
Independent Hearing and Assessment Panel – 3 July 2017

ITEM 2

479 Henry Lawson Drive, Milperra

Application to include 'garden centres' as an additional permitted use

AUTHOR

Planning

ISSUE

In accordance with the IHAP Charter, the Panel is requested to recommend whether a planning proposal for the site at 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) should proceed to a Gateway Determination.

RECOMMENDATION

That the application to amend Bankstown Local Environmental Plan 2015 by including 'garden centres' as an additional permitted use at 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) should proceed to a Gateway Determination, provided a maximum 0.4:1 FSR applies to the additional permitted use.

BACKGROUND

The site is within Zone RE1 Public Recreation under Bankstown Local Environmental Plan 2015. The site is under private ownership and is reserved for open space purposes.

In December 2013, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site under the former Bankstown Local Environmental Plan 2001. Whilst the zone prohibited retail plant nurseries, clause 12 of the former LEP enabled the Panel to approve the use.

In May 2017, Council received an application to amend Bankstown Local Environmental Plan 2015 (Schedule 1) and the Additional Permitted Uses Map by including 'garden centres' as an additional permitted use on the site. According to the application:

- The definition of 'garden centres' under Bankstown Local Environmental Plan 2015 better aligns with the Flower Power Group's business model.
- The site does not benefit from the 'existing use' provisions under the Environmental Planning and Assessment Act 1979 as the use has not commenced.

Based on the Department of Planning and Environment's Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to Gateway, the proposal is supported as it is consistent with the Greater Sydney Commission's Metropolitan Plan (*A Plan for Growing Sydney*) and Draft South District Plan.

Based on the Department of Planning and Environment's justification matters as set out in the Department's publication *A Guide to Preparing Planning Proposals*, the proposal is supported for the following key reasons:

- The planning proposal is the best means of achieving the intended outcome.

At present, there are limited opportunities for the site. Firstly, Council's local strategies do not support a rezoning proposal due to the environmental constraints that restrict development on the site. Secondly, the local strategies do not prioritise the acquisition of the site.

The proposal therefore reflects the decision by the Sydney West Regional Planning Panel to approve a retail plant nursery and associated retail uses on the site. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'*.

- The proposal can address relevant state environmental planning policies and Ministerial (117) Directions subject to additional information, should Council decide to proceed with a planning proposal.

Should Council decide to proceed with a planning proposal, it is recommended that a maximum 0.4:1 FSR applies to the additional permitted use. This is to ensure the building design is consistent with the Remediation Action Plan for the site, and addresses the cumulative impact of development on the capacity of the road network (namely Henry Lawson Drive).

DESCRIPTION OF THE SITE AND LOCAL CONTEXT

The land at 479 Henry Lawson Drive in Milperra is under private ownership and comprises two lots:

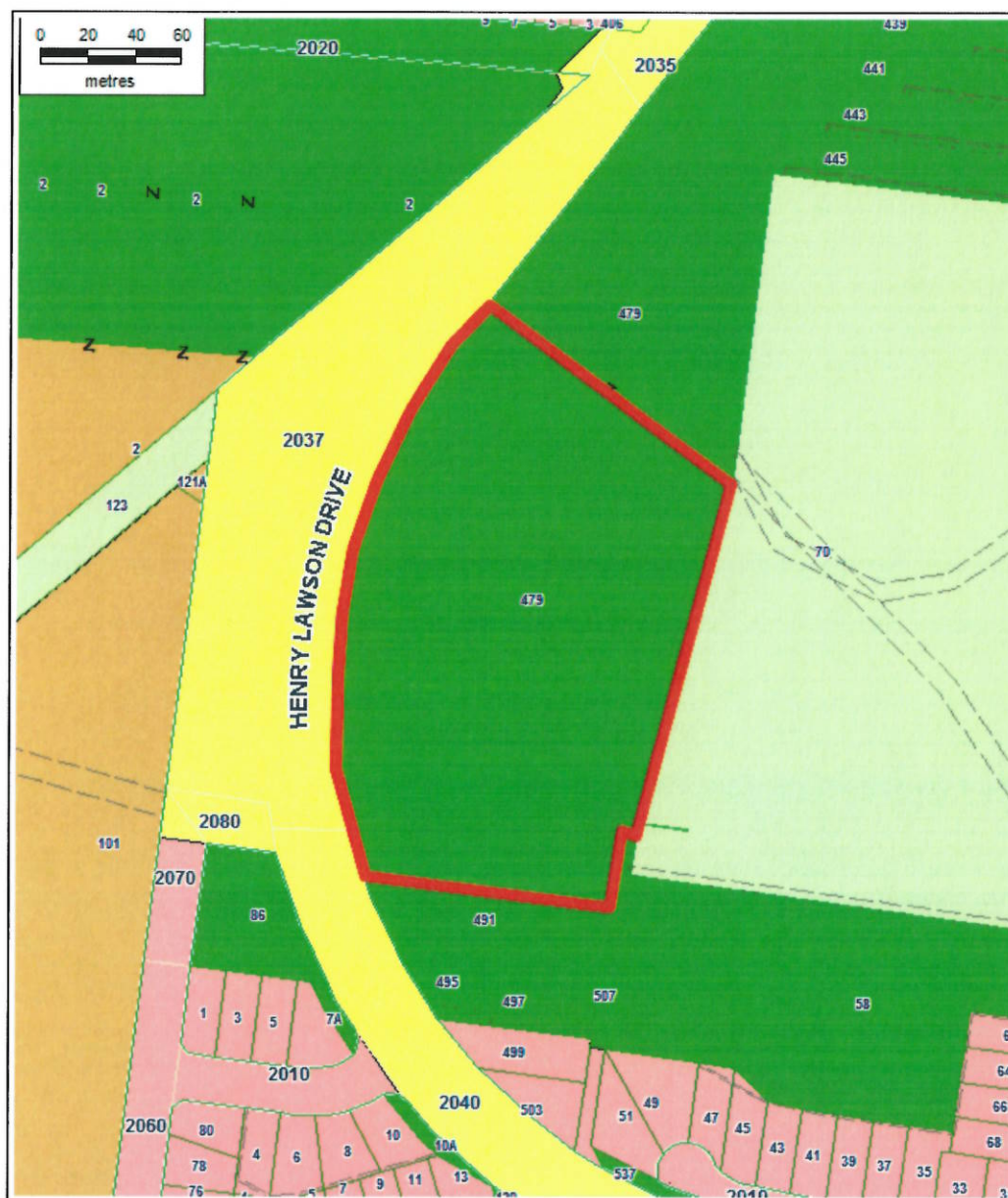
Property Address	Property Description	Land Use Zone	Site Area
479 Henry Lawson Drive, Milperra	Lot 2, DP 576251	Zone RE1 Public Recreation	28,838m ²
479 Henry Lawson Drive, Milperra	Lot 3, DP 576251	Zone RE1 Public Recreation	10,444m ²

