



IRF23/524

## Plan finalisation report – PP-2021-5181

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Bankstown LEP 2015 (Amendment No. 15) – 165-185  
Hume Highway, Greenacre

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

Canterbury Bankstown Local Environmental Plan (Amendment No. 1).

### 1.1.2 Site description

The planning proposal applies to land at 165-185 Hume Highway, Greenacre. The site is zoned B6 Enterprise Corridor and has a total site area of approximately 13,891m<sup>2</sup>.

The site comprises three individual allotments within the Canterbury Bankstown LGA (**Figure 1**) including:

- 165 Hume Highway, Greenacre (Lot 1 DP 302097).
- 167 Hume Highway, Greenacre (Lot 402 DP 631754).
- 185 Hume Highway, Greenacre (Lot 401 DP 631754).

The existing development at the site comprises a commercial premises and workshop specialising in stonework (165 Hume Highway), the 'Palms Hotel' which comprises a hotel, restaurants and storage, the lot also contains a separate restaurant (167 Hume Highway) and a single storey residential building (185 Hume Highway).

The site is located approximately 2km from the Greenacre local centre and 3.8km from Yagoona Station. The nearest shopping centre is Chullora Marketplace, located approximately 1.2km to the north-east. The site is immediately surrounded by the following:

- **North:** Directly adjacent to the north is Tennyson Road. Further north is part of the Hume Highway and a residential flat building.
- **East:** Directly adjacent to the east are detached low-density dwellings and Peter Reserve. Further east is Peter Crescent.
- **South:** Directly adjacent to the south are detached low density dwellings. Further south is Cardigan Road.
- **West:** Directly adjacent to the west is the Hume Highway. Further west is a bulky-goods centre and general industrial development.



**Figure 1 Aerial view of the subject site (outlined in red) (Base source: Nearmap)**

### 1.1.3 Purpose of plan

The planning proposal seeks to amend Bankstown LEP to facilitate a mixed-use development at 165-185 Hume Highway, Greenacre by rezoning part of the site, increasing the maximum heights of buildings and floor space ratios (FSR) and introducing a non-residential floor space requirement.

The table below outlines the current and proposed controls for the LEP and a comparison of the existing and proposed LEP maps are included at **Figures 2-4**.

**Table 1 Current and proposed controls**

Control	Current	Proposed
Zone	B6 Enterprise Corridor	Part B6 Enterprise Corridor and part RE1 Public Recreation (Figure 2).
Maximum height of the building	Part 11m and part 14m	Part 11m, part 14, part 17m and part 20m (Figure 3)
Floor space ratio (FSR)	1:1	Part 1.3:1 and part 1:1 (Figure 4)
Minimum non-residential FSR requirement	N/A	0.3:1 (to apply to the 1.3:1 FSR portion of the site)
Number of dwellings	0	127
Number of jobs	Not specified	Approximately 79 full-time equivalent additional jobs



