



Planning,
Industry &
Environment

IRF20/5905

Alteration of Gateway determination report – PP_2015_CANTE_004_03

Canterbury Local Environmental Plan 2012, 15-33 Brighton
Avenue, Croydon Park (approximately 217 homes)

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1 Planning Proposal

1.1 Overview of planning proposal

Table 1 Planning proposal details

LGA	Canterbury Bankstown
PPA	Canterbury Bankstown Council
NAME	To rezone land at 15-33 Brighton Avenue, Croydon Park, from IN2 Light Industrial to R4 High Density Residential, to amend the maximum floor space ratio to 1.4:1 and building height to 14 metres along the Brighton Avenue frontage and 17.5 metres to the rear portion of the site
NUMBER	PP_2020_CBANK_003_00 (supersedes PP_2015_CANTE_004_03)
LEP TO BE AMENDED	Canterbury Local Environmental Plan 2012
ADDRESS	15-33 Brighton Avenue, Croydon Park
DESCRIPTION	Lot C DP 440959, Lot 2A Sec 2 DP 3010, Lot B DP 333556, Lot A DP 333556, Lot 1 DP 123636, Lot 11 D 862370, Lot 10 DP 1026819
RECEIVED	24/06/2015
FILE NO.	IRF20/5905
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

1.2 Planning proposal history

Background

The proponent originally sought to rezone the land from IN2 Light Industrial to R4 High Density Residential with a maximum building height of 26m and FSR of 2.5:1, with retail and commercial at the ground floor.

A peer review of the proposal was completed by SGS (2014) on behalf of Council recommended a maximum building height of 11.5m and FSR of 0.9:1.

The Council officers report supported the recommendations of the peer review, however, Council resolved to submit a planning proposal to the Department with a maximum building height of 15m and FSR of 2:1. Council submitted this request to the Department on 24 June 2015.

Department's Planning Team Recommendation

On 3 August 2015, the Department's planning team recommended the proposal not proceed, for the following reasons:

- lack of strategic merit or justification that the proposal would not have adverse economic and social impacts by removal of the Croydon Park Industrial Precinct
- lack of justification for a likely irreversible loss of functioning industrial precinct, which is capable of providing local services and jobs
- lack of justification for the rationale that local services can be relocated to Western Sydney or that the additional distance to then access the services by the local community would not adversely impact on Sydney's social and environmental sustainability
- lack of justification for the need for additional R4 zoned land in an area that currently has significant development capacity for, and so take-up of, RFB development under the current planning controls.
- inconsistency with s117 Directions 1.1 Business and Industrial Zones, and 7.1 Implementation of A Plan for Growing Sydney; Council's Canterbury Residential Development Strategy (2013); Towards 2032 – City of Canterbury Economic Development and Employment Strategy (2009); and SEPP 55 – Remediation of land.

The Department's planning team did not support the recommendations of the SGS peer review. The Department considered that an alternate zone, such as B5 Business Development zone, should be considered in lieu of the proposed R4 High Density Residential zone to ensure the continuity of local services on the site.

Local Environmental Plan Review Panel

On 6 August 2015, the Local Environmental Plan Review Panel (Panel) considered the proposal and recommended it progress through Gateway, for the following reasons:

- the panel supported the general intent of the proposal to rezone fragmented industrial land within a medium-high density residential area to facilitate residential development close to public transport, local services and facilities
- the panel supported the planning controls as recommended in the Council Report, rather than the increased provisions that were resolved by Council. Whilst the panel acknowledged the Department's Planning Team rationale for recommending the site's capacity to provide local services be retained, the reasons for recommending in line with the Council Report included:
 - Council's peer review of the proposal by SGS (2014) recommends the precinct be considered for change to non-employment related use, with FSR of 0.9:1 and maximum building height of 11.5m, which is sufficient to provide a feasible outcome and is appropriate given the site's location
 - the SGS peer review superseded Council's earlier Economic Development and Employment Strategy (2009) which recommended the local businesses and employment lands be preserved and nurtured
 - provision of new commercial premises at the site could impact on the existing local commercial businesses on Georges River Road.
- the panel recommended conditions supporting a maximum building height of 15m and FSR of 0.9:1 and further consideration of a publicly accessible and useable green open space within the site.