According to the application, Lot 2 is vacant and Lot 3 contains a creek, endangered ecological communities and remnant native vegetation. The proposal is confined to Lot 2 (to be referred to as the 'site' for the purposes of this report).

The site is located adjacent to the Bankstown Airport–Milperra Specialised Centre. The Specialised Centre is characterised by the Bankstown Airport, Milperra Industrial Precinct and Bankstown Golf Course site. Henry Lawson Drive provides access to Milperra Road and the M5 Motorway.

In relation to local context, the site is reserved for open space purposes under Bankstown Local Environmental Plan 2015. The site adjoins the Bankstown Golf Course site to the east, Gordon Parker Reserve and Vale of Ah Reserve to the west, and low-rise suburban neighbourhood to the south.





Site and local context (i.e. land use zones)

Sydney West Regional Planning Panel's approval of a retail plant nursery and associated retail uses on the site

According to the application, the site is a former landfill used for the disposal of dry industrial and trade waste, although some putrescible waste appears to have also been disposed. The former landfill was operational from the 1960s to 1973.

In December 2013, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010). Whilst the zone prohibited retail plant nurseries, clause 12 of the former Bankstown Local Environmental Plan 2001 enabled the Panel to approve the use. Clause 12 read:

- (1) *Despite clause 11, but otherwise subject to this plan, the consent authority may grant consent to development that:*
 - (a) *is not included in the Table to clause 11, or*
 - (b) *would be prohibited by the Table to clause 11 in the absence of this clause.*
- (2) *The consent authority may grant consent pursuant to this clause only where it is satisfied that the proposed development:*
 - (a) *is of a nature (whether by reason of its design, scale, manner of operation or otherwise) that would, in the absence of this clause, justify an amendment to this plan in order to permit the particular development, and*
 - (b) *is not inconsistent with the objectives of the zone in which the development site is situated, and*
 - (c) *is not inconsistent with the provisions of any other environmental planning instrument, and*
 - (d) *will not have an adverse effect on other land in the vicinity.*
- (3) *Development under this clause is advertised development within the meaning of the Act.*

It is noted clause 12 was not transferred to Bankstown Local Environmental Plan 2015.

The Sydney West Regional Planning Panel's decision stated that the Panel:

1. *Considers the proposal would in the public interest in that it provides for the productive use of land that zoned 6(a) Open Space under 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.*
2. *Considers remediation of the land as a consequence of the proposed use would be in the public interest.*
3. *Considers the proposal adequately addresses stormwater drainage and flooding issues.*
4. *Considers the proposal provides satisfactory arrangements for the management of traffic generated by the proposed development.*
5. *Considers the impact of the proposed development on the occupation and use of adjoining and nearby premises would be reasonable and acceptable.*
6. *Considers the proposal adequately addresses issues relating to the protection and conservation of environmentally sensitive lands and bushfire protection.*
7. *The Panel is satisfied the site can be made suitable for the purposes of the proposed development and will be remediated before it is used for that purpose, thereby satisfying Clause 12 of BLEP.*

8. *The Panel is satisfied that the submitted Remedial Action Plan will appropriately manage Acid Sulphate Soils on the site thereby satisfy the requirements of Clause 22 of BLEP 2001 and Clause 9 of Greater Metropolitan Region Plan No.2 – Georges River Catchment.*

In March 2017, the proponent attended a formal pre-lodgement meeting. The proponent outlined a request to amend Bankstown Local Environmental Plan 2015 prior to submitting the application.

PROPOSAL

In May 2017, Council received an application to amend Bankstown Local Environmental Plan 2015 (Schedule 1) and the Additional Permitted Uses Map by including 'garden centres' as an additional permitted use on the site.

The proponent stated that "Flower Power's current business model seeks to provide a wider range of uses across the site, in addition to some of the uses approved under DA 840/2010. The additional ancillary uses would include a pool shop, pet and pet supply shop, florist and a fresh produce shop.

It is considered appropriate in this instance that an amendment to Schedule 1 is the most appropriate avenue to allow for the expanded uses.

At the time of writing this report, Council had not commenced the Local Area Plan for the Bankstown–Milderra Strategic Area. The LAP will guide and direct any future zoning changes in this area and will consider in a holistic manner whether the current zone for this land and surrounding should remain. The LAP will form the Council's strategic vision for the area. Accordingly, until this strategic review is undertaken, an amendment to the current zoning is not considered the best option.

The use of this site as a retail nursery has previously been deemed a suitable use on this site by the approval of DA 840/2010. The DA and proposed amendment to the LEP will enable the productive use of land that would otherwise remain vacant. Council does not require the land to meet the open space requirements for residents which is reinforced as there are no plans for its incorporation into the public open space lands of Bankstown City.

An amendment to Schedule 1 will retain the existing RE1 Public Recreation zoning, this ensures that the range of permissible uses currently permitted within the RE1 zone would remain, if the retail plant nursery did not commence. It also ensures that the community expectation for the use of the land is not significantly altered".

The proponent submitted a planning proposal report (prepared by LJB Urban Planning, dated 1 May 2017) in support of the application.

REPORT

CONSIDERATIONS

Based on the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment's guidelines, the following key policies are relevant:

- Metropolitan Plan (*A Plan for Growing Sydney*)
- Draft Amendment to the Metropolitan Plan (*Towards our Greater Sydney 2056*)
- Draft South District Plan
- Council's Open Space Strategic Plan
- Department of Planning and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

ASSESSMENT

Strategic Merit Test

In August 2016, the Department of Planning and Environment introduced the Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway.