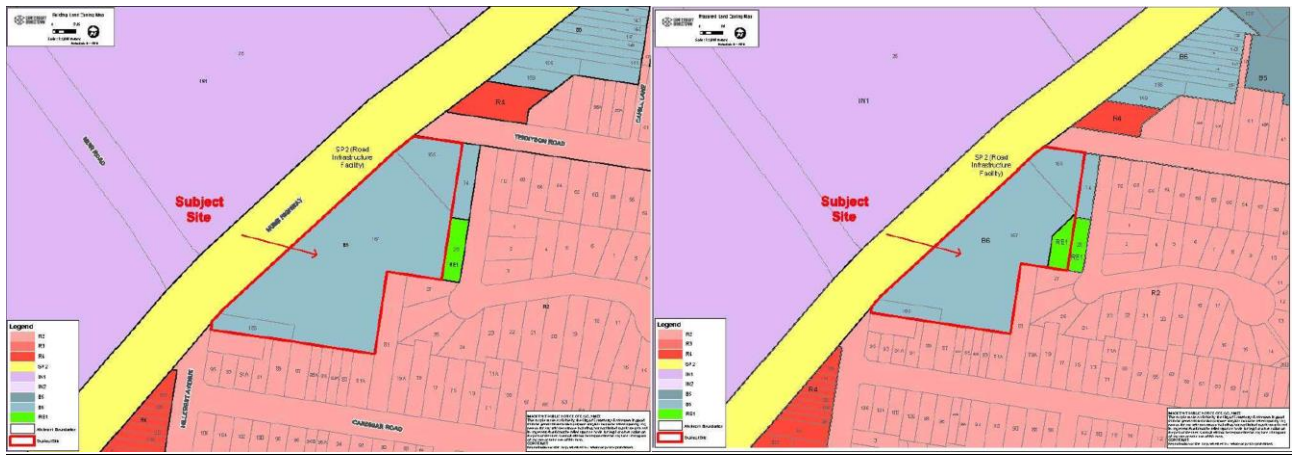


Figure 2: Existing and Proposed Zoning Maps (Source: Council)



Figure 3: Existing and Proposed Height of Buildings Maps (Source: Council)



Figure 4: Existing and Proposed FSR Maps (Source: Council)

## The Development Concept Scheme

The planning proposal is supported by an Urban Design Report prepared by Squillace in September 2021. It is also noted that subsequent work has been undertaken through a Council commissioned peer review undertaken by Architectus which has informed revisions to setbacks and the structure plan contained in the site-specific DCP (**Figure 5**).

The concept scheme demonstrates that development at the site may comprise four buildings to be constructed at 167 Hume Highway including:

- 2 x 3 storey buildings at the rear of the site;
- A 5 storey building fronting Hume Highway in the south eastern corner of the site; and
- A 6 storey building fronting Hume Highway in the north eastern corner of the site.

It is anticipated that the intended development could provide for 11,744m<sup>2</sup> of residential floor spaces consisting of 127 residential units and 3,523m<sup>2</sup> of commercial floor space providing for 79 jobs.



**Figure 5: Concept Scheme (Base source: Squillace 2021)**

### The Development Control Plan

A site-specific Development Control Plan (DCP) was exhibited alongside the planning proposal from 16 February 2022 to 18 March 2022.

The DCP seeks to supplement the proposed amendments and provides for a series of site-specific controls relating to the following:

- Setbacks;
- Access and egress;
- Building height limits in storeys;
- Deep soil zones;
- Street frontage landscaping;
- Flood management; and
- Acoustic and air quality management.

The DCP includes an indicative structure plan (**Figure 6**), which is informed by the Urban Design Peer Review undertaken by Architectus. The indicative structure plan demonstrates how a compliant scheme can be achieved at the subject site.

The DCP was updated following exhibition to respond to comments provided by Transport for NSW (TfNSW). The DCP requires further consultation with TfNSW prior to the lodgement of a development application and setback requirements to allow for the provision of a deceleration lane at the site. This is discussed in further detail in section 3.2.1 of this report.



**Figure 6: Structure Plan in site-specific DCP (Base source: Architectus 2022)**

### Public Benefit Offer

A draft Voluntary Planning Agreement was exhibited alongside the planning proposal from 16 February 2022 to 18 March 2022. The draft VPA included the delivery of the following public benefits associated with the planning proposal:

- the dedication of 600m<sup>2</sup> of land to facilitate the extension of Peter Reserve, valued at \$660,000
- a monetary contribution of \$75,000 towards the embellishment of Peter Reserve.
- a monetary contribution of \$20,000 to improve the existing bus stop at Hillcrest Avenue, opposite Cardigan Road.
- a monetary contribution of \$80,000 towards district level community and recreation facilities
- a monetary contribution of \$201,361 towards affordable housing provision.



On 9 December 2022, the Department requested clarification from Council whether it granted concurrence to being nominated as the relevant acquisition authority for the 600m<sup>2</sup> part of the site to be rezoned RE1 and dedicated to Council.

On 28 March 2023, Council resolved to nominate itself as the relevant acquisition authority for the land if the VPA would be amended to ensure that in the event Council would be required to acquire the land without a dedication, that it could be acquired for a maximum value of \$1.

The revised VPA was exhibited from 12 April 2023 to 11 May 2023 to reflect this. It should be noted that the revised planning agreement does not make any material change to the public benefits and infrastructure exhibited in the original VPA.

Council considered the revised VPA at its meeting of 23 May 2023 and resolved to endorse the revised VPA and write to the Department confirming its nomination as the relevant acquisition authority for the RE1 land once the VPA was executed.

