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Gateway determination report – PP-2021-5837

Western Sydney University Milperra Campus

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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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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Detailed Site Investigation (Alliance Geotechnical, 30 January 2020)
Ecological Assessment (Ecological Australia, 1 July 2020)
Arboricultural Impact Assessment (Ecological Australia, 20 December 2019)
Bushfire Protection Assessment (Ecological Australia, 12 November 2020)
Statement of Heritage Impact (Extent Heritage Advisors, January 2020)
Transport Assessment (The Transport and Planning Partnership, 2 June 2020)
Stormwater Concept Plan (Calibre, 22 June 2020)
Social Impact and Community Needs Assessment (Architectus, 22 May 2020)
Acoustic Assessment (Renzo Tonin & Associates, 6 February 2020)
Infrastructure Report (Calibre, 22 June 2020)
Remedial Action Plan (Alliance Geotechnical, 14 December 2020)
Draft Bankstown Development Control Plan 2015 – Section 7 – Western Sydney University Milperra

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Canterbury Bankstown
PPA	Sydney South Planning Panel
NAME	Western Sydney University Milperra Campus (430 dwellings)
NUMBER	PP-2021-5837
LEP TO BE AMENDED	Bankstown Local Environmental Plan 2015
ADDRESS	2 and 2A Bullecourt Avenue, Milperra
DESCRIPTION	<ul style="list-style-type: none"> Lot 105 DP 1268911 Lot 1 DP 101147
RECEIVED	17/02/2022
FILE NO.	IRF22/1216
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 Description of planning proposal

The planning proposal seeks to rezone the Western Sydney University (WSU) Milperra Campus site from Special Uses to Residential, Business, Recreation and Conservation uses. The proposal responds to the relocation of the Milperra Campus to Bankstown CBD, which is expected to occur in early -2023.

Specifically, the planning proposal seeks to amend the Bankstown Local Environmental Plan (LEP) 2015 to:

- rezone the site from 'Zone SP2 Educational Establishment' and 'Zone SP2 Electricity Transmission or Distribution Network', to:
 - predominantly Zone R1 General Residential
 - part Zone B1 Neighbourhood Centre
 - part Zone RE1 Public Recreation
 - part Zone C2 Environmental Conservation, and
 - part Zone SP2 Infrastructure (Drainage)
- introduce maximum building heights of part 9 metres (majority of the site) and part 11 metres (neighbourhood centre zone and select land fronting Bullecourt Avenue)

- introduce maximum floor space ratio (FSR) controls being part 0.5:1 (for land fronting Ashford Avenue), part 1:1 (for land in the neighbourhood centre zone) and a new 'sliding scale' FSR control for the remainder of the site
- introduce a minimum lot size control of 300m² (for the general residential zone)
- include a provision to limit the residential yield on the site to 430 dwellings
- include a provision to permit variations to the minimum lot size control on the site to permit small lot housing (124m² - 300m² lots)
- include a provision for 'nil' yield for residential flat buildings for residential land
- include the new Zone R1 General Residential as an exclusion to the minimum lot size control for community title and strata subdivision in the existing LEP
- amend the Terrestrial Biodiversity Map to clarify the extent of the mapped biodiversity area.

1.3 Background

In 2017 Western Sydney University announced the closure of its Milperra Campus at the subject site, as it was relocating to the Bankstown CBD Campus.

The planning proposal was submitted to Council in July 2020. However, Council raised several concerns with the proposal relating to technical matters such as traffic, site constraints, access and urban design. The applicant then submitted a revised planning proposal in May 2021.

The planning proposal was considered by Council at its meeting of 27 July 2021, whereby Council resolved to defer its consideration of the proposal pending further information about any meetings held with the NSW Government Ministers and/or Local State Federal members about the site.

At its meeting of 24 August 2021, Council considered the planning proposal and additional information provided by the applicant. Council resolved not to support the proposal proceeding to Gateway determination (see more detail at Section 3.4.2).

On 22 September 2021, the proponent lodged a rezoning review request with the Department. On 10 December 2021, the Sydney South Planning Panel considered the rezoning review request and determined that the proposal should be submitted for a Gateway determination as the proposal demonstrated strategic and site-specific merit.

Canterbury Bankstown Council declined the role as the Planning Proposal Authority (PPA) and the Panel appointed itself as the PPA on 4 February 2022. The planning proposal was submitted to the Department for Gateway determination on 17 February 2022.

An updated planning proposal was submitted to the Department on 23 March 2022 and a further updated planning proposal was submitted on 6 April 2022 to clarify the proposed changes were consistent with the version of the proposal that was considered by the Panel.

1.4 Site description and surrounding area

The site is known as 2 and 2A Bullecourt Avenue, Milperra and comprises the following allotments:

- Lot 1 DP 101147
- Lot 105 DP 1268911.

It is noted that the site description varies in the submitted documentation. A condition is recommended to update the site description prior exhibition.

The site is irregular in shape and encompasses a total site area of approximately 19.64 Hectares. The site is characterised by a slope from the north eastern corner (23m AHD) which falls towards to south western corner of the site (5m AHD).

The existing developments at the site comprise the Western Sydney University Milperra Campus. The Campus includes a mix of building typologies with a mix of single storey buildings utilised for student accommodation and administrative purposes and educational buildings of up to four storeys throughout.

Primary access into the site is via Bullecourt Avenue. Secondary access is from Horsley Road while Ashford Avenue provides a controlled (gated) access point. The M5 motorway adjoins the southern boundary of the site

The site encompasses four open air carparks and three open space areas including a large playing field in the south and two smaller open spaces in the north east and north western corners of the site.

The north eastern portion of the site contains approximately 2.035Ha of Cumberland Plain Woodlands, which is considered to be an Endangered Ecological Community, with mature trees and a significant amount of scattered vegetation located throughout the remainder of the site (**Figure 1**). There are over 300 trees within the overall site.

Contextually, the site is located 3km north west from Panania Railway Station (10 minutes via the S5 bus service) and 3km south of the Bankstown Airport (**Figure 2**). The Milperra Shopping Village and Ashford Village shopping precincts are located to the north west of the site. The nearest strategic centre is Bankstown which is 7km or 24 minutes travel time via the 922 or M90 bus service.

The site is bound by Ashford Avenue to the west and an existing low density residential area. To the north, the site adjoins Bullecourt Avenue, with a series of heavy industrial uses including a steelworks opposite the site on the northern side of the road. The M5 Motorway is located to the south of the site and Kelso Waste Facility beyond. Horsley Road adjoins the site to the east, with existing light industrial uses located opposite the site on the eastern side of Horsley Road.

Milperra Reserve adjoins the site in the north west corner, whilst Mount St Joseph Catholic College Milperra adjoins the site to the east (273 Horsley Road). Part of the existing Milperra Campus site (271 Horsley Road) has been transferred to the catholic school to allow for a future expansion to its south. This part of the site has been excluded from the planning proposal and will remain zoned SP2 Educational Establishment. The site is bounded by a locally listed heritage item: *Milperra Soldier Settlement (former) Item No. 129* which relates to the street alignments of the former Milperra Soldiers Settlement.

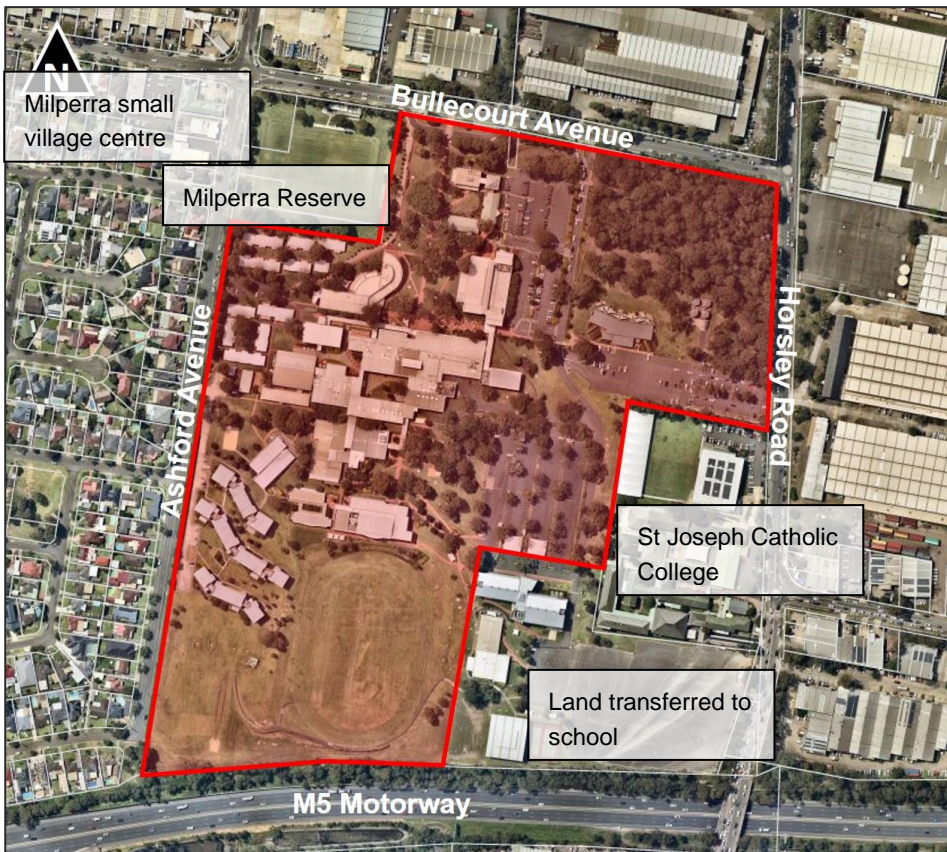


Figure 1: Subject site (Source: Nearmap, 2022)



Figure 2: Site context (Source: Nearmap, 2022)

1.5 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The planning proposal states that the primary objective is to enable delivery of a new neighbourhood that caters for the changing needs of the population through a range of residential dwelling typologies, open space, amenities and a neighbourhood centre.

The planning proposal states that the intended outcomes are to:

- *create a residential neighbourhood for up to 430 dwellings*
- *provide opportunities for a diverse mix of housing types, with increased densities located adjacent to public open space*
- *provide for a range of housing types*
- *retaining and conserving the existing area containing remnant vegetation*
- *creating new destinations for public recreation and social interaction*
- *integrating the new residential neighbourhood with the existing community through the creation of permeable and connected streets and cycleways*
- *providing a neighbourhood centre to cater for small scale retail and businesses*
- *retention of child care services.*

The objectives and intended outcome of this planning proposal are clear and adequate.

1.6 Explanation of provisions

The planning proposal seeks to amend Bankstown LEP 2015 per the changes in Table 3 below.

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	SP2 Infrastructure (Educational Establishment) SP2 (Electricity Transmission or Distribution Network)	<ul style="list-style-type: none"> • R1 General Residential (approx. 15.2ha) (new zone – not currently in the BLEP or proposed as part of the new Consolidated Canterbury Bankstown LEP nearing completion) • B1 Neighbourhood Centre (0.82ha) • RE1 Public Recreation (1.49ha) • C2 Environmental Conservation (2.035ha) (new zone not currently in the BLEP or proposed as part of the new Consolidated Canterbury Bankstown LEP nearing completion)) • SP2 Infrastructure (Drainage) (0.08ha)
Height of building	N/A	<ul style="list-style-type: none"> • part 11m (neighbourhood centre zone and land near Bullecourt Avenue) • part 9m (remaining land)

Control	Current	Proposed
Floor space ratio	N/A	<ul style="list-style-type: none"> part 0.5:1 (fronting Ashford Avenue) part 1:1 (neighbourhood centre zone) sliding scale FSR for remaining land
Lot size	N/A	<ul style="list-style-type: none"> 300m² (general residential zone) include a provision to vary to the minimum lot size provision for small lot housing (124m² – 300m² lots)
Lot size for community title subdivision	Applies to Zone R2 Low Density Residential	<ul style="list-style-type: none"> include Zone R1 General Residential as an exclusion to the minimum lot size for strata subdivision
Number of dwellings	N/A	<ul style="list-style-type: none"> limit the number of dwellings on the site to 430 dwellings
Terrestrial biodiversity	Site is not mapped	<ul style="list-style-type: none"> map the extent of terrestrial biodiversity area on the site
Other	N/A	<ul style="list-style-type: none"> include a provision for 'nil' yield of residential flat buildings for the residential land

The planning proposal will deliver a two to three storey mixed use neighbourhood with 430 dwellings, a new 8,200m² local neighbourhood centre, approximately 1.49Ha of public open space and retention of approximately 2.035Ha of Cumberland Plain Woodlands in an environmental conservation area.

The proposal is supported by an indicative structure plan (**Figure 3**).

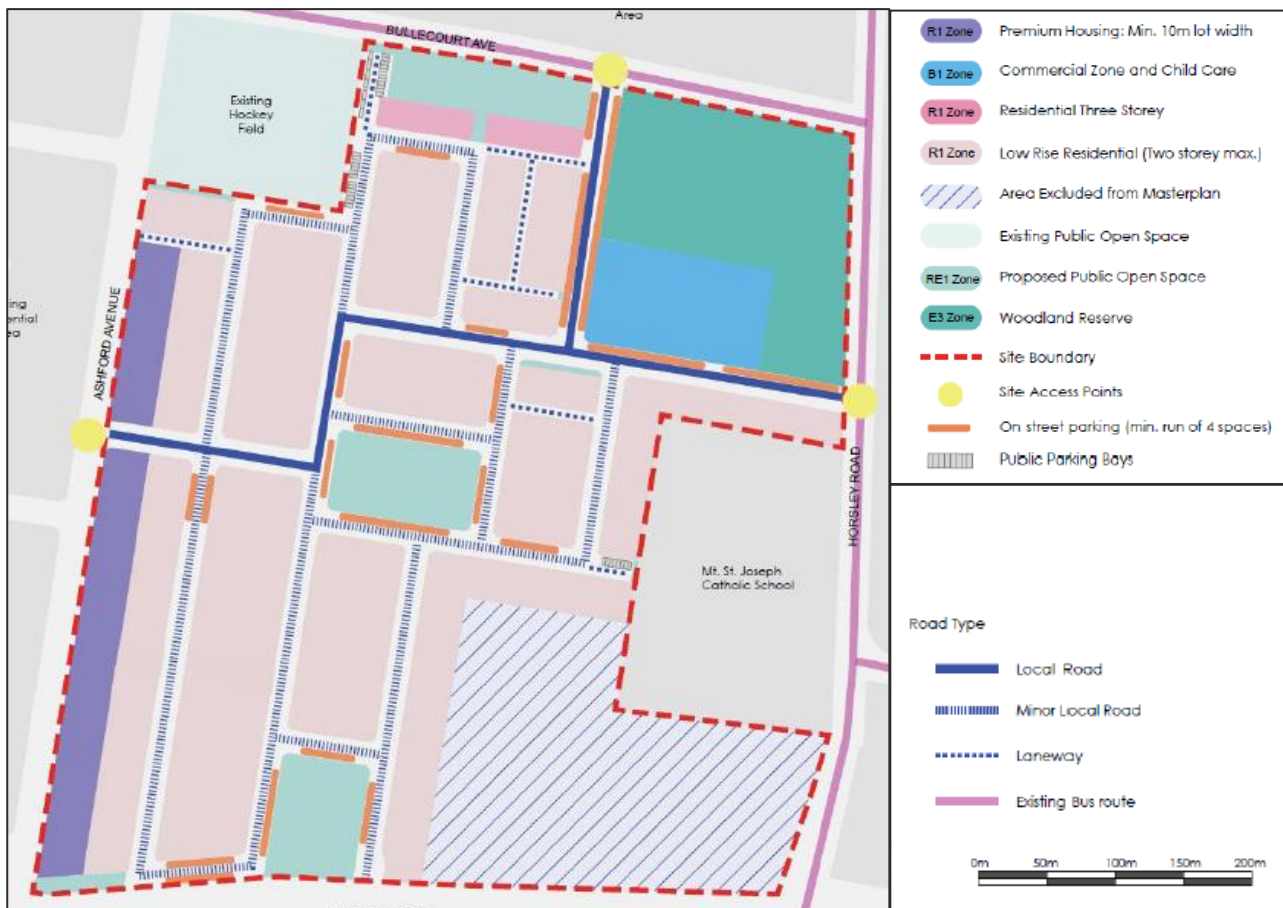


Figure 3: Structure plan (Source: planning proposal)

A detailed explanation of the proposed provisions is provided below.