Gateway determination and alterations

The Gateway determination issued on 18 September 2015 determined that the proposal should proceed subject to conditions, including:

- a maximum building height of 15m and FSR of 0.9:1
- completion of preliminary contamination investigations

- integration of open space within the site that is publicly accessible
- an exhibition period of a minimum of 28 days
- consultation with Roads and Maritime Services, Transport for NSW, Sydney Water and Ausgrid.

Delegation was not provided to Council to make the plan.

The Gateway determination was altered on 27 February 2017 to:

- amend the maximum building height to part 14m (along the Brighton Avenue frontage) and part 17.5m (across the rear of the site) and FSR to 1.4:1
- delete the requirement for integration of open space
- require an assessment of consistency with the South District Plan
- extend the timeframe for completing the LEP.

The Gateway determination was altered on 20 October 2017 to extend the timeframe for completing the LEP.

The Gateway determination was altered on 7 November 2018 to extend the timeframe for completing the LEP.

The Gateway determination was altered on 12 June 2019 to extend the timeframe for completing the LEP.

The Gateway determination was altered on 12 June 2020 to extend the timeframe for completing the LEP and change the address of the planning proposal from 'Brighton Street' to 'Brighton Avenue'. The completion date for the LEP is by 12 June 2021.

Current status

The original exhibition period was less than the 28 days required in the Gateway determination. A subsequent re-exhibition omitted part of the planning proposal document, including maps, from the exhibition material. This resulted in an extension to the public exhibition period which concluded on 16 December 2020.

The proposal has not yet been submitted to the Department for finalisation. The outcomes of the community consultation are expected to be reported to Council in February 2020.

The Department has considered the ongoing delays to the finalisation of this planning proposal. The Department is required to improve processing times for planning proposals to reduce uncertainty for the community. This Gateway alteration will ensure the planning proposal is concluded without further delays by introducing a key milestone of 28 February 2021 for the planning proposal to be reported to Council for its final recommendation.

1.3 Explanation of provisions

This Gateway alteration does not change the proposed planning provisions. The planning proposal seeks to amend the Canterbury LEP 2012 per the changes below:

Table 1 Current and Proposed controls

Control	Current	Proposed
Zone	IN2 Light Industrial	R4 High Density Residential

Maximum height of the building	N/A	14m (Brighton Avenue frontage) 17.5m (rear portion of the site)
Floor space ratio	1:1	1.4:1
Number of dwellings	N/A	217*

**likely dwelling yield calculation was based on a slightly different scheme in the Urban Design Study*

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

Table 3 Site description

Site Description	Type	Council Name	LGA
The planning proposal applies to land at 15-33 Brighton Avenue, Croydon Park*	Site	City of Canterbury Bankstown Council	Canterbury Bankstown

** the address was changed from 'Brighton Street' to 'Brighton Avenue' on 12 June 2020.*

The planning proposal applies to land at 15-33 Brighton Avenue, Croydon Park, being legally described as:

- Lot C DP 440959
- Lot 2A Sec 2 DP 3010
- Lot B DP 333556
- Lot A DP 333556
- Lot 1 DP 123636
- Lot 11 DP 862370
- Lot 10 DP1026819.

The site has an area of 1.48ha and is a small isolated pocket of industrial lands that currently contains one to two storey warehouses that accommodate manufacturing, warehousing, distribution and office uses. The surrounding area is zoned R4 High Density Residential and is characterised by one to two storey dwellings and three storey residential flat buildings (**Figures 1 and 2**).

The site is located approximately 150m from Croydon Park small village centre, 400m from open space adjoining the Cooks River and two kilometres from rail stations at Croydon or Campsie.