Based on the Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*, the proposal to include 'garden centres' as an additional permitted use on the site is supported for the following key reasons:

1. Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

The proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016. In particular, the proposal is consistent with the following priorities and actions:

- Section 3.4.4—Planning priorities for strategic, district and local centres. According to this section, the site forms part of the Bankstown Airport district centre. The district centre offers a significant opportunity to grow local employment and advance smart manufacturing. There is also the opportunity to provide some retail options for workers and residents in the immediate area.

Whilst Council's local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'.

The proposal reflects the decision by the Sydney West Regional Planning Panel.

- *Sustainability Priority 1: Maintain and improve water quality and waterway health.* According to this priority, Council should ensure that the quality of stormwater and wastewater from public land and new development in established urban areas maintains or improves the health of waterways, in line with community values and expectations of how waterways will be used. To address this priority, additional information is required to assess the likely effect of the proposal on the Georges River and adjacent land.
- *Sustainability Priority 2: Avoid and minimise impacts on biodiversity.* According to this priority, efforts to protect biodiversity values should be based on avoiding and minimising adverse impacts to biodiversity, as far as practicable.

To address this priority, the proposal is confined to the site, and the proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251). It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

2. Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

The proposal is inconsistent with the Open Space Strategic Plan, which the former Bankstown Council adopted at the Ordinary Meeting of 25 February 2014.

The purpose of the Strategic Plan is to provide a framework for protecting, enhancing and managing open space in the former City of Bankstown.

At present, the site is reserved for open space purposes. The Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site.

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'.*

The proposal reflects the decision by the Sydney West Regional Planning Panel.

3. Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?

The proposal is consistent with the assessment criteria under the Strategic Merit Test as it responds to a change of circumstances, namely the Sydney West Regional Planning Panel's review of controls that are more than five years old.

Other Considerations

In relation to other considerations, Council assessed the proposal based on the justification matters outlined in the Department of Planning and Environment's publication *A Guide to Preparing Planning Proposals*.

The intended outcome is to demonstrate whether there is justification for a proposal to proceed to Gateway based on consistency with relevant state environmental planning policies and Ministerial (117) Directions.

A key issue is managing the likely environmental effects as a result of the planning proposal. An assessment identifies the need to apply a maximum 0.4:1 FSR to the additional permitted use. The reasons are:

- The maximum FSR ensures the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017).
- The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).

Attachment A outlines the assessment findings.

RECOMMENDATION

That the application to amend Bankstown Local Environmental Plan 2015 by including 'garden centres' as an additional permitted use at 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) should proceed to a Gateway Determination, provided a maximum 0.4:1 FSR applies to the additional permitted use.

ATTACHMENTS

- A. Assessment Findings

ATTACHMENT A – Assessment Findings

Attachment A outlines the assessment findings and is based on the justification matters as set out by the Department of Planning and Environment.

1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning and Environment's Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*. The intended outcome is to determine whether a proposal demonstrates strategic and site specific merit to proceed to Gateway. A proposal that seeks to amend controls that are less than five years old will only be considered where it clearly meets the Strategic Merit Test.

1.1 Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

1.1.1 Draft South District Plan

	Consistent
Proponent's Submission: The site is located within the Bankstown Airport–Milperra Precinct, being identified as a 'Transport Gateway'. The Bankstown Airport locality has been identified in the draft district plan as a district centre and has a job target rate of 20,000 jobs by 2036. The airport is identified as a transport gateway with substantial areas of adjacent employment and urban services land and a Western Sydney University presence.  Source: Draft South District Plan prepared by Department of Planning and Environment The planning proposal is considered consistent with the draft South District planning priorities and outcomes. It is anticipated that this precinct will have the opportunity to grow local employment. This planning proposal will contribute to that opportunity, by not only formalising the approved use it will also create local employment opportunities with the expansion of uses permitted under the 'garden centre' definition.	Yes, subject to additional information to address Sustainability Priority 1.

Council's Assessment: The proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016. In particular, the proposal is consistent with the following priorities and actions:

Section 3.4.4—Planning priorities for strategic, district and local centres.

According to this section, the site forms part of the Bankstown Airport district centre. The district centre offers a significant opportunity to grow local employment and advance smart manufacturing. There is also the opportunity to provide some retail options for workers and residents in the immediate area.

Whilst Council's local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'*.

The proposal reflects the decision by the Sydney West Regional Planning Panel.

Sustainability Priority 1: Maintain and improve water quality and waterway health. According to this priority, Council should ensure that the quality of stormwater and wastewater from public land and new development in established urban areas maintains or improves the health of waterways, in line with community values and expectations of how waterways will be used.

To address this priority, additional information is required to assess the impacts the proposal, namely:

- The likely effect of the proposal on adjacent or downstream land (as required by REP No. 2—Georges River Catchment).
- The cumulative impact of the proposal on the Georges River or its tributaries (as required by REP No. 2—Georges River Catchment).
- The quantity and quality of surface and ground water flows to the adjacent coastal wetland (as required by Draft SEPP (Coastal Management) 2016).

Sustainability Priority 2: Avoid and minimise impacts on biodiversity.

According to this priority, efforts to protect biodiversity values should be based on avoiding and minimising adverse impacts to biodiversity, as far as practicable.

To address this priority:

- The proposal is confined to the site.
- The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a 'not significant' conclusion with respect to the potential impact upon threatened species, communities and populations on the adjoining lot (Lot 3, DP 576251).

The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3, DP 576251) with species characteristic of the Swamp Oak Floodplain Forest. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.	
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1.2 Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

1.2.1 Council's Open Space Strategic Plan

	Consistent
Proponent's Submission: At the time of writing this report, Council had not commenced the Local Area Plan for the Bankstown–Milperra Strategic Area. The LAP will guide and direct any future zoning changes in this area and will consider in a holistic manner whether the current zone for this land and surrounding should remain. The LAP will form the Council's strategic vision for the area. Accordingly, until this strategic review is undertaken, an amendment to the current zoning is not considered the best option. Council's Assessment: The proposal is inconsistent with the Open Space Strategic Plan, which Council adopted at the Ordinary Meeting of 25 February 2014. The purpose of the Strategic Plan is to provide a framework for protecting, enhancing and managing open space in the former City of Bankstown. At present, the site is reserved for open space purposes. The Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site. In terms of next steps, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The Local Area Plan will implement the Open Space Strategic Plan and will contain actions to inform the supply and function of open space within the Specialised Centre. The timing to complete the Local Area Plan is medium term. In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'</i>. The proposal reflects the decision by the Sydney West Regional Planning Panel.	No

1.3 Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?