1.6.1 Land zoning

The proposed rezoning configuration for the site is shown in Section 1.7 below.

Zone R1 General Residential

The planning proposal seeks to rezone most of the site from SP2 Infrastructure (Educational Establishment) and SP2 (Electricity Transmission or Distribution Network) to Zone R1 General Residential (15.2ha). The intent is to deliver a diversity of housing types.

The Bankstown LEP 2015 has not adopted 'Zone R1 General Residential' and the proposal seeks to introduce it as a new zone in the land use table. The zone will be based on the *Standard Instrument – Principal Local Environmental Plan* which requires the following mandated uses to be 'permitted with consent':

- Attached dwellings
- Boarding houses
- Centre-based child care facilities
- Community facilities
- Dwelling houses
- Group homes
- Hostels
- Multi dwelling housing
- Neighbourhood shops
- Oyster aquaculture
- Places of public worship
- Pond-based aquaculture
- Residential flat buildings
- Respite day care centres
- Semi-detached dwellings
- Seniors housing

- Shop top housing
- Tank-based aquaculture

The proposal also seeks to include the following additional uses as 'permitted with consent':

- dual occupancies
- recreation area
- recreation facility (outdoor)

The proposal also seeks to adopt the Standard Instrument objectives:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal also seeks to adopt the following additional objective:

- to ensure that a high level of residential amenity is achieved and maintained.

A key objective for Zone R1 General Residential is to deliver a 'variety of housing types and densities' that cannot otherwise be achieved through the existing residential zones in Bankstown LEP 2015. Table 4 compares the permissible land uses in the proposed zone to the existing residential zones in Bankstown LEP 2015.

Table 4 - Comparison of the Zone R1 General Residential to existing residential zones in BLEP 2015

Land use	Zone R2 (BLEP)	Zone R3 (BLEP)	Zone R4 (BLEP)	Zone R1 (proposed)
Attached dwellings	X	O	O	O
Boarding houses	O	O	O	O
Dual occupancies	O	X	X	O
Hostels	X	X	X	O
Multi-dwelling housing	X	O	O	O
Residential flat buildings	X	X	O	O*
Semi-detached dwellings	O	X	X	O
Seniors housing	O	O	O	O
Shop top housing	X	X	O	O

Note: X = prohibited and O = permissible

*the planning proposal seeks to prohibit residential flat buildings in Zone R1 (see Section 1.6.8 below)

Zone B1 Neighbourhood Centre

The planning proposal seeks to rezone approximately 8,200m² of the site to Zone E1 Local Centre. This to allow for several potential outcomes for this part of the site:

- The creation of a small local scale commercial hub, which will promote complimentary uses such as shops, cafes, restaurants and community facilities to support the existing and future population of the area; or

- retention or potential expansion of the existing child care centre with some shops; or
- Retention and expansion of the existing child care centre.

The Department exhibited a proposal '*Employment Zones Reform*' from 20 May to 30 June 2021 to simplify the employment zones framework. It is currently proposed that the existing zones (which are relevant to this proposal) will be translated as follows:

- B1 Neighbourhood Centre to E1 Local Centre zone.

The reform has not yet been implemented in Bankstown LEP 2015 and therefore, a condition is recommended to update the planning proposal prior to exhibition to specify the zone as B1 and to include an explanatory note about the new E1 Zone.

Zone RE1 Public Recreation

The proposal seeks to rezone parts of the site to Zone RE1 Public Recreation with a total area of 1.49ha, including:

- 4,643m² public park on the northern boundary fronting Bullecourt Avenue
- 5,378m² central park in the centre of the site
- 4,866m² park bordering the southern boundary of the site, adjacent to the M5 Motorway.

The proponent has provided a draft Letter of Offer to Council outlining the public benefits that would be delivered as part of the LEP. The letter provides in principle commitment to dedication of the Zone RE1 Public Recreation land to Council. It is recommended that confirmation about the dedication of the RE1 Public Recreation land to Council be confirmed prior to finalisation or what other alternative arrangements may be made to understand how this land will be conserved and managed.

No acquisition authority is identified for the land.

Zone C2 Environmental Conservation

The proposal seeks to zone land in the north eastern corner of the site as Zone C2 Environmental Conservation. This land contains approximately 2.035ha of Cumberland Plain Woodlands which is considered to be a critically Endangered Ecological Community under both Commonwealth and State biodiversity legislation.

Practice Note PN 09-002 outlines that Zone C2 Environmental Conservation should be utilised where the protection of the environmental significance of the land is the primary consideration and is supported by a study which demonstrates the high environmental status of the land.

The proposed rezoning is supported by an Ecological Assessment, which confirms that the land contains a critically Endangered Ecological Community. The primary intent of the proposed C2 zone is to ensure the protection of the Cumberland Plain Woodlands.

Bankstown LEP 2015 does not have adopted the Zone C2 Environmental Conservation and therefore the proposal seeks to introduce a new zone in the land use table. However, the planning proposal does not identify the proposed land use table for the new zone and the ownership and management of the Zone C2 Environmental Conservation zone has not been specified.

A condition is recommended to update the planning proposal prior to exhibition to include a land use table for the new Zone C2 Environmental Conservation based on the *Standard Instrument – Principal Local Environmental Plan* and to clarify if the land will be publicly accessible and how it will be managed in order to protect and conserve the Endangered Ecological Community.

Zone SP2 Infrastructure (Drainage)

The planning proposal seeks to apply the Zone SP2 Infrastructure (Drainage) to the drainage reserve along the southern boundary of the site.

1.6.2 Height of buildings

The planning proposal seeks to deliver a two to three storey built forms within the proposed 9 metre building height limit across the majority of the Zone R1 General Residential part of the site, with a 11 metre height limit on a portion of land fronting Bullecourt Avenue and the proposed Zone B1 Neighbourhood Centre zone (refer to **Figure 3** in **Section 1.7**)

No building height controls are proposed for the Zone RE1 Public Recreation and Zone C2 Environmental Conservation part of the site.

1.6.3 Floor space ratio

The planning proposal seeks to apply an FSR of 0.5:1 for land fronting Ashford Avenue to mirror the bulk and character of the existing low density residential area to the west of the site whilst the FSR of 1:1 for the Zone B1 Neighbourhood Centre reinforces the role of the new centre.

An FSR sliding scale is proposed for the remainder of the site based upon lot size. The sliding scale will provide higher FSR controls for smaller lots, with larger lots being offered the smallest FSRs.

A sliding scale was proposed by the proponent as additional information during the pre-lodgement stage of the planning proposal and this information was considered and noted in the rezoning review decision by the Sydney South Planning Panel (see **Table 5**).

However, the sliding scale is not included in the planning proposal. Therefore, a condition is recommended to update the planning proposal prior to exhibition to include an FSR sliding scale for the remainder of Zone R1 General Residential land together with supporting justification.

Table 5 FSR sliding scale considered in the rezoning review

Lot size	Maximum FSR
<150m ² (11m height limit)	1.33:1
<150m ² (9m height limit)	0.95:1
150m ² -200m ²	0.88:1
200m ² -250m ²	0.75:1
250m ² -300m ²	0.7:1
300m ² -350m ²	0.65:1
350m ² -450m ²	0.6:1
>450m ²	0.5:1

No FSR controls are proposed for the Zone RE1 Public Recreation and Zone C2 Environmental Conservation.

1.6.4 Lot size

With exception of the western edge of the site (where a minimum lot size of 450m² is proposed to apply) the planning proposal seeks to apply a minimum lot size of 300m² to land proposed to be zoned R1 General Residential.

The planning proposal also seeks to include a new site-specific clause in the LEP to allow for smaller lots for certain dwelling types, but only where certain requirements are met.

The variations to the lot size control are to permit a variety of housing types across the site. A comparison of the proposed controls to the existing lot size controls in Bankstown LEP 2015 is provided in **Table 6** below.

Table 6 - Proposed minimum lot sizes for different dwelling typologies comparison to BLEP 2015 controls

Dwelling type	Bankstown LEP 2015 (current controls)	Proposed Minimum lot size
Attached dwellings	750m ² (R3 & R4 zones)	124m ²
Semi-detached dwellings	-	210m ²
Detached dwellings	450 ²	250m ²
Dual occupancies	500m ² (attached dual occupancy) (R2 zone) 700m ² (detached dual occupancy) (R2 zone)	350m ²
Multi-dwelling housing	1,000 ² (R3 & R4 zones)	450m ²

It is proposed that the smaller lot size controls in **Table 6** only apply where the following requirements are met:

- attached dwellings, semi-detached dwellings and detached dwellings:
 - the lots do not front to Ashford Avenue
 - the subdivision includes the creation of a minimum of four lots to avoid ad hoc single lot subdivision development across the site
 - the subdivision is supported by a dwelling design for each proposed lot to provide certainty of the dwelling outcome and amenity.
- dual occupancies:
 - the gross floor area of one of either one of the dwellings does not exceed 75sqm
- multi-dwelling housing:
 - the number of dwellings does not exceed three
 - the gross floor area of either one of the dwellings does not exceed 75sqm.

No lot size controls are proposed for the Zone B1 Neighbourhood Centre, Zone RE1 Public Recreation and Zone C2 Environmental Conservation.

1.6.5 Lot size for community title subdivision

Clause 4.1AA (2)(a) in Bankstown LEP 2015 relates to the minimum subdivision lot size for community title schemes and includes an exemption for strata development in Zone R2 Low Density Residential.

The planning proposal seeks to amend the clause to also apply the exemption to the new Zone R1 General Residential.

1.6.6 Number of dwellings

The planning proposal seeks to introduce a site-specific provision that limits the total number of dwellings to be developed across the subject site to 430 dwellings.

The dwelling 'cap' is understood to be proposed as a mechanism to provide certainty about the density of the development and associated impacts (e.g. traffic generation)).

1.6.7 Terrestrial biodiversity

The proposal seeks to amend the Terrestrial Biodiversity Map to clarify the extent of the mapped biodiversity area.

The site is currently not mapped in Bankstown LEP 2015. However, under the draft Consolidated LEP the entire site will be mapped. The proposal seeks to map a more defined area reflecting the detailed ecological and arboricultural studies. Proposed mapping was not included in the planning proposal.

A condition is recommended to update the planning proposal prior to exhibition to include a Terrestrial Biodiversity Map illustrating the extent of the site proposed for inclusion on the map.

1.6.8 Nil yield for residential flat buildings

The planning proposal seeks to include a 'nil' yield for residential flat buildings in Zone R1 General Residential. A clause of this nature would preclude the development of residential flat buildings at the site, despite the use being permissible within the R1 General Residential zone.

However, residential flat buildings are a mandated land use within Zone R1 General Residential under the *Standard Instrument – Principal Local Environmental Plan*. On this basis, it is inappropriate to prohibit this use in the R1 General Residential zone.

Residential flat buildings are currently a permissible land use within Zone B1 Neighbourhood Centre in Bankstown LEP 2015 and this use will continue to be permissible under the forthcoming new consolidated Canterbury Bankstown LEP.

The Department's Practice Note 07-001, notes that development standards such as height and floor space ratio as well as other development controls should be used to influence the density and built form of particular types of development within a zone.

The proposed 9 metre and 11m height limits and 430 dwelling cap will provide adequate controls to control density across the site, such that this will likely dissuade the construction of the residential flat buildings, or at least limit them to 2 storeys such that this development will be of the same scale as other forms of proposed and permitted residential development.

A condition is recommended to update the planning proposal to delete the proposed provision to prohibit residential flat buildings as they are a mandated use in the R1 General Residential zone.

1.6.9 Draft Development Control Plan

The planning proposal indicates that a site-specific draft Development Control Plan (DCP) is an appropriate mechanism to provide more detailed development controls to support the LEP for a site of this scale.

A condition is recommended to amend the planning proposal to include a provision to prepare a site-specific Development Control Plan. The proposed provision should list the heads of consideration to be included in the draft DCP.

It is noted that the planning proposal contains drafted local clauses prepared by the proponent to assist in the explanation of provisions. The drafting of local provisions will be undertaken by the Parliamentary Counsel's Office (PCO) at finalisation and may be subject to change. A condition is recommended to include an advisory note that the proposed provisions in the planning proposal

have been drafted by the proponent and that any local clauses will be drafted by PCO at finalisation stage.

1.7 Mapping

The planning proposal seeks to amend the following maps under Bankstown LEP 2015:

- Land Zoning Map
- Height of Buildings Map
- Floor Space Ratio Map
- Minimum Lot Size Map
- Special Provisions Map.

The planning proposal includes maps demonstrating the proposed changes to the relevant maps listed above, which are suitable for community consultation.

Conditions are recommended to include proposed amendments to the Terrestrial Biodiversity Map and clarify if any land acquisition is required to satisfy Ministerial Direction 5.2 Reserving Land for Public Purposes.