#### 1.1.4 State electorate and local member

The site falls within the Bankstown state electorate. The Hon Jihad Dib MP is the State Member.

The site falls within the Watson federal electorate. The Hon Tony Burke MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations.

The Gateway determination issued on 20 August 2021 determined that the proposal should proceed subject to conditions.

The Gateway determination was altered on 5 November 2021 to alter the milestone dates and extend the overall timeframe for completion. In accordance with the Gateway determination (as altered) the proposal is now due to be finalised and the conditions of the Gateway have been satisfied.

## 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 16 February 2022 to 18 March 2022.

A total of four unique community submissions were received, one objection came by way of a pro-forma letter with 68 signatures, whilst the other submissions offered support or partial support toward the proposal.

Council prepared a post-exhibition report which was presented at the Council meeting of 24 May 2022. Council considered the matters raised in community and agency submissions and resolved to forward the planning proposal to the Department requesting that the LEP be made.

### 3.1 Community Submissions

There were four unique submissions received from members of the community, one of which was a pro-forma submission in objection to the proposal which was in the form of 68 identical letters.

Of the individual submissions, one objected to the proposal, one partially supported the proposal, one conditionally supported the proposal, and one was unclear on its position, which Council noted as being neutral.

The key issues raised in submissions related to impacts on:

- Traffic;
- Noise;
- Parking; and
- Overshadowing and Privacy.

The table below provides a summary of the key issues raised in submissions, Council's response to the issues and the Department's view.

**Table 3 Summary of Key Issues**

Issue raised	Council response and Department assessment of adequacy of response
Traffic impacts	<p><u>Community Concerns:</u></p> <p>Community submissions raised concern with the following aspects of the proposal relating to traffic:</p> <ul style="list-style-type: none"> <li>• increased private vehicular traffic via Tennyson Road to access the subject site.</li> <li>• increased traffic congestion and noise issues.</li> <li>• worsen existing traffic in Peter Crescent and increase illegal parking.</li> <li>• concern was raised with vehicular access to the site being provided via Peter Crescent.</li> <li>• increased safety concerns due to increased traffic generation.</li> <li>• increase private vehicle reliance due to a lack of public transport in the vicinity.</li> </ul> <p><u>Council Response:</u></p> <ul style="list-style-type: none"> <li>• that TfNSW's support is conditional on the applicant providing necessary vehicle access infrastructure, including a deceleration lane on the Hume Highway frontage as part of any future development at the site.</li> <li>• it has incorporated the advice provided from TfNSW into its site-specific DCP, which will require the applicant to confirm the extent of the deceleration lane and ensure the function of the Hume Highway is not adversely affected.</li> <li>• that it is satisfied that the site-specific DCP provisions will require future development to address impacts on safety, traffic congestion and the function of the Hume Highway and local road network surrounding the site.</li> <li>• that the pro-forma letter also raised concern with potential access to the site being provided via Peter Reserve. Council responded by noting that the reserve will gain an additional 600m<sup>2</sup> of land to be</li> </ul>

dedicated as part of the proposal and a monetary contribution towards the embellishment of the park.

- that following the Architectus Urban Design Review (2022), the provision of a through site link was removed. Council outlines that access from the site to Peter Reserve may be permitted as part of a future development application to enhance access to public open space for residents.

Department Response:

The Department is satisfied that adequate consultation with TfNSW has occurred in accordance with the conditions of the Gateway determination.

The Department undertook additional consultation with TfNSW during the finalisation of the proposal to ensure that TfNSW was satisfied with the proposed entry and egress requirements described in its response.

Council's amendments to the site-specific DCP will ensure that traffic and access arrangements can be adequately considered by Council and TfNSW at the development application (DA) stage, following completion of a detailed design for the proposed development that determines the development mix and intensity.

The planning proposal will not result in a vehicular through site link being provided through the existing Peter Reserve. Rather, by way of a voluntary planning agreement, part of the subject site will be transferred into Council's ownership to extend the existing reserve with additional monetary contributions from the applicant to ensure the embellishment and upgrade of the park.

There is no outstanding objection from TfNSW regarding any traffic concerns related with the proposed development at this stage.

Noise impacts

Community Concern:

One submission noted its support for the proposal should noise and traffic issues be managed appropriately.