Figure 1 Subject site (Source: planning proposal)

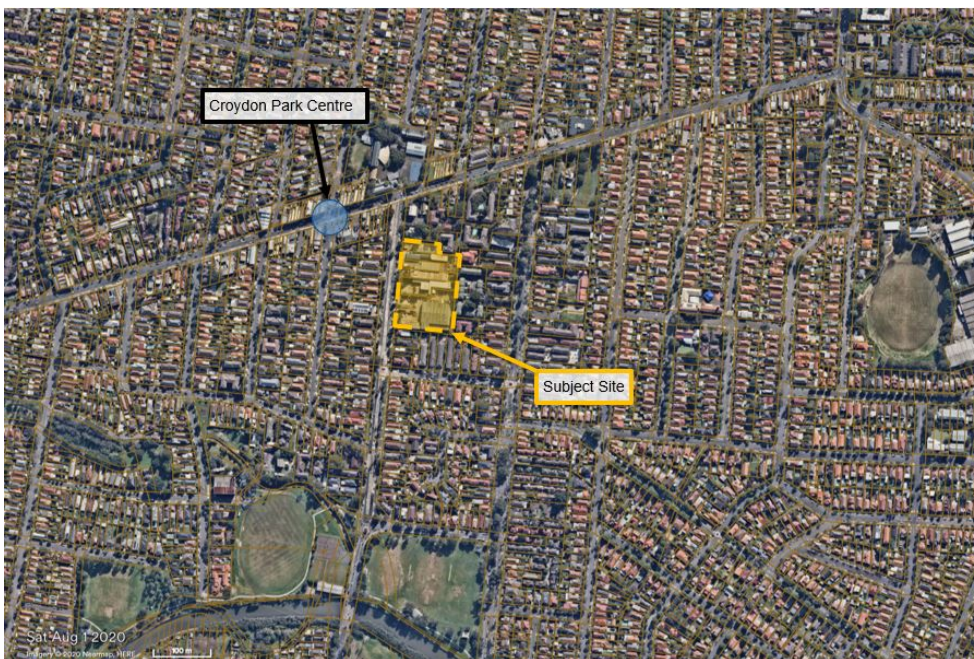


Figure 2 Surrounding context map (Source: planning proposal)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the zoning, floor space ration and building height maps. This Gateway alteration does not result in any changes to maps.

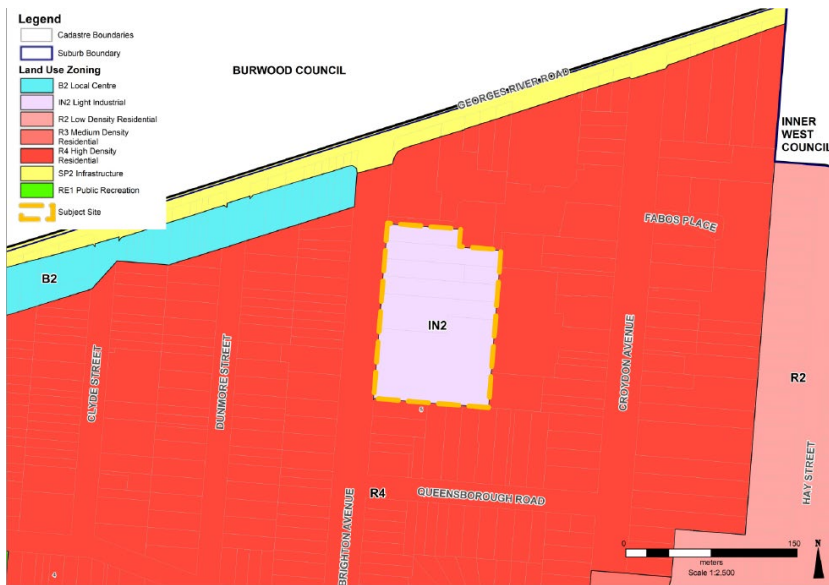


Figure 2 Current zoning map (Source: planning proposal)