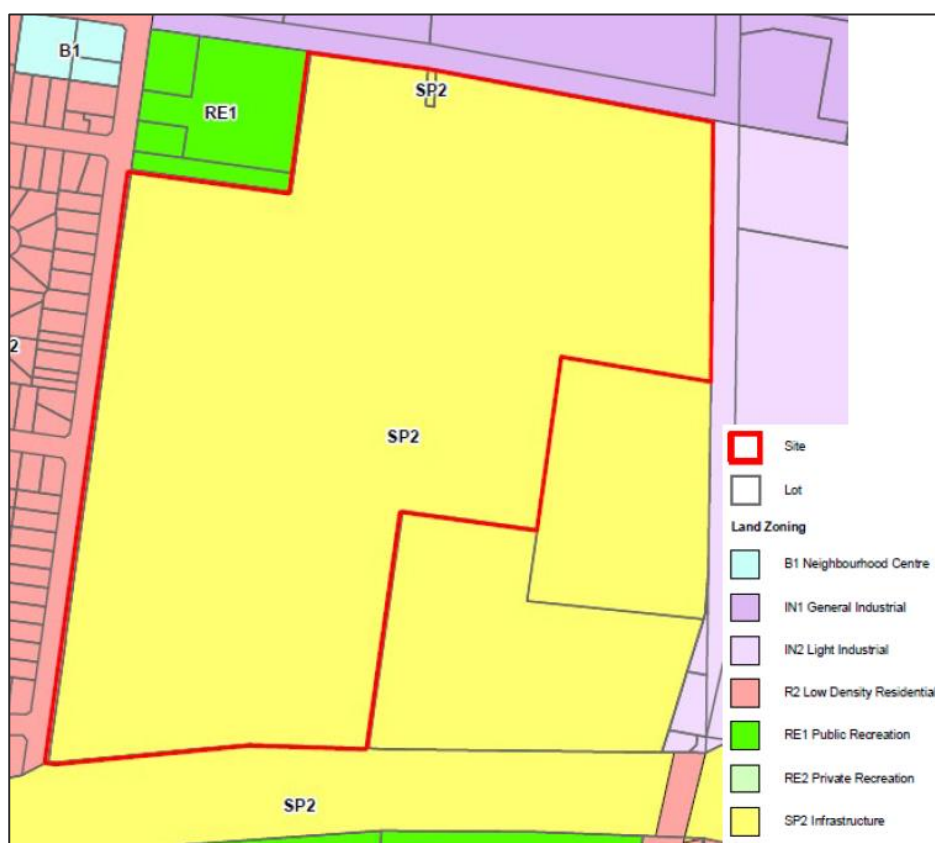


Figure 4: Current zoning map

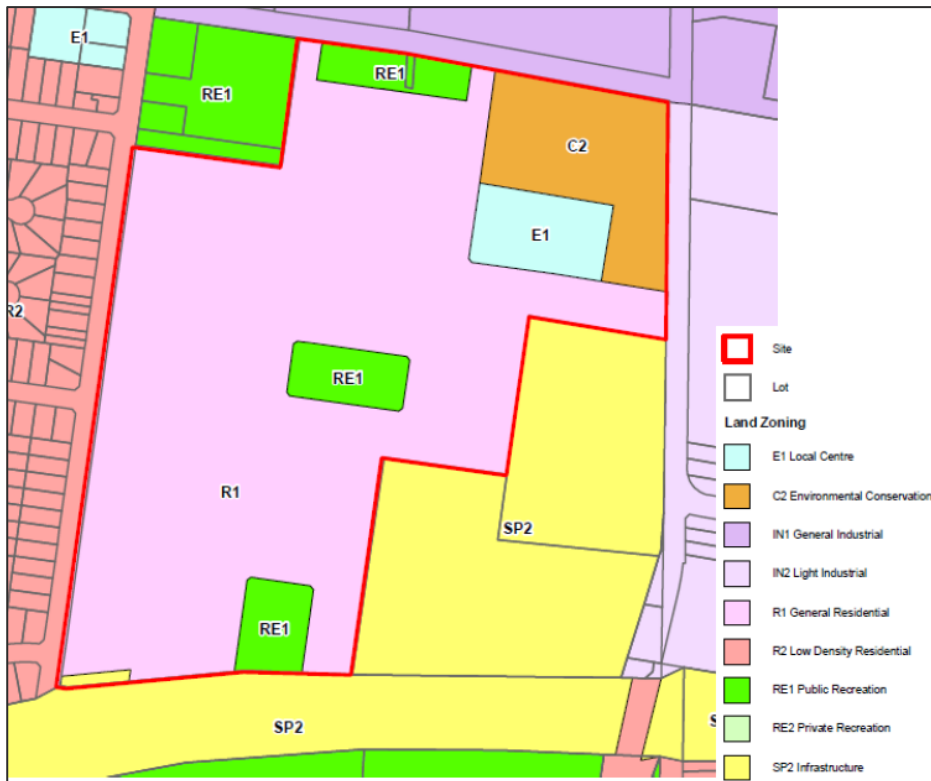


Figure 5: Proposed land zoning map

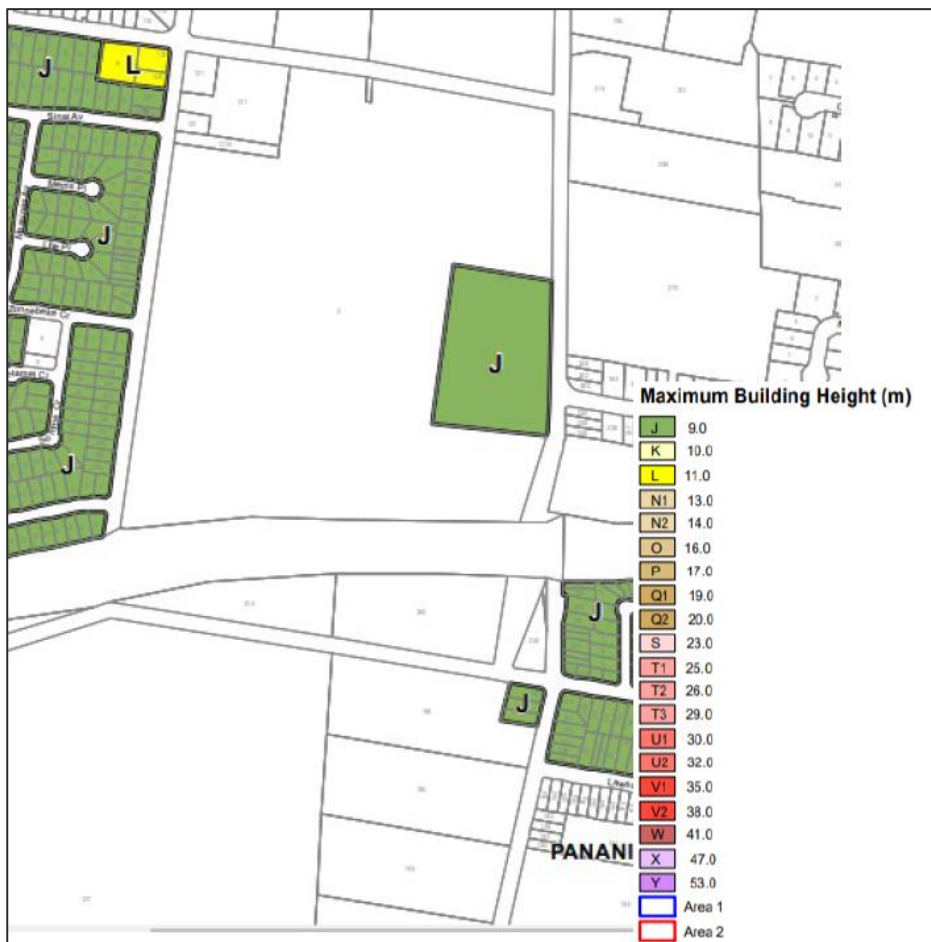


Figure 6: Current height of building map

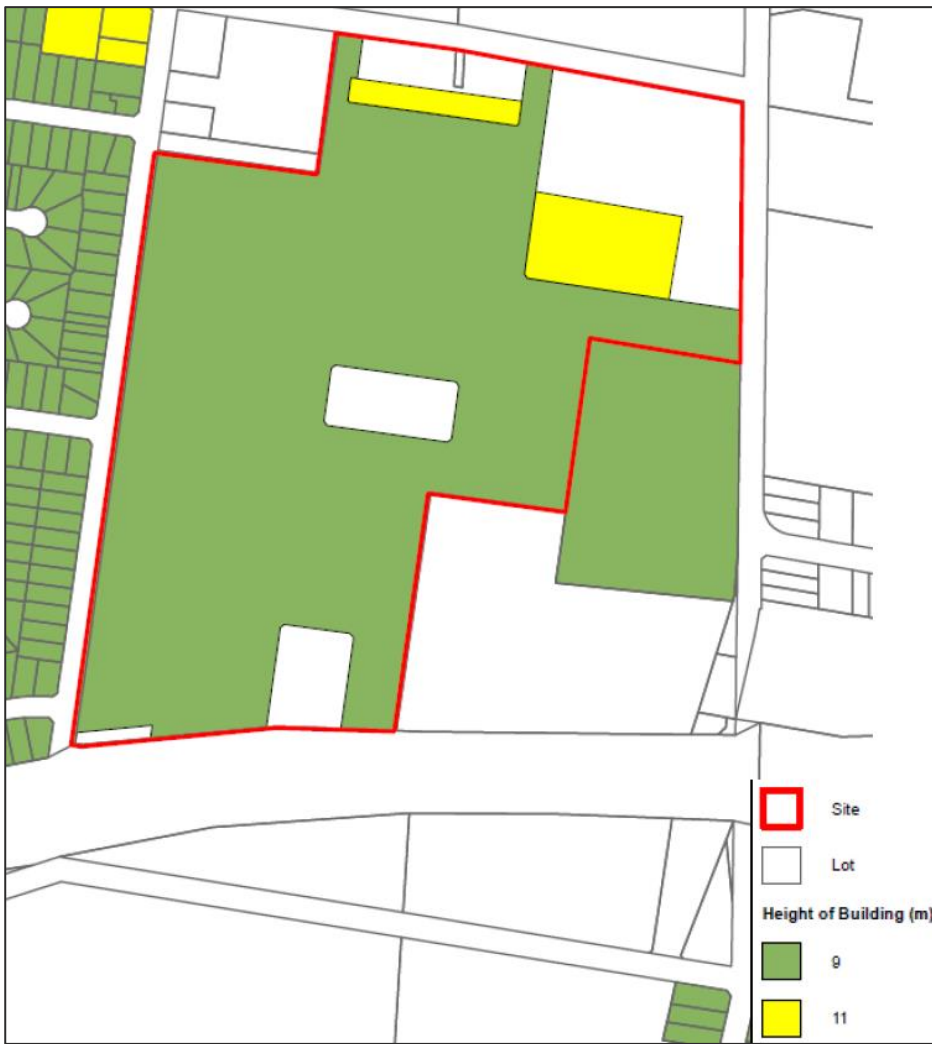


Figure 7: Proposed height of building map

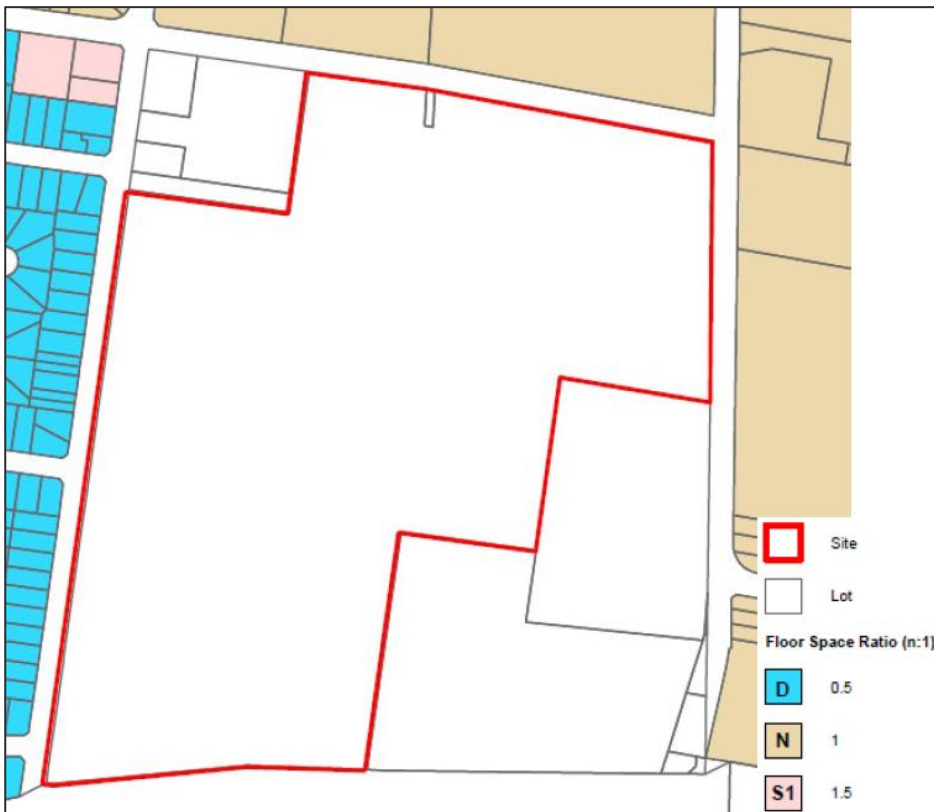


Figure 8: Current floor space ratio map

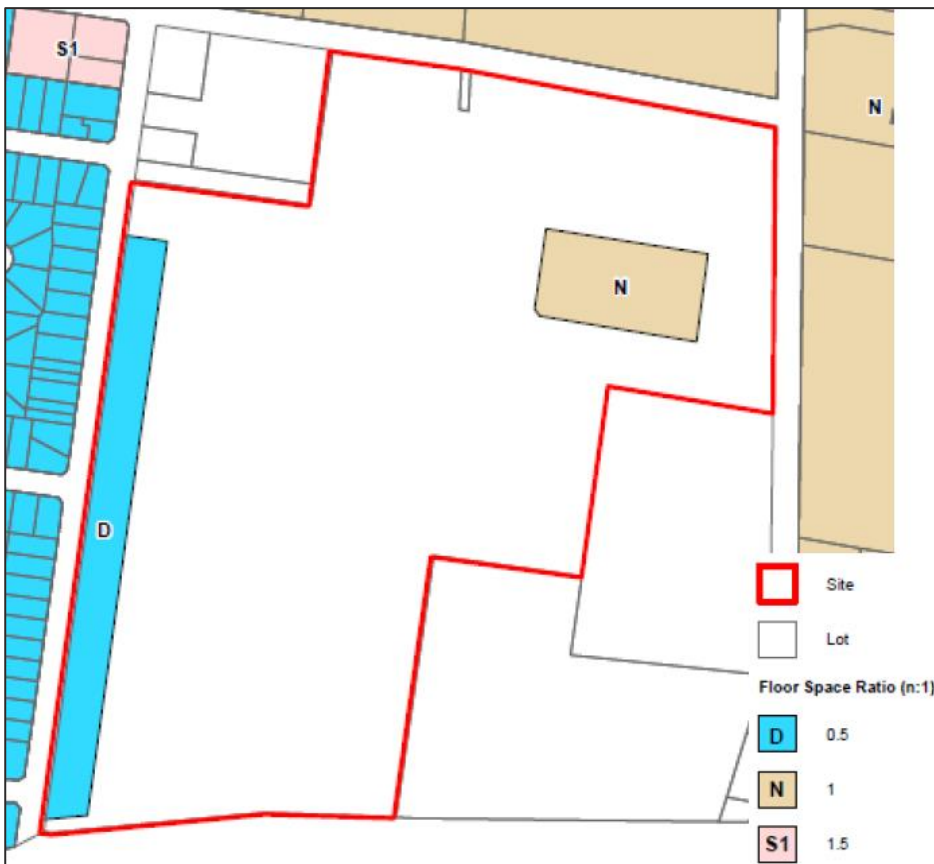


Figure 9: Proposed floor space ratio map



Figure 10: Current minimum lot size map

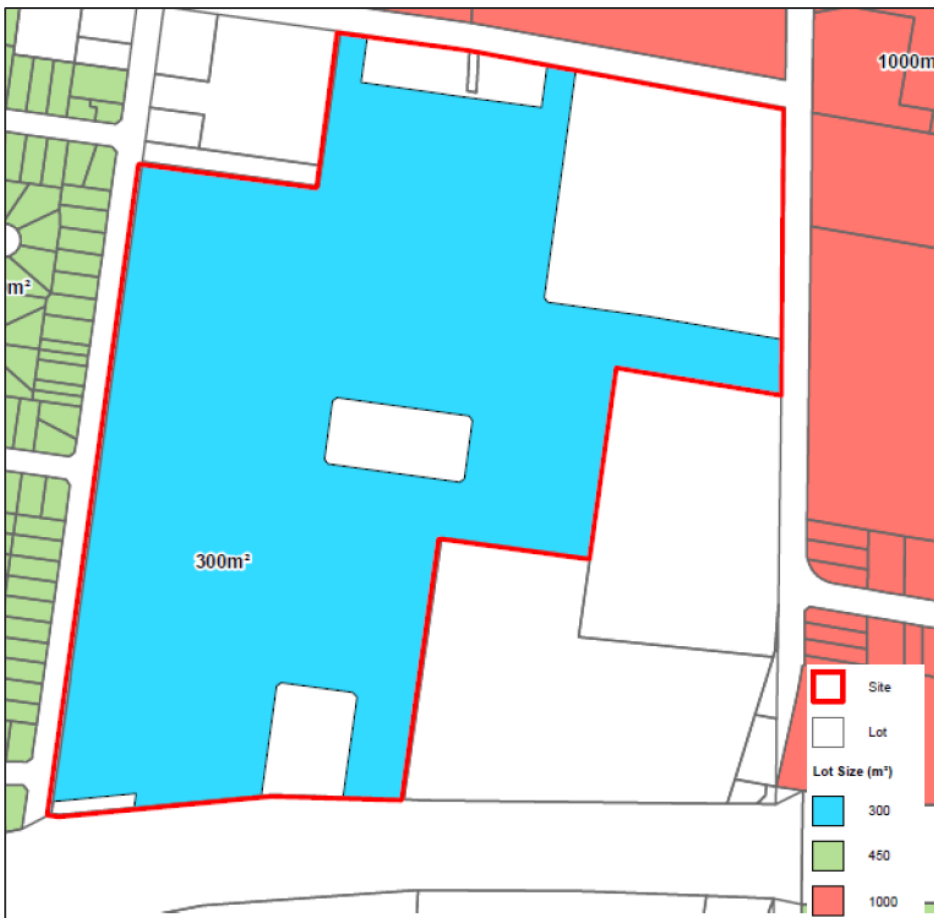


Figure 11: Proposed minimum lot size map

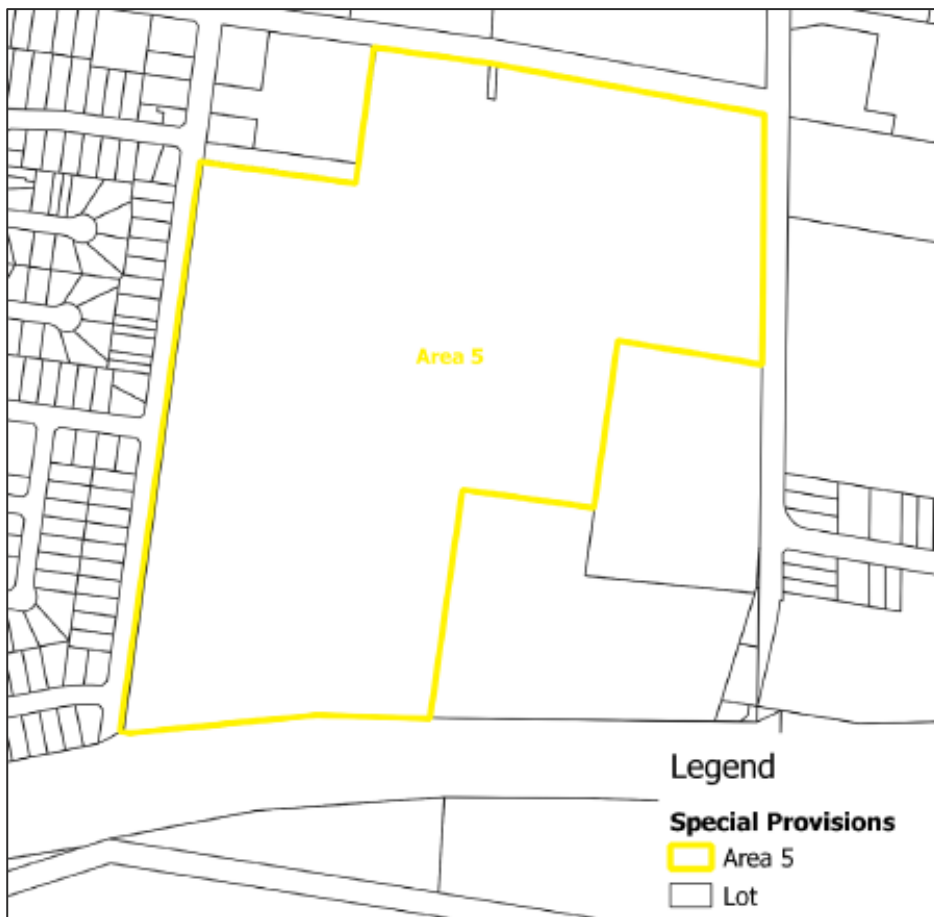


Figure 12: Proposed special provisions area map

2 Need for the planning proposal

The planning proposal states the planning proposal gives effect to Council's Local Strategic Planning Statement and Local Housing Strategy by:

- repurposing the Milperra campus following relocation of the university to Bankstown CBD
- contributing to housing supply and diversity close to existing local bus services
- creating new areas of open space to serve the recreational needs of the community
- establishing a new small neighbourhood centre that will provide jobs
- protecting, conserving and managing Endangered Ecological Communities
- providing better connectivity to adjoining communities by enabling movement through the site
- providing landscaped streets and limiting impermeable areas to address urban heat island effect
- limiting land use conflict with adjacent industrial and employment lands.

The planning proposal is the appropriate and best means to facilitate the intended outcome.

3 Strategic assessment

3.1 District Plan

The site is located within the South District and the Greater Sydney Commission released the South District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 7 District Plan assessment

District Plan Priorities	Assessment
<p>S3: Providing services and social infrastructure to meet people's changing needs</p> <p>S4: Fostering healthy, creative, culturally rich and socially connected communities</p>	<p>The proposal is consistent with this priority as it will provide a mixed-use neighbourhood with new public parks and a small commercial precinct. These areas are anticipated to provide community and retail uses which will enhance liveability and community health and wellbeing</p> <p>The WSU Milperra campus accommodated 8,166 students and 323 staff in 2016. The new WSU Bankstown campus will cater for 10,000 students and 700 staff. The relocation of educational uses within the LGA to a larger facility within a strategic centre, will ensure the tertiary education needs of the community are enhanced</p> <p>In accordance with the <i>Western Sydney Universities Act</i>, the Minister for Skills and Tertiary Education is required to provide consent to the disposal or sale of education land. This approval was provided in early 2020 in support of the relocating services to the new WSU vertical campus in Bankstown</p>
S5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The proposal is consistent with this priority as it will deliver 430 new residential dwellings, contributing to the 20-year housing target (2036) of 58,000 dwellings for the Canterbury-Bankstown LGA.</p> <p>A diverse range of housing types will be provided through the introduction of a new R1 General Residential zone and small lot housing controls. The site has access to local bus services that connect to local and strategic centres with jobs and services and will be supported by a new small commercial precinct (8,200m²), which will permit a range of employment generating land uses and enable retention of the existing child care centre.</p> <p>The proposal states that a letter of offer including an affordable housing monetary contribution is being considered by Council.</p>
S6: Creating and renewing great places and local centres, and respecting the District's heritage	<p>The proposal is consistent with this priority as it provides a mix of uses that provide spaces for the community to interact. The proposal will not impact the significance of the local heritage item at Ashford Avenue and Bullecourt Avenue.</p>
S8: Growing and investing in health and education precincts and Bankstown	<p>The site is located in the Bankstown CBD and Airport Collaboration Area. This priority focuses on implementing the Place Strategy for the collaboration</p>

District Plan Priorities	Assessment
Airport trade gateway as economic catalysts for the District	area. A discussion of the proposals consistency with the Place Strategy is provided at Section 3.2 of this report