Council Response:

Council noted that the applicant commissioned an Air Quality and Acoustic Assessment to be prepared following advice from the Canterbury-Bankstown Local Planning Panel. Council commissioned an independent consultant to undertake a peer review of the report.

The planning proposal is informed by the recommendations of the peer review on confirming the proposed 12m residential setback along Hume Highway.

Council also outlines that the site-specific DCP contains minimum setback requirements to reduce potential noise impacts to adjoining residential properties.

Council states that with consideration of the above that noise matters can be appropriately managed within the site-specific DCP at the development application (DA) stage.

Department Response:

The Department acknowledges that one community submission offered partial support to the proposal subject to adequate noise assessment being undertaken.

	<p>The Department is satisfied that the planning proposal has adequately considered potential noise impacts to new residents, with 12m setbacks from Hume Highway enforced through the height of buildings map and additional controls within the site-specific DCP.</p> <p>Further consideration of the matter may be required at the detailed design stage to accommodate the deceleration lane required by Transport for NSW. This can be appropriately addressed at the DA stage.</p>
Parking impacts	<p><u>Community Concern:</u></p> <p>Public submissions raised concern that the planning proposal would lead to increased instances of illegal parking on Peter Crescent. Concern was also raised that the development should not be accommodated due to a lack of a public car park in the vicinity.</p> <p><u>Council Response:</u></p> <p>Council's DCP stipulates a minimum car parking requirement to be provided within the site to accommodate residential, commercial, visitors and services that require access to the site.</p> <p>The large site area will allow for ample opportunity to accommodate the required parking spaces within basement levels.</p> <p>Council highlights that at the DA stage the consent authority may required a Green Travel Plan to be submitted as part of the application to maximise public transport trips to and from the site.</p> <p><u>Department's Response:</u></p> <p>The concerns raised by the community in relation to parking supply are noted.</p> <p>The applicant's Urban Design Report and Traffic Statement contains proposed parking figures noting that the proposed development is anticipated to generate parking demand for 422 spaces.</p> <p>The concept scheme demonstrates that the proposal will comply with Council's minimum parking requirements of 175 spaces under the DCP for the residential component. However, it is acknowledged that the DCP requirements for the commercial components would not be satisfied under the current concept scheme.</p> <p>The Traffic Statement seeks to provide justification for a reduction in parking provision for the differing commercial components of the proposed development. However, also acknowledges that further parking can be accommodated in additional basement levels at the DA stage if deemed to be required.</p> <p>It is the Department's view that whilst the concept scheme does not demonstrate compliance with Council's DCP requirements, that compliance can be achieved at the detailed design stage. A full assessment of parking provision would be more appropriate at the DA stage when the exact commercial uses and floorplates are determined.</p>
Overshadowing and privacy impacts	<p><u>Community Concerns:</u></p> <p>The pro-forma submission raised concern that the proposed increase to the height of buildings would create privacy and overshadowing impacts to the existing residents of Cardigan Road, Peter Crescent and Tennyson Road.</p>



Council Response:

Council notes the concerns relating to overshadowing and privacy raised in the pro-forma submission.

Council outlines that the planning proposal is supported by urban design reviews which tested overshadowing impacts that may emerge from the proposed increased building heights.

Council highlights that the recommendations of the peer reviews relating to privacy and overshadowing impacts have been incorporated in the draft site specific DCP.

Council forms the view that the existing provisions in the DCP and site specific DCP will ensure privacy and overshadowing impacts can be appropriately addressed at the DA stage.

Department's Response:

The proposed mapping amendments will reduce the maximum permissible building height along the southern and eastern boundaries where there are interfaces with existing residential developments from 17m to 11m. This will see future development at the site concentrated towards the centre to assist in providing an appropriate separation from the existing low density residential dwellings.

This will also be supported by the 600m<sup>2</sup> portion of land to be dedicated to Council to extend the existing park, this will not include new development and will create an additional barrier between the proposed development and some existing residential properties to the east.

The Department considers that controls have not only been put in place to ensure adequate separation through site-specific DCP provisions, but rather the LEP maps have also been prepared in a manner which ensures that overshadowing and privacy concerns will be considered as part of any future development.

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with Transport for NSW and any relevant utility and service providers, including Sydney Water.

