

Planning Services

Gateway Determination Report

LGA	Canterbury Bankstown
RPA	Canterbury Bankstown Council
NAME	Additional Permitted Uses at 479 Henry Lawson Drive Milperra
NUMBER	PP_2017_CBANK_002_00
LEP TO BE AMENDED	Bankstown Local Environmental Plan 2015
ADDRESS	479 Henry Lawson Drive Milperra
DESCRIPTION	Lot 2 DP 576251
RECEIVED	03/11/2017 (as adjusted)
FILE NO.	17/11063
QA NUMBER	qA416703
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

The planning proposal seeks to allow 'garden centres' as an additional permitted use and implement a floor space ratio of 0.4:1 at Lot 2 DP 576251, 479 Henry Lawson Drive, Milperra.

In December 2013, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses (DA 840/2010) on the site under the former Bankstown LEP 2001. Bankstown LEP 2015 does not permit the proposed development on the site. The proposal seeks to permit 'garden centres' (as the appropriate Standard Instrument LEP definition that best reflects the Planning Panel's decision) to update the LEP and facilitate the proposal approved by the Panel.

The site is shown in the aerial photo (**Attachment F**) and is zoned RE1 Public Recreation under Bankstown Local Environmental Plan 2015. This plan does not permit the proposed development i.e. 'garden centres', within the RE1 zone.

The definition of 'garden centre' under Bankstown LEP 2015 is:

garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:

- outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- pets and pet supplies,
- fresh produce.

Note: Garden centres are a type of **retail premises**—see the definition of that term in this Dictionary.



PROPOSAL

Objectives or Intended Outcomes

This planning proposal applies to the site at No. 479 Henry Lawson Drive in Milperra (Lot 2 DP 576251).

The intended outcomes of the planning proposal are:

- to allow 'garden centres' as an additional permitted use on the site; and
- to manage the likely environmental effects because of the proposal.

Explanation of Provisions

To achieve the intended outcomes, it is proposed to amend Bankstown Local Environmental Plan 2015 by:

- allowing 'garden centres' as an additional permitted use on the site; and
- applying a site-specific maximum 0.4:1 floor space ratio control.

Mapping

The planning proposal includes:

- Map 1 – land application map;
- Map 2 – proposed additional permitted uses map;
- Map 3 – proposed FSR map;
- Map 4 – current land zoning map;
- Map 5 – current FSR map; and
- an aerial photo of the site, identified as map 6.

These maps are considered suitable for community consultation purposes.

NEED FOR THE PLANNING PROPOSAL

The proposal is not the result of any strategic study or report prepared by the Department of Planning & Environment, Greater Sydney Commission, or Council. The proposal follows a decision by the former Sydney West Regional Planning Panel. In December 2013, the Panel approved a development application for a retail plant nursery and associated retail uses on the site.

The Panel considered *'the proposal (i.e. DA-840/2010) would be in the public interest in that it provides for the productive use of land (then) zoned 6(a) Open Space under (the then current) Bankstown Local Environmental Plan, that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*.

Approval was given for DA 840/2010 by the Panel under Clause 12 of Bankstown Local Environmental Plan 2001 (BLEP 2001) which allowed Council to permit development in certain specified circumstances.

BLEP 2015 does not include the same provisions. Consequently to permit and reflect the Panel's decision it is necessary for BLEP 2015 to be amended through the planning proposal process.

STRATEGIC ASSESSMENT

State

Our Greater Sydney 2056 - A metropolis of three cities

The planning proposal does not address the above draft plan which has been released since its original preparation. No inconsistencies between the planning proposal and the draft plan have been identified. It is however recommended that the planning proposal be amended to consider the draft plan prior to community consultation to ensure its currency. A suitable Gateway determination condition is recommended.

A Plan for Growing Sydney

The proposal is broadly consistent with the intent of *A Plan for Growing Sydney*.