S10: Retaining and managing industrial and urban services land	<p>This priority seeks to safeguard industrial and urban services land from encroachment of sensitive uses like residential which are impacted by noise, light and odours. These tensions have potential to restrict operation of existing industrial uses and thus have a negative impact on the productivity of Greater Sydney</p> <p>The site is located opposite Zone IN1 General Industrial to the north and Zone IN2 Light Industrial to the east. These areas form part of the Milperra Industrial Precinct</p> <p>The proposal utilises existing roads as a hard buffer to the industrial lands. Non-residential uses are proposed along the northern and eastern boundaries to provide a further buffer to the adjoining industrial zones.</p> <p>It is recommended that the planning proposal address noise impacts from industrial uses, and if there are significant impacts, how this may be mitigated by the future residential development.</p>
S12: Delivering integrated land use and transport planning and a 30-minute city	The proposal is consistent with this priority because the site promotes mixed use development, new connections to encourage walking and cycling and is located within a 30-minute bus trip of both the Bankstown and Liverpool CBD, which are both nominated as strategic centres and health and education precincts under the District Plan.
S14: Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes and better managing rural areas	<p>The proposal is consistent with this priority because the Cumberland Plain Woodlands, which is identified as a critically Endangered Ecological Community (EEC) under Commonwealth and State biodiversity legislation, will be protected and conserved through rezoning this portion of the site to Zone C2 Environmental Conservation. The proposal will also amend the Terrestrial Biodiversity Map to protect biodiversity.</p> <p>The proposed open space has been positioned to maximise tree retention on the site. Conditions are recommended to clarify tree retention, ongoing management and public access to the new Zone C2 Environmental Conservation and to provide details on the proposed changes to the Terrestrial Biodiversity Map.</p>
<p>S15: Increasing urban tree canopy cover and delivering Green Grid connections</p> <p>S16: Delivering high quality open space</p>	<p>The proposal is consistent with this priority because the new public open space at the southern end of the site supports the M5 Motorway Open Space Corridor Green Grid project.</p> <p>The proposal includes three new public open spaces comprising 15,000m² which is a 5% increase in existing greenspace within the site. A condition is</p>

District Plan Priorities	Assessment
	<p>recommended to clarify the mechanism for dedicating this land for a public purpose.</p> <p>The existing site contains vegetation that may be impacted by earthworks. A condition is recommended to clarify the scale of tree retention.</p> <p>A condition is also recommended to require a site-specific DCP to be prepared. This may include further controls for landscaping, tree canopy and pedestrian and cycle connections.</p>
S18: Adapting to the impacts of urban and natural hazards and climate change	<p>The proposal is consistent with this priority because it is supported by bushfire and flood studies that ensure that risks can be suitably mitigated. The proposed open spaces and environmental conservation area will maximise retention of existing trees and help mitigate heat island effect.</p>

3.2 Bankstown CBD and Bankstown Airport Collaboration Area Place Strategy (2019)

The Greater Sydney Region Plan identifies the Bankstown CBD as a strategic centre and a health and education precinct. Together with the Bankstown Airport and Milperra Industrial Area, these places anchor the Bankstown CBD and Bankstown Airport Collaboration Area. Greater Sydney Commission released the Bankstown CBD and Bankstown Airport Collaboration Area Place Strategy in December 2019.

The WSU Milperra Campus is identified as a ‘key place’ under the Place Strategy (**Figure 13**).

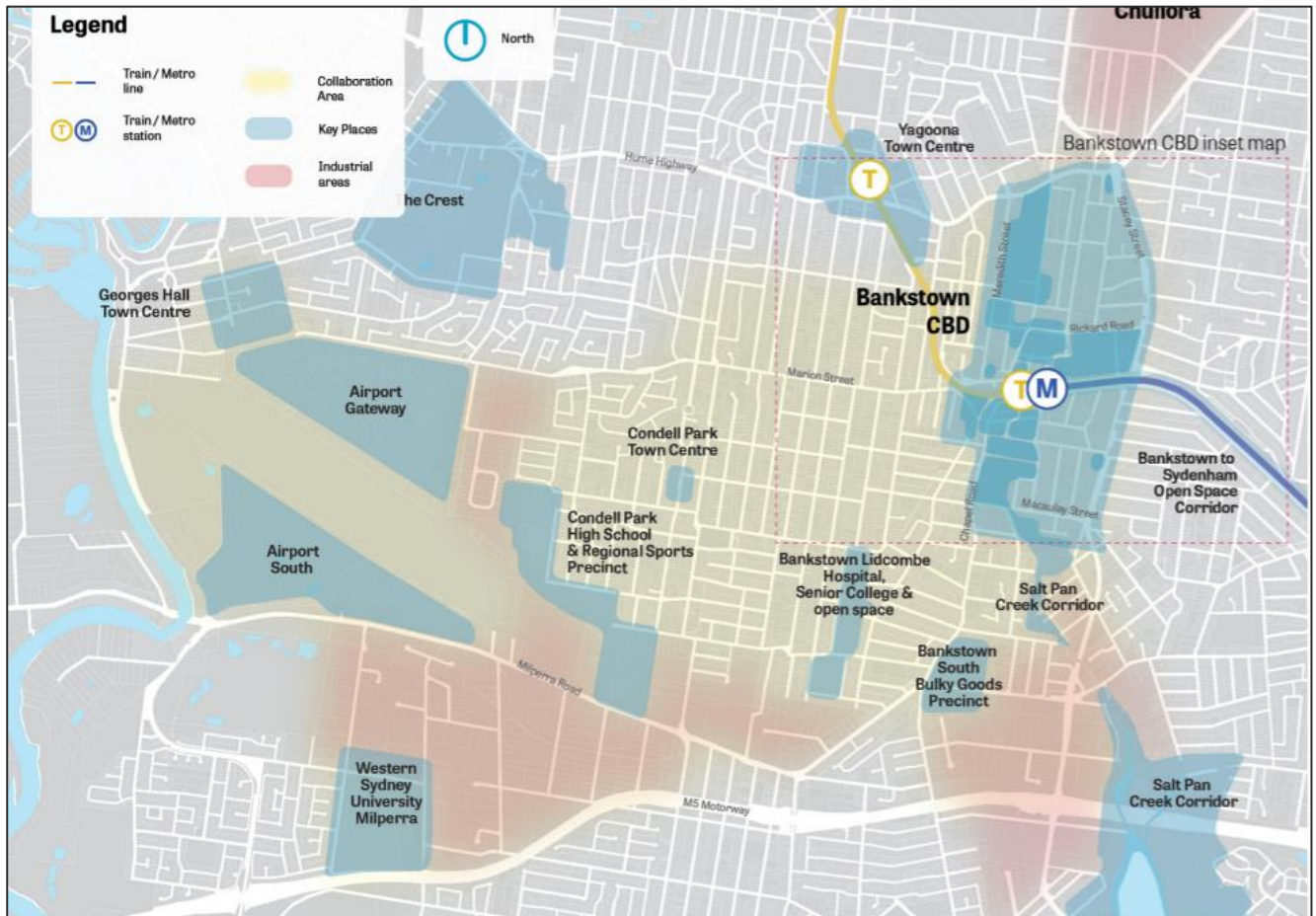


Figure 13: Collaboration area key places map (Source: Greater Sydney Commission, Collaboration Area Bankstown CBD and Bankstown Airport Place Strategy, December 2019)

The Place Strategy merely mentions the “*opportunity for the site to become an innovative and sustainable community whilst retaining a continued education presence*”, but only where this mentions future active transport improvements and the relocation of the campus to Bankstown CBD.

Specifically, the strategy only includes the following actions to be considered in relation to the site:

- future development must enhance permeability and walkability through Council controls.
- focus on demand for better public transport to the precinct.

The Department considers the proposal to be generally consistent with the vision for the site as the proposal has the capacity to improve accessibility and permeability.

3.3 Local Plans

3.3.1 Local Strategic Planning Statement

The Canterbury Bankstown Local Strategic Planning Statement (LSPS) was assured by the Greater Sydney Commission (GSC) in March 2020. The LSPS sets out a 20-year land use vision to guide land use planning for the LGA.

Table 8 provides an assessment of the subject proposal against the LSPS.