Council received submissions from Sydney Water and Transport for NSW with the comments and the Department's view discussed below.

### 3.2.1 Transport for NSW

#### **Access Arrangements**

TfNSW advised that its concurrence for the supporting scheme was dependent on a deceleration lane being provided adjacent to the Hume Highway to support vehicular access to the site. TfNSW advised that the deceleration lane will require a land dedication as part of any future redevelopment and that it would not be provided within the existing road reserve, highlighting that private development should not benefit from existing public assets.

Council response:

Council advised that the provision of a deceleration lane and its final design and configuration is a detailed design issue that should be resolved as part of any future development assessment.

Council confirmed with Transport for NSW that this approach is acceptable subject to detailed drawings of a deceleration lane and associated infrastructure upgrades being provided to for approval prior to the lodgement of a development application. Council advises that the site-specific DCP has been altered to reflect this requirement.

Department response:

The Department requested that TfNSW clarify its position on the matter which was provided as follows:

- TfNSW confirmed that concurrence had not been provided as the drawings of the deceleration lane were only conceptual.
- TfNSW reiterated that its concurrence was contingent on the provision of the deceleration lane, which is to be provided wholly within the subject site.
- TfNSW stated that the proponent should enter into Voluntary Planning Agreement, preferably as part of the planning proposal, to ensure appropriate land is dedicated and construction of the deceleration lane occurs.

The Department requested that Council re-affirm its view that the design details relating to the required deceleration lane could be appropriately addressed as part of the development assessment.

On 24 November 2022, Council responded to the Department confirming that it considers the issue can be most appropriately resolved at the DA stage. Although the provision of a deceleration lane within the site will reduce the total developable site area, Council has determined that it will not have a significant adverse impact on the ability for future development to be designed and delivered in accordance with the proposed planning controls for the site.

Council also highlights that the site specific DCP requires the applicant to consult with TfNSW prior to the lodgement of a development application and includes building setbacks which reflect the deceleration lane as part of the building design.

Overall, both Council and TfNSW are satisfied that the details surrounding the provision of a deceleration lane can be addressed at the DA stage. It is also the view of the Department that the need for and specifics of the deceleration lane would be based on the final development and proposed building layout as part of a future development application.

The Department has considered Council's site specific DCP and is of the view that sufficient provisions have been included to ensure that issues surrounding traffic and transport can be appropriately considered at the DA stage.

## **Bus Stop**

TfNSW note that Council requested that the proponent provide a new bus stop along the Hume Highway frontage of the site.

TfNSW considers that due to the requirement for a deceleration lane, that it would be difficult to accommodate a new bus stop in front of the subject site. TfNSW advises that the most feasible location for a new bus stop would be at the western edge of the site near the Muir Road/Hume Highway intersection. The only current bus service operating from this zone is a school service which operates once a day during the PM school peak. TfNSW recommend that the existing bus zone be maintained for the purpose of setting down school children only.

TfNSW highlight that at present no public timetabled services operate or are planned to operate at the proposed new bus stop location. TfNSW outline that three existing routes (925, 926 and 941) have bus stops within 200m of the site.

It is also noted that the Hume Highway is a major bus corridor and TfNSW states that there are sufficient bus stops within 650m of the site. TfNSW outlines that the existing provision of bus stops

aligns with public transport planning guidelines and that future residents and commercial patrons at the site will be within an 800m walk of several bus stops.

Council response:

Council has responded to TfNSW's comments and amended the exhibited VPA to redirect the monetary contributions intended for a new bus stop to funding improvements to the existing bus stop at Hillcrest Avenue or any other bus stops within 400m of the site if approved by TfNSW.

Department response:

The Department is satisfied that the amended VPA will ensure that appropriate transport infrastructure is delivered in accordance with the recommendations of TfNSW.

### 3.2.2 Sydney Water

Sydney Water provided general comments regarding future approval processes for servicing requirements. This included:

- the proposed development presents potentially large servicing demands and will therefore require further investigation to determine the servicing requirements for the site.
- a Water Servicing Coordinator should be engaged, and a feasibility application be lodged with Sydney Water prior to a Section 73 application being lodged.
- an inception meeting be held after the proponent has prepared a detailed concept servicing proposal for potable water and wastewater services.