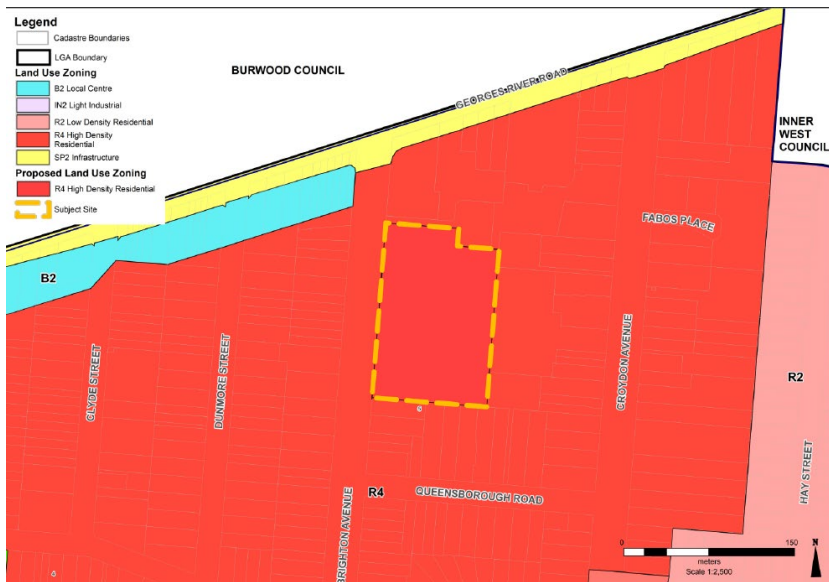


Figure 4 Proposed zoning map (Source: planning proposal)

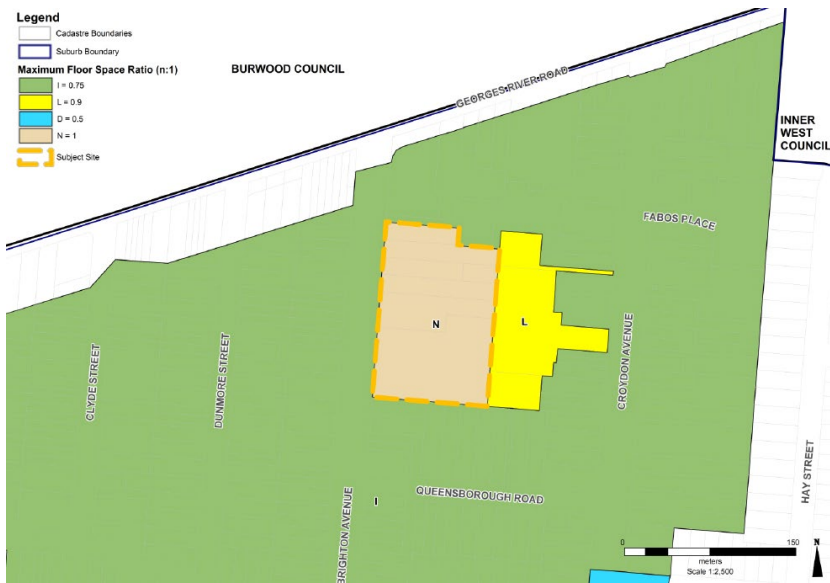


Figure 5 Existing floor space ratio map (Source: planning proposal)