Goal 1 of the plan seeks to grow economic activity in Sydney. Action 1.7.3 requires the Greater Sydney Commission to develop a job target for the Strategic (Transport Gateway) Centre, taking into consideration the specialised economic roles and requirements of this precinct. The site forms part of the Bankstown Airport-Milperra Strategic (Transport Gateway) Centre. Consequently, while acknowledging that the proposal is premature in this regard, the proposed commercial development of the site can also be seen as an opportunity to provide some retail options for future workers and residents in the immediate area.

Goals 3 and 4 in *A Plan for Growing Sydney* are also relevant. Goal 3 addresses the wellbeing and connection of communities and Goal 4 seeks to protect the natural environment. The site forms part of the green grid and the intended outcomes of Goals 3 and 4 are to deliver the green grid and investigate options for a bushland renewal program.

The proposal does not involve the removal of the RE1 Public Recreational Zone applying to the land, which may well assist in providing future connectivity. Further, as the consent issued under DA 840/2010 requires the implementation of a vegetation management plan as a condition of consent for the adjoining Lot 3, it is envisaged that such embellishment will assist in supporting the green grid concept.

Regional / District

Draft Revised South District Plan

The proposal does not address the plan which has been released since its original preparation. This plan includes:

- Planning Priority S2: which identifies the Bankstown Airport and Milperra Industrial Area as a Collaboration Area; and
- the identification of Bankstown Airport as a trade Gateway to act as a catalyst for the district, under Section 4 – Productivity and Planning Priority S8.

It is considered that the proposal is consistent with the revised plan, however, it is recommended that the plan be amended to address the revised plan prior to community consultation to ensure its currency. A Gateway condition is recommended.

Local

The planning proposal is inconsistent with Council's adopted local Bankstown Open Space Strategic Plan. The strategy does not contain an action that supports garden centres on land reserved for open space purposes and intended to be acquired for these purposes.

The proposal also notes that Council is in the process of preparing a local area plan for the Bankstown Airport – Milperra Specialised Centre, which includes the site. This policy document would seek to implement the strategy and contain actions to inform the supply and function of open space with the specialised centre. The timing of the local area plan is anticipated in the medium term.

Council's strategic work was overtaken by the Sydney West Regional Planning Panel decision. Consequently, while the proposal is inconsistent with the strategy, Council has determined to proceed with the planning proposal in recognition of the consent.

Section 117(2) Ministerial Directions

The planning proposal is considered to be consistent with all relevant Section 117 Directions except:

Direction 3.5 - Developing near Licenced Aerodromes – to be confirmed

In accordance with the provisions of the Direction, consistency can not be determined until after the Department of the Commonwealth responsible for aerodromes and the lease of the aerodrome have been consulted.

Direction 4.3 - Flood Prone Land – to be confirmed

A flood impact assessment indicates that the development of the site is consistent with the NSW Government Flood Land Policy and the principles of the Floodplain Development Manual 2005.

Although a flood study is provided for the site to assess the potential impacts of the high riverine and medium stormwater flood risk precincts on the proposal, the planning proposal indicates that there are additional studies required to assess the impact of the proposal on adjacent or downstream land, and the cumulative impact of the proposal on the Georges River or its tributaries. Until this further assessment has been completed and consultation with the Office of Environment and Heritage has been undertaken, it is recommended that the consistency of this Direction remain unresolved.

A Gateway determination condition is recommended to address the above matters.

Direction 4.4 - Planning for Bushfire Protection – to be confirmed

The planning proposal states that the site is within a bushfire prone buffer, and that the neighbouring golf course and adjoining lot (Lot 3 DP 576251) are category 1 bushfire prone land. In accordance with the provisions of the Direction, consistency can not be determined until after the NSW Rural Fire Service have been consulted.

6.3 Site Specific Provisions

The proposal is inconsistent with this Direction as it permits a particular development and imposes a development standard (0.4:1 FSR) in addition to those contained in the existing LEP applying to the land. This inconsistency is considered to be of minor significance as it only seeks to amend the LEP to reflect the existing development approval that applies to the site.

State Environmental Planning Policies

The planning proposal is considered to be consistent with all relevant SEPPs except:

- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (GMREP); and
- draft State Environmental Planning Policy (Coastal Management).