Council Response:

Council advises that it obtained clarification from Sydney Water that the above comments relate to potential servicing demand and that further investigations would be required at the development application stage. Council also advises that the comments were forwarded to the applicant who acknowledges that these matters are to be addressed as part of any future development application.

Department response:

The Department considers these matters not to be relevant to the finalisation of the planning proposal and can be further addressed as part of future planning and construction processes.

## 3.3 Post-exhibition changes

One post-exhibition change has been made to the planning proposal as recommended by the Department.

On 9 December 2022, the Department requested clarification from Council as to whether it granted concurrence to being nominated as the relevant acquisition authority for the 600m<sup>2</sup> part of the site to be rezoned RE1 and dedicated to Council. Council has since granted concurrence to being nominated as the relevant acquisition authority.

An amendment to the Land Reservation Acquisition Map was made to identify the site on the Map as local open space. The Department's ePlanning team has reviewed the map and confirmed it meets the technical requirements.

## 4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The planning proposal submitted to the Department for finalisation:

- is consistent with the regional and district plans relating to the site.
- is consistent with the Council's Local Strategic Planning Statement.
- is consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

**Table 2 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

**Table 3 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1



## 4.1 Detailed assessment

### 4.1.1 Section 9.1 Directions

The Gateway assessment noted that several Section 9.1 Ministerial Directions were not addressed, and conditions were included requiring updates to the planning proposal. This was updated for community consultation and is assessed further below.

#### 1.1 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

The updated planning proposal notes that it is generally consistent with the Greater Sydney Region Plan – *A Metropolis of Three Cities*, and that it does not impair the achievement of its visions or objectives. The planning proposal contains a section addressing its consistency with the objectives and actions of the Region Plan.

As assessed at the Gateway determination stage, the Department is satisfied that the proposal demonstrates consistency with the Region Plan and subsequent District Plan. The Department is satisfied that the proposal has adequately addressed the objectives and terms of the direction.

#### 1.3 Approval and Referral Requirements

The direction seeks to ensure that LEP provisions encourage the efficient and appropriate assessment of development by not requiring any concurrence or referral provisions as part of any proposed LEP.

The updated planning proposal notes that the planning proposal is consistent as it does not include any concurrence, consultation or referral provisions as part of the planning proposal.

The Department is satisfied that the proposal has adequately addressed the direction and is consistent with the objectives and terms of the direction.

#### 1.4 Site Specific Provisions

The objective of the direction is to discourage unnecessarily restrictive site-specific planning controls. The Gateway assessment noted that this Direction was not addressed as part of the planning proposal submitted for Gateway assessment.

The Gateway assessment stated the planning proposal was technically inconsistent with this Direction as it seeks to introduce a requirement that a minimum FSR of 0.3:1 needs to be allocated for non-residential purposes in the 1.3:1 FSR portion of land. The Gateway assessment stated that the technical inconsistency with justified in this instance as the provision will guarantee a substantial amount of non-residential floor space is provided as part of any future development.

The updated planning proposal states that the inconsistency is justified as the provision requires the retention of the existing employment generating floor space at the site. Council considers this approach to be consistent with the District Plan and Council's Employment Lands Strategy.

The Department is satisfied that the final planning proposal is justifiably inconsistent with this Direction as it will ensure the ongoing generation of employment floor space at the subject site and appropriately responds to key strategic planning objectives.

### 4.1 Flooding

The direction seeks to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and principles of the Floodplain Development Manual 2005. The direction also seeks to ensure that LEP provisions are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.

The Department's Gateway assessment noted that the planning proposal is technically inconsistent with this Direction. A portion of the site is situated in a medium stormwater flood risk area and the planning proposal seeks an overall increase in permissible FSR. A Gateway condition was recommended to require the planning proposal to be updated to adequately address the revised Direction released on 14 July 2021.

The site is subject to the following flood impacts:

- **Figure 7** depicts that the site has a minimal incursion under the predicted 1 in 100 year flood extent.
- **Figure 8** demonstrates that some parts of the site along the south and southeastern boundaries are affected by the probable maximum flood (PMF) extent.