	Complies
Proponent's Submission: The use of this site as a retail nursery has previously been deemed a suitable use on this site by the approval of DA 840/2010. The DA and proposed amendment to the LEP will enable the productive use of land that would otherwise remain vacant. Council does not require the land to meet the open space requirements for residents which is reinforced as there are no plans for its incorporation into the public open space lands of Bankstown City. Council's Assessment: The proposal responds to a change of circumstances, namely the Sydney West Regional Planning Panel's review of controls that are more than 5 years old. According to the Sydney West Regional Planning Panel's approval of the retail plant nursery and associated retail uses (DA 840/2010) in December 2013, the Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'</i>. The proposal reflects the decision by the Sydney West Regional Planning Panel.	Yes

1.4 Does the proposal have regard to the natural environment (including known significant environmental values, resources or hazards)?

	Complies
Proponent's Submission: Refer to sections 1.1 and 2.5–2.7 of this attachment. Council's Assessment: The proposal has regard to the natural environment (including known significant environmental values and hazards) for the reasons outlined in sections 1.1 and 2.5–2.7 of this attachment.	Yes

1.5 Does the proposal have regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?

	Complies
Proponent's Submission: The use of this site as a retail nursery has previously been deemed a suitable use on this site by the approval of DA 840/2010. The DA and proposed amendment to the LEP will enable the productive use of land that would otherwise remain vacant. Council does not require the land to meet the open space requirements for residents which is reinforced as there are no plans for its incorporation into the public open space lands of Bankstown City. Council's Assessment: The proposal reflects a decision by the Sydney West Regional Planning Panel. In December 2013, the Panel approved a retail plant nursery and associated retail uses on the site. The Panel considered <i>'the proposal would be in the public interest in that it provides for the</i>	Yes

<i>productive use of land zoned 6(a) Open Space under 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'.</i> In relation to the likely future uses of land in the vicinity of the site, the proposal retains the public recreation zone of the site to build upon the established open space network.	
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1.6 Does the proposal have regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?

	Complies
Proponent's Submission: Refer to section 2.5 of this attachment. Council's Assessment: The proposal has regard to the services and infrastructure that are available for the reasons outlined in section 2.5 of this attachment. A key issue is managing the likely effects on infrastructure as a result of the planning proposal. An assessment identifies the need to apply a maximum 0.4:1 FSR to the additional permitted use. The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4). The proposal does not include a planning agreement.	No, subject to RMS consultation and maximum FSR.

2. Planning Proposals–Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning & Environment's publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway.

2.1 Is the planning proposal a result of any strategic study or report?

	Complies
Proponent's Submission: The planning proposal is not a result of any strategic study or report. The planning proposal is to allow for expanded uses to enable our client to develop the site consistent with their current business model. The definition of a 'garden centre' under the current Bankstown LEP 2015 would enable this to occur. The proposal will not result in any loss of RE1 Public Recreation zoned land, with the zoning remaining unchanged. The planning proposal will provide consistency between the approved retail garden nursery DA (DA 840/2010) and the definition within the current Bankstown LEP 2015. Council's Assessment: The proposal is not the result of any strategic study or report prepared by the Department of Planning & Environment, Greater Sydney Commission or Council.	No

However, the proposal reflects a decision by the Sydney West Regional Planning Panel. In December 2013, the Panel approved a retail plant nursery and associated retail uses on the site. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'</i> .	
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2.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

	Complies
Proponent's Submission: The planning proposal is the best way of achieving the objectives and intended outcomes. A development application cannot be lodged to enable the 'garden centre' use to be undertaken on the site, as the current RE1 Public Recreation zone does not permit this land use. DA 840/2010 was approved under Clause 12 of Bankstown Local Environmental Plan 2001 which has since been replaced by Bankstown Local Environmental Plan 2015. Clause 12 of BLEP 2001 allowed Council to permit additional uses at their discretion. The Council determined that a nursery was an appropriate use of the site and accordingly DA 840/2010 was approved. The current LEP 2015 does not include the same provisions, and therefore Council does not have the authority to use their discretion in relation to prohibited uses. Although DA 840/2010 legally allows for the 'nursery use' which is prohibited in the RE1 zone, the DA consent has been acted upon; however the use has not commenced operation. Therefore the site does not benefit from the 'existing use' provisions under the Environmental Planning and Assessment Act 1979. An alternate option to permit the intended use would be to rezone the site to a zoning that permits a 'garden centre'. However, as the Council is yet to commence its strategic study of this precinct, it is not considered the best approach. It is therefore concluded that the most logical way to achieve the objectives and intended outcome, is to prepare a planning proposal to amend Schedule 1 to include additional permitted uses on the subject site. Council's Assessment: The site is within Zone RE1 Public Recreation and is reserved for open space purposes. Whilst an objective of the zone is to provide a range of recreational settings and activities and compatible land uses, the site is currently under private ownership and is not used for public recreation purposes. At present, there are limited opportunities for the site. Given that Council's local strategies do not prioritise the acquisition of the site for open space purposes, the proposal is the best means of achieving the intended outcome for the following reasons: • According to the application, the site does not benefit from the 'existing use' provisions under the Environmental Planning & Assessment Act 1979 as the use has not commenced operation. • Council's local strategies do not support a rezoning of the site due to the environmental constraints that restrict development on the site.	Yes

- Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The timing to complete the Local Area Plan is medium term.

In light of the above, the Sydney West Regional Planning Panel's approval of the retail plant nursery and associated retail uses (DA 840/2010) in December 2013 considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'*. The proposal reflects the decision by the Sydney West Regional Planning Panel.