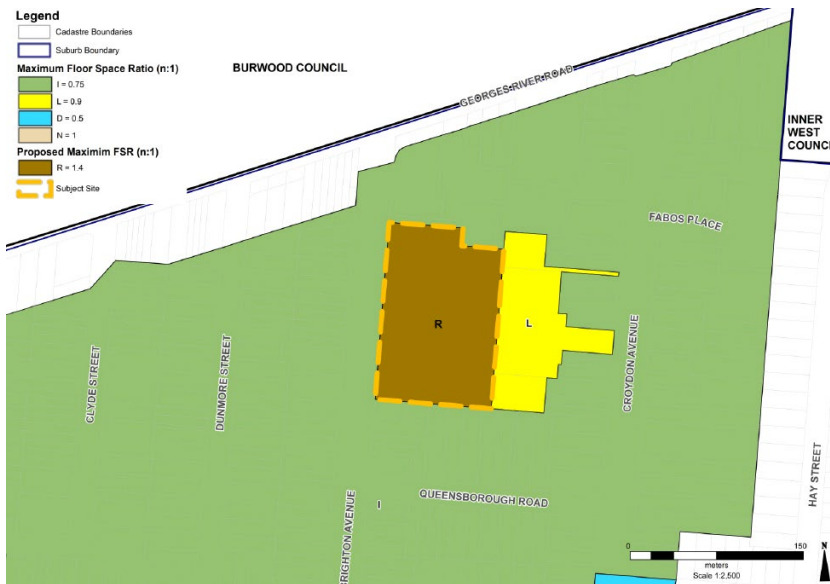


Figure 6 Proposed floor space ratio map (Source: planning proposal)



Figure 7 Existing building height map (Source: planning proposal)



Figure 8 Proposed building height map (Source: planning proposal)

2 Need for the planning proposal

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. As part of this, the Department is seeking to resolve and make final decisions on long-standing or legacy proposals which have had a Gateway determination for four or more years by 31 December 2020.

A Gateway determination was granted on 18 September 2015 for the proposal to proceed. Given the extensive technical studies undertaken and the completion of agency and community consultation, it is considered appropriate to alter the Gateway determination to introduce a milestone for the planning proposal to be reported to Council for a final recommendation by 28 February 2021. This will enable the Department to closely monitor progress of the planning proposal.

3 Detailed assessment

The proposal has been subject to review and assessment through the Department's Gateway determination and subsequent planning proposal processes.

Having regard to the Gateway planning team report and LEP Review Panel report, the planning proposal:

- remains justifiably inconsistent with Section 9.1 Directions
- remains justifiably inconsistent with relevant regional and district plans relating to the site
- is justifiably inconsistent with relevant local plans and strategies
- is consistent with all relevant SEPPs.

The following section provides details of the Department's assessment of the planning proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement.

The loss of industrial land and conversion of the site for housing are matters that were considered and approved through issuing Gateway determination to this planning proposal. Urban design matters and the removal of the requirement to deliver publicly accessible open space on the site are matters that were considered and approved through issuing Gateway alteration to this planning proposal. These matters are discussed in detail below.

3.1 Section 9.1 Directions

1.1 Business and Industrial Zones

This Direction aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.

Planning proposals are required to retain areas and locations of existing business and industrial zones, and not reduce the total floor space area for industrial uses in industrial zones.

The proposal is inconsistent with this Direction as it seeks to rezone IN2 Light Industrial zoned land to residential uses.

A planning proposal may be inconsistent with this Direction if the inconsistency is justified by a study which gives consideration to the objective of the Direction.

The SGS peer review (2014) concludes the precinct be considered for change to a non-employment related use, for the following reasons:

- the site is not a strategic industrial precinct
- the site is isolated, not well connected to major arterial roads or railway and relies on access through residential streets
- the site does not contribute to significant industry clusters in the LGA or region
- the site is not critical to meeting future employment demands in the LGA or region
- the site is not critical for population servicing light industrial uses.

Although the Department's planning team previously concluded that the inconsistency with the Direction was not adequately justified, the Local Environmental Plan Review Panel supported the general intent of the proposal. The panel considered that the SGS report provided sufficient justification for rezoning the fragmented industrial land located within a medium-high residential area with access to public transport, services and facilities.

Gateway determination was issued and it is therefore considered that the inconsistency with this Direction has been justified.

