Canterbury Road, Punchbowl
Type	Site
Council / LGA	Canterbury Bankstown

The subject land at 921-925 Punchbowl Road and 21 Canterbury Road (the site) comprises ten (10) allotments and has a total area of approximately 2ha (**Figure 1**). The site contains a registered club, known as Club Punchbowl, associated car parking areas, and four (4) low density residential lots.

The site is located at the corner of Punchbowl Road and Canterbury Road and is approximately 1.2km from Punchbowl train station and 1.6km from Bankstown strategic centre. The area surrounding the site is predominantly low density residential dwellings, with some commercial premises to the south and west.



Figure 1 Subject site (Source: planning proposal)

1.1.3 Purpose of plan

Proposed controls in the table below are intended to facilitate low-rise and medium-rise mixed use development and residential flat buildings.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	B1 Neighbourhood Centre and R2 Low Density Residential	B1 Neighbourhood Centre
Maximum height of the building	9 metres and 11 metres	17 metres
Floor space ratio	0.5:1	1.8:1

The proposal also seeks to remove the Lot Size Map for properties at 913-921B Punchbowl Road.

1.1.4 State electorate and local member

The site falls within the Bankstown state electorate where Tania Mihailuk MP is the State Member.

The site falls within the Watson federal electorate where Tony Burke 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 25 May 2018 (**Attachment C**) determined the proposal should proceed subject to conditions. Of note, the Gateway determination required the proposal to be finalised by 25 February 2019.

The Gateway determination was altered to extend the timeframe for completing the LEP on 17 May 2019 (**Attachment E**) and again on 16 December 2019 (**Attachment F**). The revised date for completion was 31 December 2020.

On 12 November 2020, Council requested that the Department further extend the timeframe for completing the LEP on the basis that COVID-19 had placed the club in financial hardship (**Attachment G**). The extended time was requested to complete outstanding specialist studies and prepare a draft planning agreement.

On 19 January 2021, the Department issued email correspondence (**Attachment H**) to council indicating the intent to issue a Gateway alteration with a revised timeframe including milestones for completing the LEP.

On 20 January 2021, the Department's Planning Delivery Unit (PDU) notified the council that the target for finalisation of the LEP had been determined as 31 March 2021 (**Attachment I**).

On 28 January 2021, the Department received correspondence from Council (**Attachment J**) outlining difficulties in progressing the planning proposal, confirming urban design work requires an amended Council resolution and Gateway alteration, Development Control Plan (DCP) and planning agreement. Council confirmed that the planning proposal would likely be finalised in 2022. In addition, Council also noted a revised assessment is required against Council's new employment, housing and affordable housing strategies endorsed in 2020.

On 24 February 2021, the Department wrote to Council (**Attachment K**) seeking Council's request that the planning proposal should not proceed. The correspondence called for Council's request by Wednesday 3 March 2021 (to enable a Department decision on the planning proposal by 31 March 2021).

On 26 February 2021, Council wrote to the Department (**Attachment L**) advising that they were unable to request the planning proposal not proceed, as this would be contradictory to the Council resolution made on 28 November 2017. In addition, Council advised that should the Department allow Council to proceed with the proposal, an alteration to the existing Gateway to July 2022 is needed to allow sufficient time to complete outstanding technical investigations, request a revised Gateway, exhibit the proposal, respond to submissions, and finalise the proposal.

3 Department's assessment

3.1 Regional and District Plans

The planning proposal has been the subject of a detailed review and assessment prior to the Gateway determination on 25 May 2018.

The Gateway determination report (**Attachment D**) provided an assessment of applicable Regional and District Plans relevant to the proposal at the time, including the Greater Sydney

Region Plan (Draft) and the South District Plan (Draft) (superseded) and Canterbury Road Corridor Review (support in-principle by Council on 22 May 2018).

Condition 1(a) of the Gateway determination required the preparation of an amended planning proposal which addresses the adopted Greater Sydney Region Plan and South District Plan prior to exhibition. It is noted that this condition has not been satisfied.

3.2 Local Strategic Planning Statement

Since the Gateway determination was issued Council has prepared and adopted a Local Strategic Planning Statement (LSPS). The LSPS was adopted in March 2020 and sets out the vision for the area to 2036, with actions to be undertaken to achieve this vision. Any future planning proposal for the site would need to consider and address the Planning Priorities of the LSPS and justify any identified inconsistencies.

3.3 Local strategies

Since the Gateway determination was issued Council has endorsed new housing, employment lands and affordable housing strategies. Any future planning proposal for the site needs to consider these strategies and justify any inconsistencies.