The planning proposal includes the following recommendations to mitigate potential flood impacts:

- reduce the cumulative impacts of flood behaviour by reducing the maximum building height within the PMF extent areas at the site from 14m to 1mm.
- rezoning part of the existing B6 Enterprise Corridor land to zone RE1 Public Recreation reduces the potential for flood risk.
- applying clause 2.21 Flood Planning under the Bankstown LEP 2015 for any future development application pertaining to the site.
- applying the provisions of the Bankstown DCP 2015 Part B12 for any future development application pertaining to the site.
- taking advantage of the existing topography which gradually slopes down from north to south with an approximate fall of 5m at the lowest southeast corner of the site.

Additionally, the proponent's Flood Impact Assessment (November 2021) recommends the following risk mitigation measures:

- adopting finished floor levels for buildings at the rear of the site to be above the PMF level to address any risk associated with minor potential flooding.
- making provisions for installation of flow through fencing.
- proposed driveway access to the basement is not affected by the PMF extent which minimises any potential flooding of basement areas.
- a structural engineers report on design to be able to withstand damage due to scour, debris or buoyancy forces to be provided at development application stage.

Having regard to the final planning proposal, flood impacts are acceptable for the following reasons:

- the planning proposal does not introduce any new permissible sensitive uses. The proposal only seeks to rezone land identified within the PMF extent to RE1 Public Recreation which is considered to improve the existing flooding situation; and
- the Height of Buildings map concentrates increased development opportunity to the centre of the site and away from parts of the site where PMF flood impacts occur.





Figure 7: 1 in 100 year flood event extent (Source: planning proposal)





Figure 8: PMF event extent (Source: planning proposal)



#### 4.4 Remediation of Contaminated Land

The objective of the direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered appropriately at the planning proposal stage.

The Department considered the proposals consistency with the direction as part of its Gateway assessment and noted that the proposal did not satisfactorily address the direction. The conditions of the Gateway determination required the proposal to be updated prior to public exhibition to address the proposals consistency with the direction.

In September 2021, the proponent commissioned Aargus Pty Ltd to prepare a Detailed Site Investigation (DSI) to address the proposals inconsistency with the direction.

On 4 November 2021, Council wrote to the Department seeking the Department's approval in relation to the direction. Council provided the Department with a copy of the proponent's DSI and noted that Council's Health and Environment Unit had conducted a review of the DSI and raised no concerns with the contamination status of the site.

On 5 November 2021, the Department responded to Council noting that it raises no objection to the proposal proceeding to exhibition as the DSI concluded that the site is suitable for residential development.

The Department has since considered the DSI that accompanies the updated planning proposal and is satisfied that the proponent has appropriately considered the contamination status of the land and demonstrated that the land is suitable for the proposed uses. The DSI concludes that the risks to human health and the environment associated with soil and groundwater contamination is negligible within the context of the proposed use for the site.

As such, the Department is satisfied that the planning proposal has adequately considered the objectives of the direction and is consistent with the terms of the direction.

#### 5.2 Reserving Land for Public Purposes

The purpose of the direction is to facilitate that provision of public services and facilities by reserving land for public purposes. The terms of the direction require that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary.

The direction applies as the planning proposal seeks to introduce an RE1 Public Recreation zone to part of the site. As previously discussed, Council has provided its concurrence to being the relevant acquisition authority for the proposed RE1 zoning. Therefore, the planning proposal is consistent with the requirements of this Direction.

### 4.1.2 Social and Economic

#### Affordable Housing:

Condition 1(b) of the Gateway determination required Council to update the planning proposal to provide further justification on the planning proposal's consistency with the Canterbury Bankstown Affordable Housing Strategy 2020.

Council outlines that its Affordable Housing Strategy amends its Planning Agreement Policy to require a 5% affordable housing contribution for planning proposals which result in an uplift of more than 1,000m<sup>2</sup> of residential floor space.

The draft VPA includes the provision of a monetary contribution in accordance with Council's Affordable Housing Strategy, being 5% of the increased residential floor space to be provided towards affordable housing within the LGA.

The Department is satisfied that the planning proposal has been appropriately updated to address Gateway condition 1(b).

### 4.1.3 Infrastructure

#### Traffic and Parking

Prior to public exhibition, the Department requested that Council update the planning proposal to include an additional section of the planning proposal report that details traffic and parking impacts, including an analysis of proposed access arrangements. This formed a condition of the Gateway determination.