2.6 Remediation of Contaminated Land

This Direction aims to reduce risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The Gateway determination required that a preliminary investigation of the land be carried out in accordance with the contaminated land planning guidelines to meet requirements under SEPP 55 – Remediation of Land.

A number of investigations have been carried out which confirm that the site is contaminated and it can be made suitable for the intended uses.

The Department is satisfied that the planning proposal has provided sufficient information to enable finalisation of the proposal within the timeframes specified in this Gateway alteration.

3.1 Residential Zones

This Direction aims to encourage a variety and choice of housing types, make efficient use of existing infrastructure and appropriate access to infrastructure to minimise impacts on the environment.

The Department's planning team previously concluded that the planning proposal was only partly consistent with this Direction due to removal of local businesses from the area. The conversion of the site to non-employment related uses is addressed under Direction 1.1 above.

The planning proposal will broaden housing choice in an area that is accessible to existing infrastructure and services.

The planning proposal is consistent with this Direction.

3.4 Integrating Land Use and Transport

This Direction seeks to ensure development is appropriately located to improve access and transport choice and reduce car dependency.

The site is located within close proximity to existing public transport services. High frequency bus routes are located 400m from the site connecting to railway stations 2 to 3km away at Campsie, Croydon Park and Ashfield. The site is also located 150m from Croydon Park small village centre (small cluster of convenience shops) and 400m from open space adjoining the Cooks River.

The rezoning of the land from IN2 Light Industrial to R4 High Density Residential was supported by a preliminary traffic review that estimated redevelopment of the site would result in a reduction of traffic. The Gateway determination required consultation with TfNSW and RMS. This consultation is complete.

The Department is satisfied that the planning proposal has provided sufficient information and completed necessary agency consultation to enable finalisation of the proposal within the timeframes specified in this Gateway alteration.

4.1 Acid Sulphate Soils

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes intensification of land uses on land identified as having a probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils.

The proposal will result in an intensification of land that is identified as Class 5 on the Acid Sulphate Soils Map in Canterbury LEP 2012. No acid sulphate soils study was submitted with the proposal. However, Canterbury LEP 2012 contains the Acid Sulphate Soils model clause which is

considered sufficient to prevent any significant adverse environmental impacts arising from the future development of the land or intensification of its use.

The planning proposal is inconsistent with this Direction, but the inconsistency was considered to be minor and justifiable in the Department's planning team report.

5.10 Implementation of Regional Plan

This Direction aims to give effect to regional plans. The planning proposal generally gives effect to the Region Plan through increased housing supply and diversity in a location serviced by public transport and with access to open space, services and facilities.

However, the loss of industrial land is inconsistent with Objective 23 of the Greater Sydney Region Plan (Region Plan) which seeks to ensure that industrial and urban services land is planned, retained and managed.

This Direction came into effect on 14 April 2016 and the Region Plan came into effect in March 2018.

The planning proposal is inconsistent with this Direction, but the loss of industrial land was considered justifiable by the Department through granting Gateway to this planning proposal.

3.2 State environmental planning policies (SEPPs)

State Environmental Planning Policy No. 55 – Remediation of Land

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 which is addressed above.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

Urban design reviews have been completed addressing SEPP 65. The Department is satisfied that the planning proposal has provided sufficient information to enable finalisation of the proposal within the timeframes specified in this Gateway alteration.

3.3 State, regional and district plans

South District Plan

The South District Plan (District Plan) came into effect in March 2018 after this planning proposal was issued Gateway determination on 18 September 2015.

Notwithstanding this, the Gateway alteration issued on 27 February 2017 required the planning proposal to be updated to demonstrate consistency with the draft District Plan prior to community consultation.