It is noted the proposal must apply the definitions under the Standard Instrument Principal LEP. The definition of 'garden centres' is considered to best reflect the Panel's decision as follows:

Approval of the retail plant nursery and associated retail uses (DA 840/2010)	Definition of garden centre under Bankstown LEP 2015
Retail plant nursery, administration office and cafe.	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: (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas, (b) pets and pet supplies, (c) fresh produce.

2.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?

2.3.1 Metropolitan Plan (*A Plan for Growing Sydney*)

	Consistent
Goal 1: <i>A competitive economy with world class services and transport.</i> Proponent's Submission: One of the key directions of this plan is to grow Bankstown as a strategic centre and work with Council to identify suitable locations for housing and employment. The expansion of uses will not unreasonably affect the adjoining properties but will ensure job growth in the area that is located in close proximity to residential properties. This proposal has the potential to provide increased employment opportunities within the local area to support anticipated residential growth within the LGA.	Yes

Council's Assessment: The site forms part of the Bankstown Airport–Milperra Strategic (Transport Gateway) Centre. The intended outcome of Goal 1 is to grow economic activity in Sydney and provide more jobs closer to home. Action 1.7.3 will require 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. Whilst Council's local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'</i>. The proposal reflects the decision by the Sydney West Regional Planning Panel.	
Goal 3: <i>A great place to live with communities that are strong, healthy and well connected.</i> Goal 4: <i>A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.</i> Proponent's Submission: No comment. Council's Assessment: The site forms part of the green grid. The intended outcomes of Goals 3 and 4 are to deliver the green grid and investigate options for a bushland renewal program. In relation to the green grid, the proposal retains the public recreation zone to build upon the established open space network. The Department of Planning & Environment will provide open space guidelines to resource Council to develop recreational and open space policies to meet local community needs and inform the preparation of local level plans and policies that are consistent with the Sydney Green Grid. In relation to bushland, the proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3, DP 576251) with species characteristic of the Swamp Oak Floodplain Forest. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.	Yes

2.3.2 Draft Amendment to the Metropolitan Plan (*Towards our Greater Sydney 2056*)

	Consistent
Proponent's Submission: No comment. Council's Assessment: The proposal is consistent with the Draft Amendment to the Metropolitan Plan, released for public comment in November 2016. In particular, the proposal can address the metropolitan priorities, namely: • To improve the health of waterways. • To protect, extend and enhance biodiversity. • To conserve the natural environment. • To minimise exposure to natural hazards.	Yes

2.3.3 Draft South District Plan

	Consistent
Proponent's Submission: Refer to section 1.1 of this attachment. Council's Assessment: The proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016 for the reasons outlined in section 1.1 of this attachment.	Yes, subject to additional information to address Sustainability Priority 1.

2.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

2.4.1 Bankstown Community Plan 2023 (former City of Bankstown)

	Consistent
Proponent's Submission: The Bankstown Community Plan 2023 is a 10 year Community Strategic Plan for the City of Bankstown. The plan contains the following five City directions relating to liveable, investment, sustainability and safe and connected city. The planning proposal is considered to meet the strategies and key objectives identified in the plan. Council's Assessment: The vision of the Bankstown Community Plan 2023 is to have 'a thriving centre of Greater Sydney. We enjoy the services and facilities of a prosperous, growing city with lively neighbourhoods and a proud history. Our diverse population live and work together in harmony. Bankstown is a modern, active community with quality transport infrastructure, clean waterways, pristine bushland and great community spaces and parks'. Term Achievement 1 will achieve this vision by having integrated plans for local areas that recognise each location's unique characteristics and heritage that guides the future development of our city. At present, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The timing to complete the Local Area Plan is medium term.	No

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under 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'</i> . The proposal reflects the decision by the Sydney West Regional Planning Panel.	
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2.4.2 Council's Open Space Strategic Plan

	Consistent
Proponent's Submission: Refer to section 1.2 of this attachment. Council's Assessment: The proposal is inconsistent with Council's Open Space Strategic Plan for the reasons outlined in section 1.2 of this attachment.	No

2.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

	Consistent
State Environment Planning Policy No. 19–Bushland in Urban Areas Proponent's Submission: The accompanying Flora and Fauna Assessment identified the following EECs: River–flat Eucalypt Forest; Swamp Oak Floodplain Forest; and Freshwater Wetland. The report identified that the remnant native vegetation identified on Lots 2 and 3 has been heavily degraded and there are limited habitat linkages. Based on the above and the accompanying Vegetation Management Plan, the approved nursery used which would also apply to the proposed "garden centre" use will enable the significant enhancement of the vegetation and protection of EEC communities. The planning proposal will be consistent with the SEPP. Council's Assessment The SEPP aims to protect and preserve bushland in urban areas. The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3. To address this SEPP, the proposal is confined to Lot 2, and includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.	Yes

State Environment Planning Policy No. 55--Remediation of Land

Proponent's Submission: The site is the subject of a Site Audit Statement (SAS) that was submitted with the most recently approved development application. A Remedial Works Plan is required as a condition of consent prior to commencement to work. The requirements of the SEPP were met with the current approval which deemed that the site can be made suitable for the commercial use.

An accompanying letter from an accredited NSW EPA Contaminated Land Auditor, states that the current SAS conclusions remain applicable where the site is used as a 'garden centre'. An additional contamination report is not required and the proposal will be consistent with the SEPP.

Council's Assessment: The SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

According to the application, the site is a former landfill used for the disposal of dry industrial and trade waste, although some putrescible waste appears to have also been disposed. The former landfill was operational from the 1960s to 1973.

To address this SEPP, the proposal makes reference to the findings of the following contaminated land investigations:

October 2013

The proposal for a retail plant nursery and associated retail uses on the site (DA 840/2010) included a Site Audit Statement (prepared by an Accredited Site Auditor, dated October 2013). According to the Site Audit Statement:

The Auditor notes that the remediation strategy involves capping landfill waste, passive gas venting and management of leachate via aeration and further assessment of the attenuation capacity of the aquifer.

A number of contingency actions are nominated. A validation report is proposed to be completed after the remedial works have been completed. An ongoing EMP (including maintenance and monitoring of the efficacy of the remedial systems) will be required to be prepared and implemented at the completion of remedial works.