Table 8 LSPS assessment

LSPS Evolutions	Assessment
Evolution 1: Coordination, community, collaboration and context	<p>The site is located within the Bankstown CBD and Bankstown Airport collaboration area and is also part of the Bankstown Aviation and Technology Precinct. The Precinct is intended to create a hub for advanced manufacturing, smart transport and logistics, general aviation, and aviation training. The LSPS notes that the UWS site will be subject to a masterplan process to realise an appropriate future use based on its proximity to the Bankstown Aviation and Technology Precinct, the urban context and community consultation.</p> <p>The LSPS states that as <i>WSU transitions from its Milperra Campus, the site can be renewed to create an innovative and sustainable community area with open space, community facilities and infrastructure and potential new educational uses.</i></p> <p>The proposal is consistent with these priorities because the project will deliver a new community on the site. The south eastern part of the WSU campus site has been transferred to the adjoining catholic school to retain educational uses on the land, but is notably not part of the subject planning proposal, but will retain part of the UWS for ongoing educational uses.</p>
Evolution 2: Movement for commerce and place	<p>The proposal is consistent with these priorities as it has the capacity to improve the walking and cycling network and provide new connections to the new commercial centre and open spaces. The masterplan for the site needs revision to better include more detailed controls for street layout and design.</p>
Evolution 3: Places for commerce and jobs	<p>The proposal is consistent with these priorities as the site is serviced by public transport that provides access to nearby centres where jobs and services are available to support the community.</p> <p>The new commercial centre will also provide some additional jobs and cater for the day to day needs of the community</p>
Evolution 4: Blue web	<p>The proposal is consistent with these priorities as it is supported by a stormwater concept plan that addresses site drainage and water quality, however the masterplan layout is basic and needs improvement, which could better integrate the drainage into the urban design framework.</p> <p>A more detailed masterplan and a site specific DPC should include more detailed controls for stormwater management and water sensitive urban design.</p>

LSPS Evolutions	Assessment
Evolution 5: Green web	<p>The proposal is consistent with these priorities as it will protect Endangered Ecological Communities and deliver new open spaces.</p> <p>The proposal seeks to amend the Terrestrial Biodiversity Map to ensure areas of biodiversity significance are appropriately managed and contribute to enhancing Council's green web. The extent of tree removal and retention is unclear and whether the proposal achieves the 40% tree canopy target in the LSPS.</p> <p>Conditions are recommended to clarify tree removal, retention and replacement planting and define the area to be included on the Terrestrial Biodiversity Map.</p> <p>It is unclear also what the purposes of the new open space are for the site and how these will support future and existing residents. This needs to be addressed more clearly before the planning proposal is exhibited.</p>
Evolution 6: Urban and suburban places, housing the city	<p>The LSPS targets delivery of 50,000 dwellings to 2036 with 80% of residential growth in centres and 20% of growth within existing suburban areas.</p> <p>The proposal is consistent with these priorities as the site offers a unique opportunity to create a large in-fill development in an existing urban area. While the proposal intends to allow for a mix of low to medium density housing will be provided on the, there is lack of clarity on what this may look like. Hence the proposal has the potential to provide reasonable housing choice, but this aspect and the layout for the site needs to be improved.</p> <p>The character of the suburban area will be maintained through a 2-3 storey building height limit across the site.</p> <p>The proposal is supported by a letter of offer for contribution towards affordable housing as well as other infrastructure required to support the proposed growth. A condition is recommended to further consider affordable housing, noting that council is now proceeding with its Affordable Housing Contributions Scheme.</p>
Evolution 8: Design quality	<p>The site's attributes present the ideal opportunity to implement best practice urban design outcomes for the site and its integration with its surrounds.</p> <p>In particular, key opportunities are that the size of the site is large, has good access to three street frontages, and includes a large number of mature existing trees.</p> <p>However, on review of the proposed masterplan accompanying the proposal, the internal layout has poor wayfinding, encourages uniform housing types (ie. large lot housing) and doesn't integrate the site's key assets (ie. the existing trees other than for the EEC area). Also, the proposed masterplan has notably fragmented the site's existing oval into three separate parks and hasn't sought to retain the existing oval, which could provide a key asset for the community and allow for more versatile open space uses.</p> <p>The masterplan also turns it back to the existing hockey field to the north west of the site.</p>

LSPS Evolutions	Assessment
	<p>The proposed masterplan also hives off the EEC land and hasn't addressed how this land will be provide a key benefit to the community as passive open space or how this will integrate with future open space or community.</p> <p>The proposed street network could have looked to have better and integrated access to Flanders Avenue and Zonnebeke Crescent.</p> <p>There is suggestion of future connections to the existing and new pedestrian extension for the adjoining Catholic school, however this is not clear. This connection would be facilitated by the layout for the site's development.</p> <p>It is also unclear how the part of the site for the retained early learning centre will also accommodate proposed restaurants, shops and businesses without impacting on the existing EEC.</p> <p>In this regard more details on the logic of the proposed masterplan, addressing these above matters, that demonstrates best practice good urban design outcomes is warranted. Further, the proposed site specific DCP is also required to support good urban design outcomes for the change of use to residential.</p>
Evolution 9: Sustainable and resilient places	The LSPS seeks to increase tree canopy cover, reduce emissions and manage resources more efficiently. A condition is recommended to clarify tree retention. The required revised masterplan and a site specific draft DCP should help address this further to deliver sustainability priorities.
Evolution 10: Governance and funding	The proposal is consistent with this priority as a letter of offer supports the planning proposal to ensure infrastructure is aligned with growth

3.3.2 Local Housing Strategy

Canterbury Bankstown Council's Local Housing Strategy (LHS) was approved by the Department on 25 June 2021, subject to Council satisfying certain requirements in the Approval and advisory notes. The LHS contains 10 principles which seek to guide the delivery of 50,000 dwellings in the local government area to 2036. Table 9 provides an assessment of the proposal against the LHS.

Table 9 Local Housing Strategy assessment

Principle	Assessment
Land use zoning needs to allow for the delivery of new dwellings to meet housing demand	The proposal is consistent with this principle as it will contribute towards Council's housing target
New housing should be located in walking distance to centres, open space and places of high amenity	The proposal is consistent with this principle as it incorporates a new commercial centre and public open spaces that will provide amenity and services for the local community. Consideration needs to be given to assuring that adequate bus services to and from the site are also retained.

Principle	Assessment
New housing will need to provide a variety of dwelling types, sizes and price points to meet the needs of a diverse and ageing population	<p>The proposal seeks to provide a variety of housing types and sizes, supported by the variations to minimum lot size controls which seek to deliver housing that responds to the needs of the population (semi-detached, attached, dual occupancies, multi-dwelling housing and dwellings).</p> <p>Despite this it is unclear what these housing products will be best located and how and why there is a 430 dwelling cap applied to the site, which could encourage development of large lot housing only.</p>
More affordable housing is necessary to support the community and reduce housing stress	<p>The proposal is consistent with this principle as the proponent has made a letter of offer to Council which includes a monetary contribution towards affordable housing</p> <p>A condition is recommended for further consideration of this matter prior to finalisation</p>
The suburban neighbourhoods are important to the character of the City and provide low density housing to meet the needs of growing families and larger households	<p>The proposal is consistent with this principle as the proposed built form will be low scale (2-3 storeys) with special density controls along the Ashford Avenue interface to ensure appropriate integration with the character of the adjoining established residential neighbourhood. The proposed mix of dwelling types responds to the demographic needs of the LGA</p>

The LHS identifies that Zone R1 General Residential is an optional zone that Council could utilise to provide a broad range of housing options in areas that are undergoing transition. The proposal introduces the new zone to deliver greater housing diversity on the site, this is consistent with the intent of the LHS.

The proposal seeks a 'nil yield' for residential flat buildings. However, as outlined in section 1.6.8, it is not possible to prohibit a use that is permissible in the land use table.

A condition is recommended to update the proposal to delete the nil yield for residential flat buildings and to address the Department's Approval and advisory notes on the strategy which do not support downzoning land from R3 to R2 due to the need for medium-density housing (which is included in the proponent's justification for rezoning the land to Zone R1).

3.3.3 Affordable Housing Strategy

Canterbury Bankstown Council's Affordable Housing Strategy was endorsed by Council in June 2021. The strategy has not been reviewed or endorsed by the Department.

The Affordable Housing Strategy seeks to increase the supply of affordable housing and locate it near established centres to provide access to transport, jobs and services.

The Affordable Housing Strategy commits to a 5% affordable housing contribution for proposals resulting in uplift of more than 1,000sqm residential floorspace, unless otherwise agreed by Council.

The draft LEP will result in additional GFA for residential uses. The proponent has submitted a letter of offer to Council for a monetary contribution (equivalent to 5% of the housing yield) towards affordable housing.

A condition is recommended for further consideration of consistency with the Affordable Housing Strategy ~~prior to finalisation.~~

3.3.4 Employment Lands Strategy

Canterbury Bankstown Council's Employment Strategy was endorsed by Council in June 2021. The strategy has not been reviewed or endorsed by the Department.

The strategy seeks to support the growth of local and small village centres and to locate housing growth to support the growing retail catchments.

The Employment Lands Strategy identifies that the Bankstown Airport-Milperra is a significant employment area for the LGA. The Milperra industrial area is identified as one of the most important centres of economic activity in the South District. The strategy seeks to retain and strengthen the precinct.

The interface with residential land uses is identified as a constraint for the precinct. The proposal seeks to manage land use conflict by:

- siting non-residential uses at the zone interface to provide additional separation to new residential uses (this is in addition to the existing roads and the school that provides a buffer to the east and Milperra Reserve that provides a buffer to the north)
- implementing acoustic mitigation measures at DA stage to minimise noise impacts from the industrial uses and the M5 motorway.

The proposal includes a new 8,200m² neighbourhood centre. The proponent states that the new centre will not compete with nearby commercial centres and will serve the day to day needs of residents and the adjoining industrial lands.

The intent to provide low-scale commercial uses as part of a mixed use development is generally supported, however the proposed scale (8,200m²) is comparable to larger local centres in the LGA. A condition for Gateway is recommended that the proposal reviews the suitability of the proposed location and viability of the new local centre.

Additionally, it is noted that the proposed residential uses will be in proximity to existing industrial uses in the Milperra Industrial precinct, which may generate noise impacts to the new residential proposed for the site. In this regard it is recommended that the planning proposal address what noise impacts may be experienced on the subject proposal site from industrial uses, and if there are significant impacts how this may be mitigated by the future residential development.

3.4 Planning Proposal Authority recommendation

3.4.1 Canterbury Bankstown Local Planning Panel

On 7 July 2021, the planning proposal was reported to the Canterbury Bankstown Local Planning Panel (LPP). The LPP made the following recommendations:

1. *The application to amend the draft Canterbury Bankstown Local Environmental Plan proceed to Gateway subject to:*
 - (a) *Inclusion of a Floor Space Ratio control for all R1 zoned residential land, consistent with Council's policy approach throughout the rest of the Local Government Area. This may be a scaled control to allow more density for dwellings on smaller lots and may impose an overall floor space density cap for the site. This is to be resolved prior to reporting this application to Council.*
 - (b) *Prior to public exhibition occurring the following additional information is submitted by the applicant:*
 - i. *Additional flooding and stormwater related information to confirm:*
 - a. *Consistency with the State-led Flood Prone Land planning changes effective from 14 July 2021.*

- b. *The minimum floor levels of future development required to address 1 in 100 year and Probable Maximum Flood events on the site.*
 - c. *Details of the types of stormwater treatment measures.*
 - d. *Calculations of the stormwater detention requirements and to clarify post-development stormwater discharge rates.*
- ii. *Further arboricultural assessment to confirm trees to be retained based on the revised site structure plan. This may inform additional street tree planting and canopy cover in the draft DCP.*
 - iii. *Further ecological analysis to confirm the extent and location of ecologically significant land on the site and that the draft CBLEP 2021 Terrestrial Biodiversity Map be amended accordingly.*
 - iv. *An updated Remediation Action Plan to include additional testing and development of the recommended remediation strategy and a Site Audit Statement that verifies the Remediation Action Plan methodology and data, is to be provided to Council.*
2. *Council prepare a site specific DCP Amendment as outlined in Section 4 of the council officers report, and exhibit the DCP Amendment concurrently with the Planning Proposal, subject to the following:*
 - i. *The road reserves being 18m wide for local roads, 17.2m for minor local roads, and 8.5m for laneways as outlined in Section 4.9 of this report.*
 - ii. *Further solar access modelling on smaller lots to confirm that private open space and living areas receive suitable sunlight.*
 - iii. *Further information being provided by the applicant in relation to how the proposal will respond to the change in levels across the site, as well as the likely approach to any cut and fill, with a view to minimise loss of trees*
 - iv. *Addressing the comments above about integrating the new area with the existing and the street naming.*
3. *A planning agreement be prepared and exhibited alongside the Planning Proposal, subject to the following:*
 - i. *Agreement being reached by the applicant and Council on the affordable housing monetary contribution and other issues prior to the matter being considered by Council.*
 - ii. *Development contributions under s7.11 and s7.12 being payable in addition to any public benefit offer, consistent with Council's Planning Agreement Policy.*
 - iii. *Undergrounding powerlines along Ashford Avenue being added, subject to any relevant Ausgrid approval*
 - iv. *Construction of a footpath and landscaping along the eastern side of Ashford Avenue being added*
 - v. *Council consider asking the applicant to contribute to cycleway connections to Panania Station.*
4. *The applicant updating the supporting studies prior to exhibition to reflect the amendments to the Planning Proposal to check that any changes since the previous reports are not inconsistent with previous suggestions or recommendations etc*
5. *The applicant and council to provide the Department as part of the request for gateway determination with an indication of who will own the Cumberland Plain EEC area and how it will be preserved and managed.*

6. Council seek authority from the Department of Planning, Infrastructure and Environment to exercise the delegation in relation to the plan making functions under Section 3.36(2) of the Environmental Planning and Assessment Act 1979.

3.4.2 Council Meeting – 24 August 2021

On 24 August 2021, Canterbury Bankstown Council considered a report from Council officers which recommended:

1. *The report be noted.*
2. *The application to amend the draft Canterbury Bankstown Local Environmental Plan 2021 proceed to Gateway subject to:*
 - (a) *A Floor Space Ratio (FSR) control being applied to all R1 General Residential zoned land on the site as outlined in this report.*
3. *Prior to public exhibition, the following additional information is submitted by the applicant:*
 - i. *Additional flooding and stormwater related information to confirm:*
 - a. *Consistency with the State-led Flood Prone Land planning changes introduced on 14 July 2021.*
 - b. *The minimum floor levels of future development required to address 1 in 100 year and Probable Maximum Flood events on the site.*
 - c. *Details of the types of stormwater treatment measures.*
 - d. *Calculations of the stormwater detention requirements and to clarify post-development stormwater discharge rates.*
 - ii. *Further arboricultural assessment to confirm trees able to be retained based on the revised site structure plan. This may inform additional street tree planting and canopy cover in the draft DCP.*
 - iii. *Further ecological analysis to confirm the extent and location of ecologically significant land on the site and that the draft CBLEP 2021 Terrestrial Biodiversity Map be amended accordingly.*
 - iv. *An updated Remediation Action Plan to include additional testing, preparation of a remediation strategy and a Site Audit Statement that verifies the Remediation Action Plan methodology and data.*
 - v. *Further information in relation to how the proposal will respond to the change in levels across the site, as well as the likely approach to any cut and fill, with a view to minimise loss of trees.*
4. *Council prepare a DCP Amendment to address all relevant planning matters as outlined in this report and that it be exhibited concurrently with the Planning Proposal, subject to the following:*
 - (a) *Council working with the applicant to reach agreement on the affordable housing monetary contribution and other issues as outlined in this report.*
 - (b) *Development contributions under s7.11 and s7.12 being payable in addition to any public benefit offer, consistent with Council's Planning Agreement Policy.*
 - (c) *Undergrounding powerlines along Ashford Avenue being added, subject to any relevant Ausgrid approval.*
 - (d) *Construction of a footpath and landscaping along the eastern side of Ashford Avenue being added.*

- (e) *The applicant considering a contribution toward cycleway connections to Panania Station to promote the use active and public transport for future residents and the broader Milperra community.*
5. *The applicant updating the supporting studies prior to exhibition to reflect the amendments to the Planning Proposal.*
 6. *Subject to the issue of a Gateway Determination, Council exhibit the Planning Proposal, draft site specific DCP and draft Planning Agreement and the matter be reported to Council following the exhibition.*
 7. *Council seek authority from the Department of Planning, Industry and Environment to exercise its delegation in relation to the plan making functions under Section 3.36(2) of the Environmental Planning and Assessment Act 1979.*

Council resolved that:

1. *The report be noted*
2. *The proposal does not proceed to Gateway determination*
3. *Council advise the Department of Planning, Industry and Environment accordingly*

3.4.3 Sydney South Planning Panel (PPA)

On 10 December 2021, the Sydney South Planning Panel determined that the proposal should be submitted to the Department for a Gateway determination as the proposal demonstrated strategic and site-specific merit. The decision identified a number of issues be considered as part of the Gateway assessment. A summary of these issues and the Department's response is outlined in **Table 10**.