3.4 State Environmental Planning Policies

The detailed site investigation submitted with the application indicates that the site may be deemed suitable for the proposed development subject to the preparation of a remediation action plan.

Condition 2 of the Gateway determination requires that State Environmental Planning Policies (SEPP) No.55 – Remediation of Land be addressed prior to finalisation. It is noted that this condition has not been satisfied.

On 17 April 2020, the Minister approved the removal of clause 6 (contamination and remediation to be considered in zoning or rezoning proposal) of SEPP 55 and transferred the requirements to Ministerial Direction 2.6. As such, any future application should be supported by a Remediation Action Plan (RAP) and address Ministerial Direction 2.6.

3.5 Section 9.1 Directions

The Gateway determination report (**Attachment C**) identified the following s9.1 Ministerial Directions as being relevant to the Planning proposal:

- Direction 1.1 Business and Industrial Zones;
- Direction 4.1 Acid Sulfate Soils;
- Direction 4.3 Flood Prone Land; and
- Direction 7.1 Implementation of A plan for Growing Sydney.

The Gateway assessment against the s9.1 Directions at the time of the Gateway determination remains relevant to the proposal, including any identified inconsistencies.

The report identified that the planning proposal is inconsistent with Direction 1.1 as the proposed new employment area (involving expansion of the B1 Neighbourhood Centre) is not proposed in accordance with a strategy approved by the Secretary of the Department of Planning and Environment.

In order to address this inconsistency a recommendation that a retail study be undertaken was implemented as Condition 1(c) of the Gateway Determination. The intent of the retail study was to confirm whether retail uses are appropriate for the northern part of the site (currently zoned R2

Low Density Residential) and to determine whether any inconsistencies with Direction 1.1 were minor in nature.

In the absence of a Retail Study for the site, Section 9.1 Directions relating to Business and Industrial zones are unable to be adequately addressed. On this basis, the planning proposal is unable to be supported at this time.

3.6 Site-specific considerations

Council indicated in the original planning proposal that it would undertake an urban design peer review to determine heights across the site and appropriate interface to the adjoining R2 zones, buffers to adjacent major roads and electricity and drainage easements.

In the covering letter (with the Gateway), the Department acknowledged that Council could consider the application of site-specific provisions based on further urban design work and Council has indicated a Gateway alteration is likely to address this.

The outcomes of the urban design review and scope of the changes sought in the request for a Gateway alteration were unknown to the Department at the time of preparing this report.

4 Other Considerations

4.1 Planning reforms to reduce finalisation timeframes

The NSW Government is committed to reforming the planning system to be more streamlined and simplified in order to help unlock productivity by creating jobs and supporting on-going economic recovery. The reforms include delivering improved processes for assessing and finalising planning proposals more efficiently. This is intended to provide greater clarity to local government, the community and more certainty to proponents, and investors.

Part of the reforms seek to reduce timeframes to rezone land down to generally one year and no more than two years from start to completion. This has been shown to be achievable in many cases where proposals are aligned to a strong strategic planning framework.

Council is unable to meet the Department's timeframes under the NSW Government's planning reform, which would require finalisation by 31 March 2021. Council's correspondence of 28 January 2021 estimates the planning proposal would not be finalised until July 2022.

On this basis, it is recommended that Gateway determination be altered to not proceed, and a new planning proposal be submitted once outstanding issues are resolved. This will ensure a clear and timely pathway to finalisation for a new planning proposal.

5 Recommendation

The Department recommends that the Gateway determination be altered to not proceed under clause 3.34(7) of the *Environmental Planning and Assessment Act 1979* because:

- the planning proposal has not been amended to address adopted Regional and District Plans in accordance with the conditions of the Gateway determination;
- the planning proposal does not address the Local Strategic Planning Statement or other local strategies that have been endorsed by Council;
- the planning proposal has not provided justification for inconsistencies with section 9.1 Direction 1.1 Business and Industrial Zones in accordance with the conditions of the Gateway determination; and

- the Gateway determination required the plan to be made by 31 December 2020. Furthermore, Council has advised that the planning proposal is unlikely to be finalised until June 2022.




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Attachments

Attachment	Document
A	Alteration of Gateway determination
B	Planning Proposal
C	Gateway Determination - 25 May 2018
D	Gateway Assessment Report
E	Alteration of Gateway Determination - 17 May 2019
F	Alteration of Gateway Determination -16 December 2019
G	Council's request for Gateway extension - 12 November 2020
H	Emails with Council - 19 & 22 January 2021

Attachment	Document
I	Letter to Council – 20 January 2021
J	Letter from Council - 28 January 2021
K	Letter to Council - 24 February 2021
L	Letter from Council - 26 February 2021