The RAP concludes that 'the preferred remedial option will allow the proposed commercial land use of the site'. Based on the information presented in the Geo-logix and EES reports and observations made on site, and following the Decision Process for Assessing Urban Redevelopment Sites in DEC (2006) Guidelines for the NSW Site Auditor Scheme, the Auditor concludes that the site can be made suitable for the purposes of the proposed development as a retail plant nursery and associated retail uses if the site is remediated in accordance with the following remedial action plan:

- *Remediation Action Plan, 479 Henry Lawson Drive, Milperra, dated 15 October 2013 by EES.*

Subject to compliance with the following conditions:

- *Preparation of a remedial works plan that documents the detailed design in consideration of the hydrogeology, flow directions and potential acid sulfate soil and outcomes of further investigations of receptors and extent*

Yes, subject to maximum FSR.

of migration of contaminated groundwater to the west and east. This would also need to include a Groundwater Management Plan that details the proposed verification works.

- Preparation of and adherence to a specific and appropriate long term environmental management plan at the completion of the remedial works.*
- Preparation of a Site Audit Statement certifying suitability for the proposed use, at the completion of remediation and validation.*

December 2013

The Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010). The Panel considered the remediation of the land as a consequence of the proposed use would be in the public interest.

March 2017

The Accredited Site Auditor issued an Interim Audit Advice (dated 3 March 2017), which reviewed the *Remediation Action Plan, 479 Henry Lawson Drive, Milperra, dated 13 December 2016 by EES.*

The revised RAP supersedes the RAP that was the subject of a Site Audit Statement (prepared by the Accredited Site Auditor, dated October 2013). According to the Interim Audit Advice:

The Remediation Action Plan outlines a process to be followed to ensure the site can be made suitable for use as a retail plant nursery and associated retail though capping of landfill waste and passive gas venting. A Groundwater Management Plan (GMP) outlines additional groundwater and surface monitoring and assessment to confirm that attenuation of contaminants is occurring due to natural attenuation in groundwater and due to proposed conversion of the drainage line (Golf Course Creek) at the site to a wetland. A number of contingency actions are nominated. A validation report is proposed to be completed after the remedial works have been completed. An ongoing Environmental Management Plan (EMP), including maintenance and monitoring of the efficacy of the remedial systems, will be required to be prepared and implemented at the completion of remedial works. The Auditor shall require review of any revisions of the GMP, ongoing EMP and validation documentation.

The intended outcome, at the completion of the remediation and validation, is for the Accredited Site Auditor to issue a Site Audit Statement that confirms the site is suitable for the proposed uses subject to the implementation of an ongoing long term Environmental Management Plan and Groundwater Management Plan.

April 2017

In a letter dated 13 April 2017, the Accredited Site Auditor confirmed the conclusions of the Interim Audit Advice (dated 3 March 2017) remain applicable where the site is used as a garden centre, and where the building design is consistent with the proposal contemplated in the Remediation Action Plan for the site.

<u>Summary</u> Having regard to the above information, it is considered that Council can remain satisfied the land will be remediated in accordance with clause 6(1)(c) of the SEPP before it is used for the purposes of a garden centre. In addition, it is proposed to apply a maximum 0.4:1 FSR to the additional permitted use. The intended outcome is to ensure the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017).	
State Environment Planning Policy (Infrastructure) 2007 Proponent's Submission: The accompanying Traffic Report demonstrates that the likely uses permitted under the 'garden centre' definition will lower the expected traffic generation, compared with the original DA approval that included a first floor gym and office space. These uses were subsequently removed via a Section 96 approval. The future intersection, required to provide access to the site, will operate significantly better. Consideration has been given to proposed development of the site, existing traffic conditions as well as major redevelopment of the former Riverland's Golf Course for residential development and redevelopment of the Deepwater Motor Boat Club for function centre and restaurant. Overall, the proposed development is consistent with the SEPP and the uses permitted under the 'garden centre' use will not detrimentally affect the traffic flows along Henry Lawson Drive and adequate parking and servicing can still be provided on site. Council's Assessment: The SEPP aims to identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. The site adjoins Henry Lawson Drive, which is a classified road. To address this SEPP, the proposal includes a Traffic and Parking Assessment. According to the assessment, the proposal will not generally compound with the existing traffic circumstances in the area provided the building design is consistent with the proposal contemplated in the Traffic and Parking Assessment. Having regard to the above information, it is considered the following is required to address this SEPP: • Consultation with the Roads & Maritime Services should Council decide to proceed with a planning proposal. • The application of a maximum 0.4:1 FSR to the additional permitted use. The intended outcome is to ensure the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4). A maximum 0.4:1 FSR to the additional permitted use is considered appropriate as:	No, subject to RMS consultation and maximum FSR.