Table 10 Rezoning review decision considerations and responses

Matter for consideration in Gateway assessment raised by Panel	Department's Response
Further traffic modelling	<p>Council's traffic engineers reviewed the proposal in addition to obtaining an independent review which recommends additional traffic survey data to confirm traffic movement earlier than 5.15-6.15pm and to include Mr St Joseph School afternoon peak pick up</p> <p>The Department considers that the additional modelling can be undertaken at DA stage as there is potential to amend the site layout and road design given the size of the site and the proposed approach to including roads in Zone R1 (refer to Section 4.1.6)</p>
A revised Remedial Action Plan	The proponent has indicated that a Remedial Action Plan is being prepared. A condition is recommended to provide a Remedial Action Plan and Site Audit Statement
Additional flooding and stormwater information to ensure FFLs meet 1:100 flood levels and address site planning implications	A condition is recommended to provide further information on flooding

Matter for consideration in Gateway assessment raised by Panel	Department's Response
Minimisation of cut and fill, with a view to respect existing topography and maximise tree retention	The proponent has indicated that a cut and fill assessment is being prepared and will inform additional arboricultural, bushfire and flooding assessment. A condition of the Gateway is recommended to provide details on the cut and fill having regard to topography, tree retention and flooding, and eventual urban design outcomes.
Street and lot layout to be modified to maximise tree retention and accommodate tree growth updated Arborist report to minimise tree loss, determine additional trees to be retained and planted and to maximise urban greening and management of heat island impacts	The location of the open space areas were modified during the pre-lodgement stage to maximise tree retention. The arborist report and bushfire assessments do not address the proposed land use zoning plan. Conditions are recommended that the arborist and bushfire assessments be updated to address tree retention based on the proposed land use zoning plan
Further ecological assessment to recommend extent of biodiversity mapping	A condition is recommended to require additional ecological analysis to determine the extent of ecologically significant land and to inform amendments to the Terrestrial Biodiversity Map prior to exhibition
Pedestrian links from Ashford Avenue to central park to be confirmed	This is a detailed design matter that is best considered in the DCP. The indicative concept scheme shows a local road connecting Ashford Avenue to central park. A condition is recommended to include a provision to prepare a DCP
Resolution of ownership and management of Cumberland Plain Woodlands and associated APZs	The proponent has indicated that the ownership and management of the Zone C1 is subject to ongoing discussions with Council. A condition is recommended to clarify ongoing management of the C2 zoned land
Proposed E2 zone to be C2 Environmental Conservation zone	Addressed in the updated planning proposal
430 dwelling cap in LEP clause	Addressed in the updated planning proposal
Sliding scale approach to FSR in LEP clause	The updated planning proposal indicates intent to include an FSR sliding scale but does not include the proposed sliding scale. A condition is recommended to include an FSR sliding scale and provide supporting urban design testing
The planning proposal is to be exhibited alongside a site specific DCP and landscape masterplan	A condition is recommended to amend the planning proposal to include a provision in the LEP to prepare a site-specific Development Control Plan (DCP) prior to development on the site. The planning proposal should list the heads of consideration to be included in the DCP.
The planning proposal is to be exhibited alongside a Voluntary Planning	The proposal is subject to ongoing Voluntary Planning Agreement negotiations between Council and the proponent. The proponent has indicated intent to offer a monetary

Matter for consideration in Gateway assessment raised by Panel	Department's Response
Agreement (including affordable housing contribution and developer contributions)	<p>contribution for affordable housing and dedication of roads and parks to Council (as opposed to acquisition)</p> <p>A condition is recommended to confirm the mechanism for the Zone RE1 to be used for a public purpose prior to finalisation</p>


3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 11 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	The proposal is consistent with this direction as it gives effect to the Region Plan
1.4 Site Specific Provisions	Inconsistent, minor significance	<p>This direction seeks to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The proposal seeks to include several site-specific controls including:</p> <ul style="list-style-type: none"> • a maximum dwelling cap of 430 dwellings • variations to the minimum lot size • nil yield of residential flat buildings • FSR sliding scale. <p>The proposed site-specific provisions is supported, with the exception of the 'nil yield of residential flat buildings' which is to be deleted via a condition.</p> <p>The remaining site-specific provisions will manage density and provide certainty about the scale of development across this large site whilst ensuring a level of flexibility in relation to how the development will be delivered. This provides opportunity to respond to constraints and issues that arise at DA stage.</p> <p>While the proposal is inconsistent with this direction this inconsistency is considered to be of minor significance due to the intention to provide a more prescribed development outcome for the site.</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Inconsistent, condition recommended	<p>The direction seeks to protect and conserve environmentally sensitive areas.</p> <p>The site contains a critically Endangered Ecological Community (EEC). The north eastern corner of the site is home to Cumberland Plain Woodlands and it is proposed to rezone this portion of the site to Zone C2 Environmental Conservation to ensure the ongoing protection of the vegetation.</p> <p>The proposal will involve removal of Cumberland Plain Woodlands elsewhere on the site and proposes biodiversity offsetting. The extent of tree removal and offsetting is unclear.</p> <p>The proposal seeks to amend the Terrestrial Biodiversity Map to include areas of terrestrial and aquatic biodiversity but the proposed changes are not supported by a proposed map or study.</p> <p>The proposal is inconsistent with this direction and a condition is recommended to update the Ecological Assessment to clarify the extent of biodiversity impacts and include the proposed Terrestrial Biodiversity Map that addresses consistency with Ministerial Direction 3.1.</p> <p>Additionally, clarity is required for who will be responsible for the management of this land.</p>
3.2 Heritage Conservation	Consistent	<p>The direction seeks to conserve items, areas, objects and places of environmental heritage significance.</p> <p>The proposal does not seek to amend any heritage listings or provisions. The site does not contain any heritage items and it not located in a heritage conservation Area. However, the site is bordered by Bullecourt Avenue to the north and Ashford Avenue to the east which are part of a local heritage</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
		<p>item, being 'Milperra. Soldier Settlement (former)' (Item I182) under Schedule 5 Environmental Heritage of the Bankstown LEP 2015.</p>  <p>Figure 14: Heritage map (Source: Bankstown LEP 2015)</p> <p>The proposal is supported by a Heritage Impact Assessment which concludes that the proposal does not affect the alignment of the adjoining heritage listed roads. The proposed heights and densities and site layout (which includes larger lots fronting Ashford Avenue and open space fronting Bullecourt Avenue) will ensure the proposal does not adversely affect the adjoining heritage item.</p> <p>The supporting site specific DCP may include further requirements for built form to ensure development responds to the heritage items.</p> <p>The heritage assessment notes that due to the highly disturbed nature of the site, it is unlikely that any Aboriginal objects or archaeological finds will be uncovered.</p> <p>The proposal is consistent with this direction.</p>
4.1 Flooding	Inconsistent, conditions recommended	<p>This direction seeks to ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and principles of the <i>Floodplain Development Manual 2005</i>. It also seeks to ensure LEP provisions that apply to flood prone land that are commensurate with the flood behaviour and consider the potential impacts on and off the land.</p> <p>This direction applies as the proposal seeks to alter zoning and development standards that apply to the flood prone land.</p> <p>The northern portion of the site is subject to Council's Milperra Catchment Flood Study (2015), whilst the southern portion of the site is within the study area of the Kelso Swamp Flood Study (2009). Both flood studies identify parts of the site as being subject to some level of flooding risk and are</p>

subject to Council's Mid Georges River Floodplain Risk Management Plan (2017).

The flood studies identify that the southern portion of the site is impacted by a low level of riverine flooding risk, with medium stormwater flooding risk located throughout, with primary flooding risk occurring around the existing southern playing field.

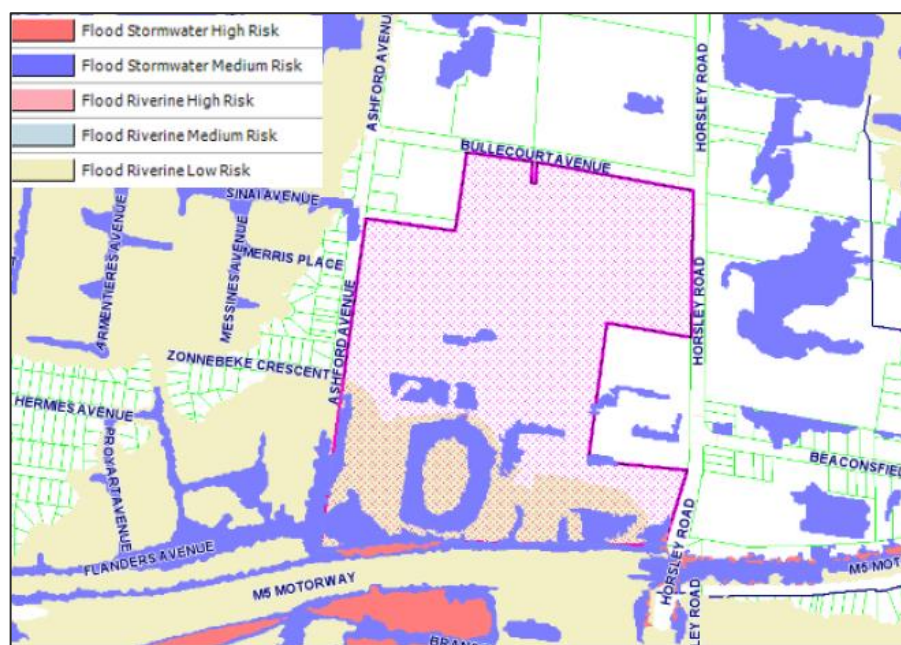


Figure 15: Council's flood prone land mapping (Source: LPP Report, 2021)

Council's Development Control Plan defines the flood risk precincts as follows:

- **medium flood risk precinct:** land below the 100-year flood that is not subject to high hydraulic hazard and where there are no significant evacuation difficulties
- **low flood risk precinct:** all other land within the floodplain (within the extent of probable maximum flood) but not identified within the high or medium risk precincts.

The proposal is inconsistent with this direction as it seeks to:

- rezone medium and low risk flood prone land from Zone SP2 Infrastructure (Educational Establishment) to Zone R1 General Residential
- significantly increase the development and dwelling density of the medium and low risk flood prone land
- permit sensitive land uses on medium and low risk flood prone land via rezoning from SP2 to R1 without addressing evacuation (centre-based child care facilities, hostels, respite day care centres and seniors housing which are mandated uses in the R1 zone).

A proposal may be inconsistent with the terms of the direction if the planning proposal authority is satisfied that the proposal is supported by a flood and risk impact assessment prepared in accordance with the *Floodplain Development Manual 2005*.

The proposal is supported by a Stormwater Concept Plan. The plan does not include address the *Floodplain Development Manual 2005*.

It is noted that the plan identifies the following mitigation measures:

- provision of a 6,100m³ stormwater detention basins connected to an underground stormwater drainage system collecting runoff from streets
- bio-retention areas of 1,150m²
- regrade the southern end of the site to reduce the flood affectation in that area and direct overland flow into future detention basis to be constructed
- ensure all development on the site is located above the Flood Planning Level (FPL), being the 1 in 100 year flood event plus 500mm freeboard.

Two of the proposed stormwater detention basins are located in the proposed Zone RE1 Public Recreation with surface areas that cover the majority of the open space. The site slopes down towards the south from 23m AHD to 5m AHD. A grading plan has been prepared to manage overland flows within and outside the site. The impact of the grading and construction of detention basins on the useability of the open space, tree retention and biodiversity are unclear.

Council previously noted the following additional information is required:


- consistency with the State-led Flood Prone Land planning changes introduced on 14 July 2021
- the minimum floor levels of future development required to address 1 in 100 year and Probable Maximum Flood events on the site
- details of the types of stormwater treatment measures
- calculations of the stormwater detention requirements and to clarify post-development stormwater discharge rates.

The Panel acknowledged the issues raised in the Council report and noted the need for:

- additional flooding and stormwater information to ensure FFLs meet 1:100 flood levels and address site planning implications

The proposal is inconsistent with this direction and a condition is recommended for a Flood and Risk Impact Assessment to be prepared in accordance with the *Floodplain Development Manual 2005* addressing the inconsistency with this direction. The assessment should have consideration to, but is not limited to the following:

- the Floodplain Development Manual 2005 and the Department's Considering Flooding in Land Use Planning Guideline (July 2021)
- Council's Milperra Catchment Flood Study (2015), Kelso Swamp Flood Study (2009) and Mid Georges River Floodplain Risk Management Plan (2017)
- intensification of land uses on in the southern part of the site which is flood affected
- flood impacts to other properties