The planning proposal will give effect to the following planning priorities:

- S1: Planning for a city supported by Infrastructure
- S5: Providing housing supply, choice and affordability with access to jobs, services and public transport
- S6: Creating and renewing great places and local centres, and respecting the District's heritage
- S15: Increasing urban tree canopy cover and delivering Green Grid connections
- S18: Adapting to the impacts of urban and natural hazards and climate change

However, the planning proposal is inconsistent with the following planning priority:

- S10: Retaining and managing industrial and urban services land

For the South District the approach to managing industrial land is that it be retained and managed. Specifically, the District Plan indicates all industrial and urban services land should be safeguarded from competing pressures, especially residential and mixed-use zones.

The District Plan notes that the small precincts (1-5ha) provide local jobs and services, with a focus on urban services. The provision of urban services in the District is below the industry benchmark and this is projected to worsen as the population grows.

The Greater Sydney Commission's Information Note – SP2018-1 'Industrial and urban services land (Retain and manage) – transitional arrangements' outlines transitional arrangements for planning proposals involving land where the 'retain and manage' approach applies. The Information Note provides the following:

"If such a planning proposal was lodged before the adoption of the District Plans in March 2018, received a gateway determination, and any conditions on the gateway determination have been satisfied, then it can proceed to public exhibition and finalisation in the usual manner" (p. 2)

The Information Note also specifies that if the planning proposal progresses to be finalised, that a sunset clause is to be inserted into the LEP to permit the intended land use for a prescribed time frame for lodgement of a development application. This can be further considered in the finalisation of the planning proposal.

The Department considers that under the transitional arrangements for District Plans, the planning proposal is justifiably inconsistent with the District Plan.

3.4 Local plans and strategies

Canterbury Bankstown Local Strategic Planning Statement (LSPS)

The LSPS is a 20-year plan to guide Council's renewal and growth to accommodate an increased population of residents, workers and visitors by 2036. It contains a set of initiatives to ensure a successful and prosperous city. The GSC gave formal assurance to the LSPS on 16 March 2020.

The LSPS contains 10 Directions to integrate and coordinate land use and infrastructure and 10 Evolutions that detail major technical disciplines to achieve the vision of the plan.

The planning proposal will give effect to the majority of planning priorities in the LSPS.

The LSPS includes aspirations to locate 80 per cent of new housing within walking distance of rail or metro. The planning proposal does not contribute towards achieving this objective. However, the LSPS also notes that new housing in small village centres will be encouraged in high amenity locations near open space and transport. Considering the site's proximity to Croydon Park (small village centre) and access to nearby open space and high-frequency bus routes, the proposal is considered to satisfy the LSPS' priorities and principles in relation to housing.

The LSPS states that, consistent with the District Plan, Council will retain Canterbury-Bankstown's business and industrial lands to maintain capacity for future jobs. The planning proposal does not align with the LSPS objective as it would rezone industrial land for residential use. However, the LSPS also states:

"As a transitional arrangement, planning proposals that seek to rezone business and industrial lands for alternative uses that have already received a gateway determination will continue to be progressed" (p. 51)

The subject proposal fits within this transitional category.

The Department considers that the proposal is consistent with the transitional arrangements outlined in the LSPS.

Canterbury Bankstown Housing Strategy

The Canterbury Bankstown Housing Strategy was adopted by Council on 23 June 2020 and has not been endorsed by the Department.

The planning proposal is consistent with the following strategic directions:

- SD3: Focus at least 80% of new dwellings within walking distance of centres and places of high amenity
- SD4: Ensure new housing in centres and suburban areas are compatible with local character
- SD5: Provide housing types, sizes and tenures and prices, to suite each stage of life

The planning proposal is generally consistent with the Housing Strategy.

Canterbury Bankstown Affordable Housing Strategy

The Canterbury Bankstown Affordable Housing Strategy was adopted by Council on 23 June 2020. The strategy has not been reviewed or endorsed by the Department.

The Affordable Housing Strategy includes an action to amend Council's Planning Agreement Policy to include a requirement for a 5% affordable housing contribution for planning proposals resulting in uplift of more than 1,000sqm of residential floor space. Alternative rates may be negotiated where other public benefits are warranted and feasibility testing provided.

The planning proposal does not include affordable housing contributions or deliver other public benefits.