In respect of GMREP, the planning proposal indicates that additional information is required in relation to flooding on the likely effect of the proposal on adjacent and downstream flooding and the cumulative impact of the proposal on the Georges River or its tributaries.

In regard to the coastal management policy, this policy identifies coastal wetlands on the adjoining lot 3 and on the neighbouring golf course site. Consequently, Council is seeking additional information over:

- the biophysical, hydrological or ecological integrity of the adjacent coastal; and,
- the quantity and quality of surface and ground water flows to the adjacent coastal wetland.

A suitable Gateway determination condition is recommended to address the above issues.

SITE SPECIFIC ASSESSMENT

Social

The proposal will assist with the sale of specialised retail items in close proximity to residential properties and has the potential to provide increased employment opportunities within the local area. Consequently, in these circumstances, the proposal will have a positive social impact.

Environmental

The proposal is confined to lot 2, which has minimal environmental constraints. While additional studies are required in relation to the Georges River catchment and associated flooding issues, the impact of downstream runoff, as well as, surface and groundwater flows to adjacent sensitive coastal woodland, it is anticipated that these matters will be addressed through the planning proposal process. It is also considered that the Vegetation Management Plan for Lot 3 associated with the development will also result in positive environmental outcomes.

Economic

The proposal will assist in providing jobs for the local area and in providing a specialised retail service. It is consequently considered that the proposal will have a positive economic impact.

CONSULTATION

Community

Council has recommended a 28-day consultation period. While the proposal is essentially a local matter, in view of issues to be resolved and as there may be local interest, the proposed 28-day exhibition period is supported in this instance.

Agencies

Council has identified the following agencies for consultation:

- Transport for NSW;
- Roads & Maritime Services;
- Rural Fire Service;
- Environment Protection Authority;
- Office of Environment & Heritage;
- Sydney Water;
- Ausgrid; and
- the Department of the Commonwealth responsible for aerodromes and the lease of the Bankstown aerodrome

It is recommended that these agencies be consulted.

TIMEFRAME

The project timeline included in the proposal commences in November 2017 and concludes in May 2018, a period of 6 months.

It is noted that the final May 2018 milestone indicates that the proposal will be submitted to the Department of determination. As Council has requested the plan making function, and this is supported, it is recommended that Council adjust this milestone. A condition is recommended. To provide sufficient time for finalisation, it is recommended that a 9 month timeframe be provided to complete the proposal.

DELEGATION

Council has requested it be issued with authorisation to exercise the plan making delegation. In view of the existing consent operating on the site, and the minor nature of the proposal, it is recommended that authorisation be issued.

CONCLUSION

The planning proposal is to proceed subject to conditions

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree the inconsistency with Section 117 Direction 6.3 – Site Specific Provisions is of minor significance; and

2. note that Section 117 Directions 3.5 Development Near Licensed Aerodromes, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection currently remain unresolved.

It is recommended that the delegate of the Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be amended, as follows:
 - (a) inclusion of consideration of the proposal's consistency with Our Greater Sydney 2056 – A metropolis of three cities;
 - (b) inclusion of consideration of the proposal's consistency with the revised Draft Revised South District Plan;
 - (c) amendment of the proposal to clarify that the development of the garden centre is consistent with the safe operation of Bankstown Airport;
 - (d) inclusion of an updated project timeline detailing the tasks associated with plan making delegation; and
 - (e) inclusion of an appropriate study(s) that assesses flooding issues associated with:
 - the likely effect of the proposal on adjacent or downstream land;
 - the cumulative impact on the Georges River or its tributaries; and
 - an assessment of the quantity and quality and ground water flows to the adjacent coastal wetlands.
2. Consultation is required with the following public authorities:
 - Transport for NSW;
 - Roads & Maritime Services;
 - Environment Protection Authority;
 - NSW Rural Fire Service;
 - Office of Environment & Heritage;
 - Sydney Water;
 - Ausgrid; and
 - the Department of the Commonwealth responsible for aerodromes and the lease of the Bankstown aerodrome.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council be authorised to exercise the delegation to make this plan.



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