Directions	Consistency	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> evacuation of the site, having regard to the proposed childcare facility minimum floor levels of future development required to address the 1 in 100 year and Probably Maximum Flood events on the site calculations of the stormwater detention requirements and post-development stormwater discharge rates. <p>A condition is also recommended to update the planning proposal prior to exhibition to clarify the extent of cut and fill (grading and detention basins) required to meet flood requirements on the useability of the proposed public open space and provide updated arboricultural and biodiversity studies that address the impacts of these flood mitigation works on tree retention and biodiversity.</p>
4.2 Coastal Management	Inconsistent, minor significance	<p>This direction seeks to protect and manage the coastal areas of NSW.</p> <p>This direction requires that planning proposals must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p>  <p>Figure 16: Coastal wetlands mapping (Source: NSW Planning Portal, 2022)</p> <p>Chapter 2 of the Resilience and Hazards SEPP provides the following definition:</p> <p>The coastal wetlands and littoral rainforests area is made up of land identified as “coastal wetlands” or as “littoral rainforests” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i>. The land so identified includes</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
		<p>land identified as “proximity area for coastal wetlands” and “proximity area for littoral rainforest”</p> <p>The southern portion of the site is partially located in the ‘Proximity Area for Coastal Wetlands’.</p> <p>The proposal is inconsistent with this direction as it includes the intensification of land uses on land that is identified within a Coastal Wetlands area.</p> <p>A planning proposal may be inconsistent with the terms of the direction if it is supported by a study which gives consideration to the objective of this direction or is of minor significance.</p> <p>A Preliminary Ecological Assessment supports the proposal..</p> <p>The inconsistency with this direction is considered of minor significance as:</p> <ul style="list-style-type: none"> only a minor portion of the site along the southern boundary is located within the ‘Proximity Area for Coastal Wetlands’ this land is highly modified and there is limited vegetation (existing trees appear to be located outside the boundary of the site). There are no vegetation communities in this area of the site the M5 Motorway provides a hard barrier to the Coastal Wetlands the proposed stormwater management will minimise overland flows to the Coastal Wetlands. <p>The proposal is unlikely to have an adverse impact on the biophysical, hydrogeological or ecological integrity of the Coastal Wetlands.</p> <p>The proposal is inconsistent with this direction but the inconsistency is considered to be of minor significance.</p>
4.3 Planning for Bushfire Protection	N/A	<p>This direction seeks to encourage sound management for bushfire prone areas to protect life, property and environment from bushfire hazards by discouraging incompatible uses in bushfire prone areas.</p> <p>This direction does not apply as the site is not identified as bushfire prone land under council’s mapping.</p> <p>However, the given the vegetation on the site, a bushfire protection assessment was prepared by the proponent. An assessment of bushfire impacts is provided in Section 4.1.2 of this report. This is suitable for the purposes of this Direction.</p>
4.4 Remediation of Contaminated Land	Inconsistent, condition recommended	<p>This direction seeks to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning authorities.</p> <p>The site was previously part of the Milperra Soldier Settlement used for residential and agricultural purposes. Agricultural activities are listed in Table 1 of the Contaminated Land Planning Guidelines and therefore this direction is applicable to the proposal.</p> <p>The proposal is supported by a Detailed Site Investigation which identified the contaminants in soil samples and groundwater. The investigation</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
		<p>recommends further investigations and preparation of a remedial action plan (RAP).</p> <p>The proposal states that a Remedial Action Plan was prepared and submitted to Council who advised that further testing and preparation of a remediation strategy and Site Audit Statement that verifies the RAP is required. It is noted that the Remedial Action Plan was not submitted or reviewed by the Department.</p> <p>The direction requires that in the case that a site is contaminated and requires remediation, that the planning proposal authority is satisfied that the land can be made suitable for the proposed use.</p> <p>The proposal is inconsistent with this direction and a condition is recommended that a Remediation Action Plan (RAP) be prepared demonstrating that the site can be made suitable for the permitted land uses. As noted in Council's assessment, a Site Audit Statement from an EPA accredited auditor should be provided to ensure the RAP is satisfactory.</p> <p>It is also recommended that the NSW Environment Protection Authority (EPA) be consulted during public exhibition.</p>
4.5 Acid Sulfate Soils	Consistent	<p>This direction seeks to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The proposal seeks to intensify land uses on land identified as having a probability of containing Class 5 acid sulfate soils which directly adjoins land containing Class 3 acid sulfate soils (southern boundary). Future development will need to consider Clause 6.1 Acid Sulfate Soils in the LEP.</p> <p>The existing provisions in the LEP are considered adequate to manage and prevent environmental damage arising from exposure of acid sulphate soils.</p>
5.1 Integrating Land Use and Transport	Inconsistent, minor significance	<p>This direction seeks to ensure development is appropriately located to improve access and transport choice with access to jobs and services by walking, cycling and public transport. This direction applies to all planning proposals which seek to alter zoning or provisions relating to urban land, including residential and business uses.</p> <p>The direction requires proposals to demonstrate consistency with <i>Improving Transport Choice – Guidelines for planning and development</i>. The proposal is inconsistent with principles in the strategy that seek to concentrate development in and around centres and reduce car use.</p> <p>A proposal may be inconsistent with the direction if it is of minor significance.</p> <p>The inconsistency with the direction is considered of minor significance for the reasons set out below.</p> <p>The site does not have access to mass transit (rail) and is not located in or near a centre but there are a number of bus stops at the site's frontage to</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
		<p>Bullecourt Avenue and Horsley Drive. The following bus services are available to the site:</p> <ul style="list-style-type: none"> • 922 East Hills and Bankstown – runs every 30 mins • 962 East Hills and Miranda – runs 15-20 mins in peak and 30 mins in off-peak • M90 Burwood and Liverpool – runs every 10 mins in peak and 15 mins in off-peak • S5 Milperra and Padstow – five services a day. <p>The bus services connect to key centres with mass transit and services including Panania Rail Station (10 minutes via the S5 bus service) and Bankstown Rail Station (24 minutes via the 922 or M90 bus service).</p> <p>The proponent has made a letter of offer to Council to provide off-road shared cycleways along local roads linking to key destinations and the existing road/cycle network. This will promote active travel and establish connections to the existing bus stops.</p> <p>The redevelopment of the site for mixed uses will help cater for the day to day needs of the community, minimising trip generation.</p> <p>Although the site is not located in a centre nor has direct access to rail services, it represents the best use of the land given the relocation of the educational uses to Bankstown strategic centre.</p> <p>Despite this, consultation with TfNSW is recommended during the community consultation period.</p>
5.2 Reserving Land for Public Purposes	Inconsistent, condition recommended	<p>This direction requires that where land is reserved for public recreation purposes, the land is to be outlined and annotated on the Land Reservation Acquisition Map, and the relevant acquisition authority is to be identified.</p> <p>The proposal is inconsistent with this direction as it does not seek to amend the Land Reservation Acquisition Map, nor identify the relevant acquisition authority for the proposed Zone RE1 Public Recreation.</p> <p>The proponent has indicated that the open space and roads will be dedicated to Council through a Voluntary Planning Agreement (VPA) as opposed to identifying the land for acquisition.</p> <p>The direction is unresolved as it is uncertain whether the dedication of the land to Council will eventuate, as it relies on the execution of the VPA.</p> <p>A condition is recommended to confirm the mechanism for reserving the Zone RE1 land for public purposes prior to finalisation</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
5.3 Development Near Licensed Aerodromes	Consistent	<p>This direction seeks to ensure development does not impact on the safe and effective operation of regulated airports.</p> <p>The proposal is consistent with this direction as the site is not affected by the ANEF for the Bankstown Airport. It is also noted that the site is identified within the Inner Horizontal Surface of the Bankstown Airport OLS.</p> <p>The proposal seeks to introduce a height limit of 9m across the majority of the site, with some areas of 11m. The proposed height limits mirror the height limits of the residential area immediately to the west of the site.</p> <p>It is also noted that the existing WSU Campus development comprises buildings of up to four storeys, whilst the proposed developments at the site will be of 2-3 storeys, effectively reducing the height of buildings at the site.</p> <p>As such, it is considered that the proposal will not result in development that further penetrates the prescribed airspace of Bankstown Airport.</p>
6.1 Residential Zones	Consistent	<p>This direction seeks to encourage a variety of housing types, make efficient use of infrastructure and services and minimise the impact of residential development on the environment and resource lands.</p> <p>The direction applies to the proposal seeks to introduce residential zoning to the majority of the site.</p> <p>The proposal is consistent with this direction as it will increase housing supply through the delivery of 430 dwellings and provide a wide range of housing types through a range of different lot sizes and building typologies within the proposed Zone R1 General Residential.</p>
7.1 Business and Industrial Zones	Inconsistent, condition recommended	<p>This direction seeks to protect employment land and encourage employment growth in suitable locations.</p> <p>It is noted that the planning proposal will reduce the overall potential floor space area for employment uses, through the rezoning of the site from SP2 Educational Establishment to R1 General Residential. However, the direction only requires that potential employment floor space density not be reduced in existing business and industrial zones.</p> <p>However, it should be acknowledged that the site has historically been used for educational purposes providing 195 academic and 128 professional FTE jobs. Whilst the rezoning of the site will reduce the number of on site jobs, the relocation of the WSU Campus to the Bankstown CBD will generate additional employment and be better located in a strategic centre (approximately 720 jobs in Bankstown CBD, up to 2,000 students on campus and 10,000 students overall).</p> <p>This direction also applies as the proposal seeks to introduce a new commercial centre (Zone B1 Neighbourhood Centre). The proposal is inconsistent with this direction as the new employment area does not accord with a strategy approved by the Planning Secretary.</p> <p>Although the proposed commercial centre is not supported by a study and the proposed commercial uses are of minor significance (totalling 8,200m² in site area). A condition is recommended to that the planning</p>

Directions	Consistency	Reasons for Consistency or Inconsistency
		proposal assess how the new centre has strategic and site-specific merit and will not adversely impact the viability of other nearby centres.

3.6 State Environmental Planning Policies (SEPPs)

The planning proposal's consistency with relevant SEPPs is discussed below:

Table 12 SEPP assessment

SEPP	Assessment
SEPP (Biodiversity and Conservation) 2021	<p><u>Chapter 6 Bushland in urban areas</u></p> <p>The proposal seeks to protect and conserve bushland through rezoning part of the site to Zone C2 Environmental Conservation.</p> <p>The ecological assessment identifies other vegetation communities on the site which will be impacted by the proposal. The proposal seeks to implement biodiversity offsets to address impacts (refer to Section 4.1.1)</p> <p>Conditions are recommended to update the arboricultural and ecological studies to clarify tree retention taking into consideration cut and fill required to address flooding and bushfire mitigation works.</p> <p><u>Chapter 11 Georges River Catchment</u></p> <p>The site sits within the Georges River Catchment. The SEPP aims to maintain and improve water quality and river flows of the Georges River and its tributaries and to ensure that development is managed in keeping with the significance of the catchment.</p> <p>The Stormwater Concept Plan indicates that pollutant runoff from the development will be reduced to acceptable levels in accordance with Council's Development Control Plan.</p> <p>The SEPP requires the cumulative impacts of development on the behaviour of flood water and importance of not filling flood prone land to be taken into account. New urban development is to meet the requirements of the <i>NSW Floodplain Development Policy and Manual</i>.</p> <p>A condition is recommended for a Flood and Risk Impact Assessment to be prepared in accordance with the <i>Floodplain Development Manual 2005</i></p> <p>Further assessment against the SEPP is required prior to finalisation.</p>
SEPP (Transport and Infrastructure) 2021	<p>The overarching objective of the SEPP is to facilitate the effective and efficient delivery of infrastructure across NSW.</p> <p>The site adjoins the M5 motorway which is a classified road. The concept plan seeks to restrict access to the M5 Motorway and maintain access at the other three road frontages.</p> <p>An acoustic assessment was submitted with the proposal indicates the residential lots along the southern part of the site exceed the noise criteria of the SEPP. Mitigation measures including acoustic treatments will be required to achieve the internal noise level criteria. Mechanical ventilation may also be required to meet the requirements of the BCA in order to achieve the noise criteria.</p>

SEPP	Assessment
	<p>Future development applications will need to demonstrate compliance with the requirements of the SEPP. This will ensure that any potential impacts of road noise are addressed and mitigated at design stage.</p> <p>Schedule 3 of the SEPP requires consultation with TfNSW. A condition is recommended to require consultation with TfNSW.</p>
SEPP (Resilience and Hazards) 2021	<p><u>Chapter 2 Coastal management</u></p> <p>An assessment against the provisions of the Section 9.1 Direction 4.2 Coastal Management is provided in section 3.5 above.</p> <p><u>Chapter 4 Remediation of land</u></p> <p>An assessment against the provisions of the Section 9.1 Direction 4.4 Remediation of Contaminated Land is provided in section 3.5 above.</p>

3.7 Draft policy amendments

3.7.1 Consolidated LEP

The draft Canterbury Bankstown Consolidated LEP has been submitted to the Department for finalisation.

The Consolidated LEP proposes to amend the Terrestrial Biodiversity Map to encompass the entire site. The proposal seeks to amend the map to refine the areas covered by the map based on the site-specific ecological assessment that has been carried out.

A condition is recommended to update the ecological assessment address amendments to the Terrestrial Biodiversity Map and include the proposed map in the updated proposal.

3.7.2 Employment Zones Reform

The Department's Employment Zones Reform seeks to deliver a simplified framework that promotes productivity and jobs growth, and delivers the community's objectives set through strategic plans and planning priorities.

A condition is recommended to update the proposal to include an advisory note indicating the equivalent zone for the proposed Zone B1 Neighbourhood Centre under the Employment Zones Reform.

3.7.3 Developing Near Pipelines

The Department is currently exhibiting proposed changes to SEPP (Transport and Infrastructure) 2021 to better protect high pressure dangerous goods pipelines from new developments.

The site is not affected by a high pressure dangerous goods pipeline.

4 Site-specific assessment

4.1 Environmental

4.1.1 Biodiversity

The planning proposal contains Cumberland Plain Woodlands, which is listed as critically Endangered Ecological Community under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and the state *Biodiversity Conservation Act 2016*.

The planning proposal is supported by a Preliminary Ecological Assessment which identifies the vegetation communities within the site (**Figure 17**).



Figure 17: Location of vegetation communities (Source: Ecological Australia, 2020)

The proposal seeks to protect and conserve the majority of the Cumberland Plain Woodland through rezoning the north eastern corner of the site to Zone C2 Environmental Conservation, but the extent of tree removal and the impact on the Endangered Ecological Community elsewhere in the site is not addressed nor are the proposed amendments to the Terrestrial Biodiversity Map.

The Preliminary Ecological Assessment indicates the intent is to apply the Biodiversity Offset Scheme to mitigate biodiversity impacts from clearing. These offsets may come in the form of purchased credits, monetary contributions to a conservation trust or generating credits through a conservation area.

The assessment notes that the vegetation within the site provides suitable habitat for threatened species. Additional field surveys would be required to verify any habitats.

Retention of vegetation across the site will be affected by cut and fill required to achieve flood requirements (minimum flood levels and construction of detention basins), and the proposed area for revegetation in the north east corner adjoining the proposed Zone B1 Neighbourhood Centre appears to conflict with the proposed Asset Protection Zones recommended in the Bushfire Protection Assessment.

Additionally, the Zone C2 Environmental Conservation seeks to protect, manage and restore areas of high ecological value, but it is unclear who will be responsible for managing this land on an ongoing basis.

The proposal has not demonstrated that it can generally satisfy retention of trees and biodiversity whilst managing flooding and bushfire, as the documents submitted contradict one another.

Conditions are recommended to:

- clarify tree removal and assess biodiversity impacts from tree removal, addressing implications of flood and bushfire mitigation measures
- include an assessment that supports changes to the Terrestrial Biodiversity Map to maintain terrestrial and aquatic biodiversity in accordance with Bankstown LEP 2015
- clarify how the proposed Zone C2 Environmental Conservation will be managed on an ongoing basis
- consult with the Department's Environment and Heritage division.

The planning proposal was also referred to the Department's Biodiversity and Conservation team within the Environment and Heritage division. The Biodiversity team was requested to provide preliminary advice on the planning proposal and the preliminary ecological assessment prepared by EcoLogical Australia. Preliminary advice was received from the Biodiversity team on 26 April 2022.

The advice highlights concern that only a preliminary ecological assessment has been undertaken at this stage and notes that there may be additional threatened species that have yet to be identified at the site. It is therefore recommended that an additional ecological assessment be undertaken including stage 1 and elements of stage 2 of the Biodiversity Assessment Method 2020.

Whilst the proposal acknowledges the presence of the critically endangered Cumberland Plain Woodlands, the Biodiversity team also noted that the majority of the native vegetation at the site is mapped under the NSW Biodiversity Values Map, with portions of the site being mapped as Threatened Ecological Communities including; Cooks River/Castlereagh Ironbark Forest and Cumberland Shale Plains Woodland.

The team notes that any clearing of mapped native vegetation or impacts as prescribed under section 6.1 of the *Biodiversity Conservation Regulation 2017* as a result of future development will exceed the threshold for the Biodiversity Offset Scheme.

The preliminary ecological assessment maps the vegetation as Critically Endangered Community Cumberland Plain Woodlands. However, the Biodiversity team also notes these communities are listed as Serious and Irreversible Impact entities under the Biodiversity Conservation Act. It is therefore recommended that the retention of Serious and Irreversible Impact Communities be prioritised over threatened ecological communities regardless of their condition.

The north-eastern portion of Cumberland Plain Woodland contains a population of *Acacia pubescens*, listed as Vulnerable under the *Biodiversity Conservation Act*. The Preliminary Ecological Assessment reports a decline in the population size and avoidance of impacts to this population should be a priority for the planning proposal.

While the subject planning proposal demonstrates some consideration of the biodiversity conservation framework, large areas of native vegetation and threatened species habitat are still proposed for removal. Further opportunities for the avoidance of biodiversity impacts in the planning proposal should be explored in order to demonstrate compliance with the framework.