The planning proposal is justifiably inconsistent with the Housing Strategy given it came into effect almost five years after Gateway determination for this planning proposal.

Canterbury Bankstown Employment Lands Strategy

The Canterbury Bankstown Employment Lands Strategy was adopted by Council on 23 June 2020. The strategy has not been reviewed or endorsed by the Department.

The Employment Lands Strategy adopts a retain and manage approach for industrial zoned land as an overarching direction, except for several specifically identified sites. These sites relate to isolated pockets of industrial land surrounded by residential developments in Regents Park, Ashbury and Croydon Park.

'15-29 Brighton Street Croydon Park' is identified in the strategy as one of three isolated industrial parcels within a residential area that warrants further investigation for alternative uses subject to strategic merit assessment and the availability of an adequate supply of employment land.

An assessment of the suitability of the site for rezoning was completed by SGS in 2014. Whilst there has been no further assessment since that time, the loss of industrial and urban services land was previously considered by the Local Environmental Plan Review Panel and was considered acceptable by the Department through granting Gateway to this planning proposal in 2015, prior to the Employment Lands Study coming into effect.

Canterbury Open Space Strategy

The Gateway determination included a condition to provide publicly accessible space on the site. This requirement was removed through a Gateway alteration that concluded there is no need for additional open space in the locality and the provision of publicly accessible open space within a privately owned development was considered impractical.

The planning proposal is consistent with the Canterbury Open Space Strategy (2017) which does not identify any open space needs for Croydon Park.

4 Consultation

The Gateway determination and previous alterations set out community and agency consultation requirements. Community consultation occurred between 30 September to 16 December 2020. It is considered that the planning proposal does not require further community consultation as the alteration only seeks to set out a more specific timeframe for completion.

5 Timeframe

The planning proposal was submitted to the Department on 24 June 2015 and the current timeframe to complete the LEP is by 12 June 2021.

The Department wrote to Canterbury Bankstown Council on 23 October 2020 indicating that the Department intended to make a decision on long-standing planning proposals prior to 31 December 2020 in accordance with the NSW Government's planning reforms to reduce the timeframes for finalising planning proposals.

Due to public exhibition delays, it is anticipated that the planning proposal be reported to Council in February 2021 for a final recommendation.

The Department expects to finalise the planning proposal within four months of its submission, and as such, no further extension to the present timeframe of 12 June 2021 is considered necessary.

The Department recommends adding a new condition to specify the milestone for Council to report the planning proposal to Council for its final recommendation. This will ensure the LEP is completed in line with commitments to reducing processing times.

6 Local plan-making authority

The Gateway determination issued on 18 September 2015 did not provide Council with local plan-making authority. No change to this is proposed.

7 Assessment Summary

The Gateway alteration is supported to proceed with conditions for the following reasons:

- The introduction of the milestone for the planning proposal to be reported to Council for its final recommendation by 28 February 2021 will provide clear direction to Council about the need to resolve the matter, and enable the Department to closely monitor the progress of the proposal
- the planning proposal will facilitate additional housing (approximately 217 dwellings) in a location that is accessible to high frequency bus services, local shops at Croydon Park small village centre and open space adjoining the Cooks River
- the four storey building heights along the Brighton Avenue frontage with five storey buildings at the rear of the site will provide an acceptable transition and relationship to the surrounding area and objectives of the R4 High Density Residential zone
- Council's site-specific DCP includes further design controls to ensure good design outcomes on the site, including building envelope, setbacks, articulation and deep soil planting controls which will be considered as part of a future development application
- the planning proposal has strategic merit as it is consistent or justifiably inconsistent with all relevant section 9.1 Directions, SEPP's, the South District Plan and Council's plans and strategies
- the planning proposal will have satisfactory environmental, social and economic impacts.

8 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should be altered in the following manner:

1. The planning proposal must be reported to council for a final recommendation by 28 February 2021.



18/12/2020

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