- Firstly, it is consistent with the maximum 0.4:1 FSR applicable to non-residential development within the surrounding suburban neighbourhood (Zone R2), which is the prevailing character of the locality. - Secondly, it is consistent with the proposed building design contemplated in the proponent's Traffic and Parking Assessment. According to the assessment, the proposal would comprise: <table border="1" data-bbox="209 443 1115 667"> <thead> <tr> <th>Use</th><th>Floor Space</th></tr> </thead> <tbody> <tr> <td>Garden Centre</td><td>3,649m²</td></tr> <tr> <td>Supply Store</td><td>1,805m²</td></tr> <tr> <td>Administration</td><td>468m²</td></tr> <tr> <td>Cafe</td><td>417m²</td></tr> <tr> <td>Bulk Product</td><td>2,483m²</td></tr> <tr> <td>Total</td><td>8,822m²</td></tr> </tbody> </table> <table border="1" data-bbox="209 696 1115 730"> <tr> <td>Site Area (Lot 2, DP 576251)</td><td>28,838m²</td></tr> </table> <table border="1" data-bbox="209 761 1115 795"> <tr> <td>Floor Space Ratio</td><td>0.3:1</td></tr> </table> In future, should the proponent seek to enclose the outdoor nursery display area (3,332m²), this additional floor space would remain within the maximum 0.4:1 FSR.	Use	Floor Space	Garden Centre	3,649m ²	Supply Store	1,805m ²	Administration	468m ²	Cafe	417m ²	Bulk Product	2,483m ²	Total	8,822m ²	Site Area (Lot 2, DP 576251)	28,838m ²	Floor Space Ratio	0.3:1	
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Greater Metropolitan Regional Environmental Plan No 2–Georges River Catchment Proponent's Submission: The accompanying Flora and Fauna Report and Vegetation Management Plan demonstrates that the current approved use (DA 840/2010) will enable a significant improvement to the natural environment given the extensive disturbance, which will satisfy the general aims and objectives. The future use of the site for a 'garden centre' is likely to be within the approved building envelope for the retail nursery and driveways/pathways to remain unchanged. In this instance, the flora and potential fauna will improve due to weed eradication and improvement to the health of the remaining endangered ecological communities, remnants of bushland and future landscaping. Council's Assessment: The REP (Deemed SEPP) aims to protect and enhance the environmental quality of the catchment for the benefit of all users through the management and use of the resources in the catchment in an ecologically sustainable manner. To address this REP, additional information is required to address the planning principles in relation to flooding, namely: - The likely effect of the proposal on adjacent or downstream land. - The cumulative impact of the proposal on the Georges River or its tributaries.	No, subject to additional information to address planning principles in relation to flooding.																		
Draft State Environmental Planning Policy (Coastal Management) 2016 Proponent's Submission: Lot 3, DP 576251 is located entirely within the area the draft SEPP covers, while approximately 17,700m² of Lot 2, DP 576251 is affected by the draft SEPP.	No, subject to additional information to address adjacent coastal wetland.																		

Notwithstanding the above, there appears to be anomalies with the drafting of the maps and the location of the wetland as it relates to the subject site. It is expected that these anomalies will be corrected with the final issue of the SEPP. This proposed planning proposal does not seek to alter or affect the identified Coastal wetland and proximity area beyond what has been determined acceptable. The additional permitted uses are capable of being accommodated within the site and no additional impact is likely. Should any intensification of development footprint occur within the wetlands, this would require further investigation by a suitably qualified ecologist to ensure that the wetlands and proximity areas are not further affected. Council's Assessment: The Draft SEPP aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the <i>Coastal Management Act 2016</i>. The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The Draft SEPP identifies coastal wetlands on Lot 3 and the neighbouring golf course site. Lot 2 is located within a proximity area to the coastal wetlands. According to the Draft SEPP, development consent must not be granted unless Council is satisfied the proposal will not significantly impact on: • the biophysical, hydrological or ecological integrity of the adjacent coastal, or • the quantity and quality of surface and ground water flows to the adjacent coastal wetland. Additional information is required to address the quantity and quality of surface and ground water flows to the adjacent coastal wetland.	
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2.6 Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

	Consistent
Direction 2.1–Environmental Protection Zones Proponent's Submission: Two small sections of the identified EEC that will be disturbed by the recent DA approval (DA 840/2010) were required to enable the construction of the access road to the site opposite Keys Parade and the small section at the south–eastern section of the site was to allow for the construction of a landscape strip and swale (this abuts the full length of the Henry Lawson Drive frontage). The accompanying Vegetation Management Plan ensures that the remaining vegetation will be retained and improved, providing protection and conservation of the remaining environmentally sensitive areas. This demonstrates that the future 'garden centre' use can occur on the site and the biodiversity of the site protected and enhanced. Council's Assessment: The objective of this direction is to protect and conserve environmentally sensitive areas.	Yes

The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3. To address this SEPP, the proposal is confined to Lot 2, and includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.	
Direction 4.1–Acid Sulfate Soils Proponent’s Submission: Environmental Health Sciences have confirmed that given the nature of the use it is unlikely there will be a need to excavate into the natural soil deep, enough to expose ASS and that no ASS were identified within the top 2 metres of natural soil. Based on the above, unless there will be significant building works required, following this planning proposal, the proposal does not require any further supporting documentation. Any intensification of uses and development, beyond current considerations, would require a further assessment at DA stage. Council’s Assessment: The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. The site is subject to acid sulfate soils (classes 3 and 5). To address this direction, the proposal includes an Acid Sulfate Soils Assessment. The assessment did not identify acid sulfate soils within the top 2 metres of natural soil on the site. In future, should a proposal seek to excavate the site, the development application process would consider this issue.	Yes
Direction 4.3–Flood Prone Land Proponent’s Submission: The subject site is located within the Georges River Flood plain and is identified as high risk. The approved DA (DA 840/2010) has a Flood Emergency Plan which ensures the development of this site can occur in a safe manner. In accordance with the S117 Direction, this Planning Proposal does not seek to rezone flood prone land. The effect of the Planning Proposal will be to formalise and expand the approved use on the site. The rezoning application seeks further commercial uses of land that is already deemed suitable, for commercial use. The 1% AEP Georges River flood level at the site is 5.8m AHD. This indicates that only some portions of the site are subject to inundation of any significant depth. As per the Floodplain Development Manual (NSW, 2005) large portions of the site are not subject to high hazard flooding.	No, subject to additional information to address potential flood impacts.

The subject site does lie within a High Hazard zone as defined by Council's DCP however the subject site is not uniformly subject to High Hazard based on the definition of such as per the Floodplain Development Manual (NSW, 2005). The principle flood risk issue with the site lies in egress. The proposed rezoning does not impact on this issue and the commercial use of the land is compatible with flood risk at the subject site as per the intent of the Floodplain Development Manual (NSW, 2005). The ancillary uses permitted under the 'garden centre' use definition are not more sensitive than the current approved commercial uses and would not significantly increase the risk to human life. It is considered that the Planning Proposal is not inconsistent with the S117 Direction. Council's Assessment: The objective of this direction is to ensure the provisions of a LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. The site is affected by the high riverine flood risk precinct and the high and medium stormwater flood risk precincts. To address this direction, the proposal includes a Flood Impact Assessment. The assessment indicates the development of the site is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>. However, additional information is required to assess the potential flood impacts both on and off the site, namely: • The likely effect of the proposal on adjacent or downstream land. • The cumulative impact of the proposal on the Georges River or its tributaries.	
Direction 4.4–Planning for Bushfire Protection Proponent's Submission: It is noted that the current approval on the site DA 840/2010, approved a future building with appropriate asset protection zones (APZs), refer to the accompanying Bushfire and Ecology Report. The additional permitted uses that this planning proposal would allow, can be accommodated within the already approved building form and as such this planning proposal is capable of being consistent with this direction. If the building form was increased in size and or amended in the future this would be a consideration of Council when assessing a future DA. The minimum setback to enable the APZ would need to be adhered to. Based on the above, the development is consistent with the direction and the proposed additional uses will not be any more sensitive than the current approval. Council's Assessment: The objective of this direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. The site is within a bushfire prone buffer. The adjoining lot (Lot 3, DP 576251) together with the neighbouring golf course site are bushfire prone land (Category 1).	No, subject to RFS consultation.