As discussed in Section 3.2.2 of this report, the Department is satisfied that extensive consultation has been undertaken with Transport for NSW. A series of updates have been made to the site specific DCP and VPA to ensure that:

- entry and egress arrangements can be adequately considered at the development application stage; and
- monetary contributions will be directed towards improvements to existing bus stops, rather than providing a new bus stop that will not be serviced by Transport for NSW.

Additionally, as discussed in Section 3.1 of this report, the parking rates depicted in the concept scheme do not comply with Council's requirements for the commercial components of the site. However, Council is satisfied that additional car parking can be supplied should it be deemed necessary at the DA stage.

As such, the condition of the Gateway determination has been satisfactorily addressed and any outstanding traffic or parking issues can be appropriately determined at the DA stage.

### 4.1.4 Employment zone reforms

On 26 April 2023, the new employment zones were introduced. The Canterbury Bankstown LEP 2023 was deferred from the introduction of the new employment zones and is given effect through the Standard Instrument (Local Environmental Plans) Order 2006.

Council is responsible for preparing a future planning proposal to implement the new employment zones. Any impacts on the subject land will be considered as part of this future planning proposal.

### 4.1.5 Implications of finalisation of Canterbury Bankstown LEP 2023

On 23 June 2023, the Canterbury Bankstown LEP 2023 (CB LEP) came into effect and provides a consolidated and comprehensive planning framework for the local government area.

CB LEP has retained existing zoning, height and development standards which previously applied to the site under the Bankstown LEP 2015. However, the land use permissibility for the B6 zoning in the CB LEP has removed residential flat buildings as a permissible use because of the consolidation of the former Canterbury LEP 2012 and Bankstown LEP 2015.

Notwithstanding this, Schedule 1, Additional Permitted Use 18 of the CB LEP identifies a number of properties within the former Bankstown local government area. It states:

*Development for the following purposes is permitted with development consent –*

- (a) *seniors housing,*
- (b) *muti dwelling housing or residential flat buildings, if –*
  - (i) *the area of the lot on which the development is proposed to be carried out is greater than or equal to 5,000m<sup>2</sup>, and*
  - (ii) *the development forms part of a mixed use development.*

In this case, the site will be identified under Additional Permitted Use 18 and it has a site area of over 5,000sqm. The concept scheme demonstrates that a future development application can meet the requirements of this clause. Further, the site-specific provision for this site requires 0.3:1

GFA of the site to be used for non-residential uses – this is more restrictive than the current LEP requirement and will ensure an appropriate amount of employment floor space.

## 5 Post assessment consultation

The Department consulted with the following stakeholders after the assessment.

**Table 4 Consultation following the Department's assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Four maps have been prepared by Council and reviewed by the Department's ePlanning team. The Department is satisfied that the maps meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Council confirmed on 16 May 2023 that it approved the draft and that the plan should be made.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 24/07/2023, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b> .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the:
  - Greater Sydney Region Plan
  - South District Plan;
  - Canterbury Bankstown Local Strategic Planning Statement; and
  - Canterbury Bankstown Local Housing Strategy.
- It is consistent with the Gateway Determination.
- Issues raised by the community during consultation have been addressed, and there are no outstanding agency objections to the proposal.



24 July 2023

Kris Walsh

Manager, Place and Infrastructure



26 July 2023

Laura Locke

Director, Eastern and South Districts

Assessment officer

Bailey Williams

Planning Officer, Eastern and South Districts

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## Attachments

Attachment	Document
A1	Updated Urban Design Report (Squillace September 2021)
A2	Flood Impact Statement (Alpha Engineering and Development November 2021)
A3	Traffic Report (TTPP 2021)
A4	Detailed Site Investigation (Aargus September 2021)
A5	Site Specific DCP (Council 2022)
A6	Acoustic Assessment (Acoustic Logic May 2020)
A7	Social Impact and Community Needs Assessment (GHD May 2020)
A8	Air Quality Assessment (CETEC Solutions May 2020)



Attachment	Document
A9	Urban Design Peer Review (Architectus 2022)
B	Gateway Determination
C	Alteration of Gateway Determination
D	Council's Post-Exhibition Report
E	Council's Response to Submissions
F	Voluntary Planning Agreement