To address this direction, the proposal includes a Bushfire Protection Assessment. The assessment contains recommendations to address the <i>Planning for Bushfire Protection Guidelines</i>. However, consultation with the Rural Fire Service is required to address this direction should Council decide to proceed with a planning proposal.	
Direction 6.2–Reserving Land for Public Purposes Proponent's Submission: No comment. Council's Assessment: The objective of this direction is to facilitate the provision of public services and facilities by reserving land for public purposes. The site is within Zone RE1 Public Recreation and is reserved for open space purposes. Whilst an objective of the zone is to provide a range of recreational settings and activities and compatible land uses, the site is currently under private ownership and is not used for public recreation purposes. Council's local strategies do not prioritise the acquisition of the site for open space purposes. According to clause 4 of this direction, a planning proposal may alter an existing reservation of land for public purposes with the approval of the relevant public authority. In this case, the relevant public authority is Council.	Yes
Direction 6.3–Site Specific Provisions Proponent's Submission: The planning proposal is consistent with this direction as the additional permitted use as a 'garden centre' on the subject site will allow for the site to be used for this purpose without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. In addition, the planning proposal does not contain or refer to drawings that show details of the future development proposal. Other than the already approved retail nursery plans for DA 840/2010, which have been used to highlight the approved built form and site layout. Overall, the planning proposal is consistent with this direction. Council's Assessment: The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The proposal is inconsistent with clause 4 of this direction as it introduces a site specific provision to allow a particular development to be carried out. This is in addition to the current provisions of Bankstown Local Environmental Plan 2015. The site specific provision is to include 'garden centres' as an additional permitted use. However, in accordance with clause 6 of this direction, the inconsistency is considered to be of minor significance as the site specific provisions do not impose unnecessarily restrictive requirements, and do not contain or refer to drawings that show details of development proposals.	No, as the proposal introduces a site specific provision.
Direction 7.1–Implementation of A Plan for Growing Sydney Proponent's Submission: This Planning Proposal will increase employment opportunities within the Enterprise Corridor and the Bankstown Airport–Milperra Transport Gateway precinct. The amendment to Schedule 1 will still achieve the strategic vision of the Plan for Growing Sydney and considered to be consistent with this direction.	Yes

Council's Assessment: The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in <i>A Plan for Growing Sydney</i>. The proposal is consistent with this direction as outlined in Section 2.3 of this attachment.	
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2.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

	Consistent
Proponent's Submission: The planning proposal will not result in any significant impact to any critical habitats, threatened species, populations or ecological communities. The Vegetation Management Plan has been prepared and accompanies this planning proposal. It demonstrates that the approved works will improve and invigorate the identified remaining EEC parts located on the site. The addition of uses on the site will not result in further impact. The approved Vegetation Management Plan demonstrates that this site can be developed with positive environmental outcomes. Council's Assessment: The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3. To ensure the proposal does not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats: • The proposal is confined to Lot 2. • The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a 'not significant' conclusion with respect to the potential impact upon threatened species, communities and populations on Lot 3. • The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest. It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.	Yes

2.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

	Consistent
Proponent's Submission: There is adequate separation from nearby residential zones to mitigate any detrimental impacts from noise, privacy and built form. It is unlikely that the adjoining land uses will be intensified due to the flooding, bushfire, biodiversity and ASS constraints. Council's Assessment: In relation to managing the environmental effects, there is a need to apply a maximum 0.4:1 FSR to the additional permitted use. The reasons are: • The maximum FSR ensures the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017). • The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).	Yes, subject to maximum FSR

2.9 Has the planning proposal adequately addressed any social and economic effects?

	Consistent
Proponent's Submission: The planning proposal is consistent with the Plan for Growing Sydney, with increased employment opportunities within the Enterprise Corridor and Bankstown Airport–Milperra strategic precinct. In addition, the land can be made suitable for the 'garden centre' use to enable Flower Power to implement their current business model that has enabled their successful operation on similar sites across the Sydney Metropolitan area. The proposal will maintain the current RE1 Public Recreation zoning. This ensures that site cannot be developed for any other purpose than what is permitted within this zone or for the purpose of a 'garden centre'. This ensures that compatibility of uses is maintained with adjacent zones. The adjoining zones will not be affected by the additional permitted use as a 'garden centre', with community expectations of redevelopment not significantly altering from the current approval on the site. Council's Assessment: In relation to social and economic effects, the proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016 for the reasons outlined in section 1.1 of this attachment.	Yes, subject to additional information to address Sustainability Priority 1.

2.10 Is there adequate public infrastructure for the planning proposal?

	Consistent
Proponent's Submission: The subject site is well serviced by existing transport and infrastructure. Any augmentation to services will be dealt with appropriately at the DA stage.	No, subject to RMS consultation and maximum FSR.

Council's Assessment: In relation to public infrastructure, the proposal is inconsistent with State Environment Planning Policy (Infrastructure) 2007 for the reasons outlined in section 2.5 of this attachment. The Metropolitan Plan, Draft South District Plan, NSW Long Term Transport Master Plan, and State Infrastructure Strategy do not identify any new infrastructure investment for Henry Lawson Drive.	
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2.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

	Complies
Proponent's Submission: At this stage, the appropriate State and Commonwealth public authorities have not been identified or consulted. As required, this will occur following the Gateway Determination. Council's Assessment: This proposal has not been the subject of consultation with State and Commonwealth public authorities. This would be undertaken, should Council decide to proceed with a planning proposal.	Yes