The following conditions are recommended as a result of input from the Department's Biodiversity team:

- Provide an additional ecological assessment which includes stage 1 and elements of stage 2 of the Biodiversity Assessment Method 2020.
- The updated planning proposal should aim to avoid impacts to those areas that contain mapped Threatened Ecological Communities and threatened species habitat whilst also ensuring that the preservation of corridors and or stepping stone habitat across the site as a priority.
- Impacts to Serious and Irreversible Impact entities should be avoided including those areas of poorer condition Cumberland Plain Woodland which may consist only of trees with limited groundcovers and shrubs.
- Further tree retention, focusing on trees of high retention value as defined in the Arboricultural Impact Assessment by EcoLogical Australia.

4.1.2 Bushfire

The planning proposal is supported by a Bushfire Protection Assessment which indicates that the site is not mapped as bushfire prone land and does not trigger the provisions of integrated development under the Rural Fires Act 1997, but there is bushfire hazard affecting the north eastern portion of the site, which is to be rezoned to Zone E2 Environmental Conservation. A 16m Asset Protection Zone is recommended.

The Bushfire Protection Assessment concludes that roads and public spaces will provide sufficient Asset Protection Zones (APZs) in most directions, except for to the south which will require the clearing of 0.203Ha (2030m²) of bushland to achieve a suitable APZ (**Figure 18**).



Figure 18: Bushfire attack levels (Source: Ecological Australia, 2020)

The assessment does not address impacts on the existing Cumberland Plain Woodland vegetation, nor does it address the proposed area for revegetation which is identified in the Ecological Assessment.

Further, **Figure 19** identifies the area to the south west of the Cumberland Plain Woodland as 'managed open space' rather than the proposed Zone B1 Neighbourhood Centre which is intended to support a child care centre (sensitive land use). The assessment is based on an old version of the structure plan which also includes seven proposed residential lots adjacent to the bushland area to the east of the Zone B1 Neighbourhood Centre. It is understood that these seven lots were removed from the planning proposal due to the bushfire risk and this land is to now be rezoned to Zone C2 Environmental Conservation.

A condition is recommended to update the Bushfire Protection Assessment prior to public exhibition to reflect the proposed land use zoning plan and clarify tree removal required to achieve the Asset Protection Zones from the proposed Zone B1 Neighbourhood Centre zone (and proposed child care centre). Any tree clearing required to mitigate bushfire risk will need to be addressed in the Ecological Assessment.

4.1.3 Tree retention

The planning proposal is supported by an Arboricultural Impact Assessment which identifies that 307 trees would require potential removal to facilitate the proposed development. The report identifies 118 existing trees that will be impacted by the proposal that are classified as 'high priority' for retention.

It is noted that the proposal has undergone revisions during the pre-lodgement stage to reduce tree loss. However, these changes are not reflected in the Arboricultural Impact Assessment.

Cut and fill required for grading and flood mitigation also has not been addressed and it is unclear if there will be further impacts on tree retention.

A condition is recommended that the assessment be updated prior to public exhibition to clarify tree removal and retention as a result of revisions to the structure plan and to earthworks, flood and bushfire. The updated Arboricultural Assessment should consider the comments provided by the Department's Biodiversity team.

4.1.4 Urban design

The proposal seeks to deliver a low-rise residential community with a diversity of housing types interspersed with open space. The development controls (9-11m height limit), floor space ratio (0.5:1, 1:1 and sliding scale) and dwelling cap (430 dwellings) will ensure a low-rise built form across the site.

The overall density of 19 dwellings/ha is comparable to 13 dwellings/ha which currently exists within the residential area to the west of the site.

Larger lots (minimum 10m wide) will front Ashford Avenue where the site has an interface with existing low-density housing. This will provide a transition between the established residential area to small lot housing within the site. Buffers to the north, east and south have been incorporated to reduce potential land use conflict with surrounding industrial development and the M5 Motorway.

Draft design controls have been prepared by the proponent. In accordance with the Panel's decision, it is recommended that the Gateway determination be conditioned to require the proposal to be updated to include a requirement for a site-specific DCP to be prepared.

The preparation of a site-specific DCP will assist in guiding future development at the site and managing density. Additionally, the requirement for the preparation of a site-specific DCP will provide greater certainty for the local community. This would be further supported by a revised/improved masterplan for the site.

The matters for consideration in the preparation of a site-specific DCP may include but are not limited to:

- road widths
- street layout
- parking
- solar access
- setbacks
- access
- private open space
- landscaped area
- Crime Prevention Through Environmental Design (CPTED).

The proposed small lot housing control (lot size and FSR sliding scale) are not supported by urban design testing. A condition is recommended to undertake urban design testing to demonstrate the small lots are capable of achieving suitable amenity and to inform DCP controls. This should

address internal amenity, landscape area, deep soil planning and tree canopy, private open space, visual and acoustic privacy and solar access to living areas and private open space.

4.1.5 Open space

The proposal seeks to deliver approximately 1.5 hectares of open space (Zone RE1 Public Recreation) to cater for the needs of the 1,200 new residents (430 dwellings):

- 4,643m² public park on its northern boundary fronting Bullecourt Avenue
- 5,378m² central park in the centre of the site
- 4,866m² park of bordering the sites southern boundary to the M5 Motorway.

A further 2 hectares of land will be zoned Zone C2 Environmental Conservation and the site adjoins Milperra Reserve.

The proposed parks are equitably distributed within the development to achieve good walking and cycling catchments with all new dwellings within 250m of an open space. However, it is unclear what uses each park will include or how these will benefit the broader community.

A condition is recommended to address the proposed dual use of the parks for drainage basins to demonstrate the usability of the land as public open space. A condition is also recommended to clarify if the Zone C2 Environmental Conservation will be publicly accessible.

Additionally, consideration should be given to retention of the oval space rather than the three separate spaces for the site as part of work to review the masterplan for the site and the preparation of the DCP.

4.1.6 Traffic

A Transport Assessment submitted with the proposal provides modelling for both the morning (8am-9am) and evening (5:15pm-6:15pm) peak periods, and provides a comparison between the existing development scenario and the projected scenario following redevelopment.

The proposal is anticipated to result in a moderate increase in traffic generation as it will transition from an educational precinct to a mixed use precinct including residential and commercial uses. This will inherently increase traffic generation as the educational precinct generates low and consistent traffic throughout the day, whilst the residential and commercial uses will generate strong peaks in the morning and evening as residents attend work and return home.

The following table provides a summary of the traffic modelling undertaken by the proponent.

Table 13 Traffic modelling

Trip Generation	AM Peak (8am-9am)	PM Peak (5:15pm-6:15pm)
Existing	282	195
Proposed	440	457

The traffic assessment, based on the above modelling, demonstrates that the intersections surrounding the site will operate during peak hours at a minimum Level of Service of C. This is considered consistent with the existing Level of Service at the site.

Council considered the traffic impacts of the proposal and raise the following issues:

- the proposed Ashford Avenue access point to the site is to be made left turn in only to address concerns raised in traffic peer review report. Vehicles exiting the site must do so via the proposed Bullecourt Avenue and Horsley Road vehicle access points

- a new/relocated pedestrian crossing facility (signalised or unsignalised) is to be provided at the Bullecourt Avenue in coordination with Transport for NSW
- additional traffic survey data is required to confirm traffic movement data earlier than 5.15pm-6.15pm and to include Mt St Joseph School afternoon peak pick up.

The proponent prepared a letter responding to the concerns raised by Council. However, it is noted that the proponent nominated not to provide additional modelling during the school peak hour as it did not coincide with the peak hour of the proposed residential area.

It is considered that although there will be increases in peak hour traffic generation, the development is unlikely to compromise the performance of the existing intersections and road network.

The Department notes the abovementioned concerns raised by Council and the responses provided by the proponent. The Department notes that there are likely to be minor changes to the road network and intersection layout as the detailed design of the proposal progresses.

The Department considers that the road network and intersection layout can be altered throughout the DA process as the proposed zoning will permit roads throughout the R1 zone (as opposed to locking in a position via SP2 zoning).

A condition is recommended to consult with Transport for NSW during the public exhibition period.

4.2 Social and economic

The following table provides an assessment of the social and economic impacts.

Table 14 Social and economic impact assessment

Social and economic impact	Assessment
Social impacts	<p>The proposal will provide social benefits as it will deliver additional housing supply in a range of dwelling types that will cater for the changing needs of the community, addressing a gap in the housing supply. The provision of new commercial and open space areas as part of a mixed use development will cater for the day-to-day needs of the new community and create focal points where the community can interact to support health and wellbeing.</p> <p>In 2020, 3.7 hectares of the university site was transferred to Mount St Joseph Catholic College to enable the expansion of the school which will deliver ongoing social benefits. This part of the site is excluded from the planning proposal.</p>
Economic impacts	<p>The proposal will provide economic benefits by creating employment and economic activity during construction and operation of the development. The creation of a 8,200m² neighbourhood centre will create new jobs. As discussed earlier, strategic justification is required to assess the impact of the new centre on existing employment land in the LGA.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 15 Infrastructure assessment

Infrastructure	Assessment
Open space	An assessment of open space is provided in Section 4.1.5.
Traffic and transport	An assessment of traffic and transport is provided in Section 4.1.6.
Utilities	An infrastructure report submitted with the proposal indicates the site can be suitably serviced in terms of water, wastewater, electricity, gas and telecommunications. Some upgrade works will be required which will be subject to detailed design at DA stage
Voluntary Planning Agreement	<p>The planning proposal is accompanied by a draft letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council. The offer includes the following contributions and works:</p> <ul style="list-style-type: none"> • dedication and embellishment of three public open spaces (1.49ha) • Milperra Reserve embellishment • shared playground with existing Mount St Josephs Secondary School • shared cycleways • dedication of local roads • repairs and renovations to the Milperra Community Centre • 5% affordable housing contribution. <p>Whilst it is noted that the VPA is yet to be executed and further refinements may be required to reach an agreement with Council.</p> <p>Works to be delivered and contributions via any VPA would be in addition to ordinary section 7.11 and section 7.12 development contributions.</p>

5 Consultation

5.1 Community

The Department's Local Environmental Plan Making Guidelines recommends a maximum 30-day community consultation period for complex planning proposals.

The planning proposal does not provide a proposed community consultation period. As such, in accordance with the Department's guidelines, a 30-day community consultation period is recommended.

5.2 Agencies

The proposal does not identify which agencies will be consulted. It is recommended the following agencies be consulted:

- Environment, Energy and Science Division of NSW Department of Planning and Environment
- NSW Environment Protection Authority
- Transport for NSW
- Roads and Maritime Services
- Sydney Water
- Rural Fire Service
- Canterbury-Bankstown Council
- Ausgrid
- NSW Department of Education
- Heritage NSW
- NSW Department of Health.

6 Timeframe

The Department recommends a time frame of 13 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the Gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal was not supported by Council and is the result of a rezoning review, the Department will remain the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it has demonstrated strategic and site specific merit
- the proposal seeks to increase housing supply and will deliver a variety of housing types in alignment with Council's Local Housing Strategy
- it provides a suitable land use interface to the adjoining low density residential area, high school, industrial lands and the M5 Motorway
- it ensures the protection and conservation of approximately 2.035 hectares of critically endangered Cumberland Plain Woodlands at the site
- it includes the delivery of three public open spaces to be dedicated to Council
- it is generally consistent with the strategic planning framework and inconsistencies with relevant plans and section 9.1 Ministerial Directions which are not currently addressed, will be addressed by way of Gateway conditions.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with certain aspects of section 9.1 Direction - 1.4 Site Specific Provisions, 4.2 Coastal Management and 5.1 Integrating Land Use and Transport is minor or justified; and
- Note that the consistency with the section 9.1 Directions 3.1 Conservation Zones, 4.1 Flooding, 4.4 Remediation of Contaminated Land, 5.2 Reserving Land for Public Purposes and 7.1 Business and Industrial Zones are unresolved and will require justification

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

1. The planning proposal is to updated prior to community consultation to:
 - a) provide a cut and fill assessment having regard to existing topography, maximising tree retention and satisfying flood requirements
 - b) include updated Arboricultural Impact Assessment, Ecological Assessment and Bushfire Assessment that addresses:
 - i. the proposed land use zoning plan;
 - ii. cut and fill required for site grading and flood requirements;
 - iii. Asset Protection Zones required to mitigate bushfire risk;
 - iv. the extent of tree retention, removal and replanting;
 - v. biodiversity impacts and proposed Biodiversity Offsetting; and
 - vi. amendments to Council's Terrestrial Biodiversity Map in order to maintain terrestrial and aquatic biodiversity in accordance with Clause 6.4 Biodiversity in Bankstown Local Environmental Plan 2015.
 - vii. Stage 1 and elements of Stage 2 of the Biodiversity Assessment Method 2020.
 - viii. Advice from the Department's Biodiversity Team within the Environment and Heritage Group dated 26 April 2022.
 - ix. Impacts to areas that contain mapped Threatened Ecological Communities and threatened species habitat whilst also ensuring that the preservation of corridors and or stepping stone habitat across the site is prioritised.
 - x. Impacts to Serious and Irreversible Impact entities should be avoided including those areas of poorer condition Cumberland Plain Woodland which may consist only of trees with limited groundcovers and shrubs.
 - c) Include further justification for and/or potential adjustment for the accompanying masterplan to demonstrate best practice and good urban design outcomes can be achieved for the site
 - d) address the useability of the proposed public open spaces having regard also to the proposed dual use of these spaces as detention basins
 - e) confirm that relevant affordable housing requirements are satisfied, including addressing council's Affordable Housing Scheme
 - f) address potential noise impacts from nearby industrial uses, and if there are significant impacts outline how these impacts will be mitigated by the future residential development
 - g) update the assessment against Council's *Local Housing Strategy* to address the Department's Approval and advisory notes on the strategy which do not support downzoning land from R3 to R2 due to the need for medium-density housing

- h) rezone the north eastern corner of the site to Zone B1 Neighbourhood Centre, rather than Zone E1 Local Centre, to align with Bankstown Local Environmental Plan 2015. An advisory note on the indicative zoning under the Department's Employment Zones Reform should be included
- i) remove the proposed 'nil residential flat building' provision which prohibits residential flat buildings
- j) correct the site description to Lot 1 DP 101147 and Lot 105 1268911 being 2 and 2A Bullecourt Avenue, Milperra
- k) include the proposed FSR sliding scale for the Zone R1 General Residential
- l) include a land use table for the new Zone C2 Environmental Conservation zone which aligns with the *Standard Instrument – Principal Local Environmental Plan*
- m) clarify whether the proposed Zone C2 Environmental Conservation zone will be publicly accessible and how the land will be managed on an ongoing basis to protect and conserve the Endangered Ecological Community
- n) include a Terrestrial Biodiversity Map illustrating the extent of the site that is proposed for inclusion on the map
- o) include a local provision to prepare a site-specific Development Control Plan (DCP) outlining heads for consideration for inclusion in the DCP. The planning proposal is to include proposed key controls applying to future development on the site.
- p) provide a detail masterplan for the site to show how the site can be developed in accordance with best urban design practices and taking account of the site's current attributes
- q) provide a Remediation Action Plan (RAP) and Site Audit Statement which demonstrates that the site can be made suitable for residential uses
- r) align with the Department's *Local Environmental Plan Making Guideline*, December 2021
- s) include an advisory note that the proposed LEP provisions are prepared by the proponent. The drafting of LEP provisions will be subject to drafting by Parliamentary Counsel Office (PCO) at finalisation.

2. Consultation is required with the following public authorities:

- Environment and Heritage Division of NSW Department of Planning and Environment
- Environmental Protection Authority
- Transport for NSW
- Roads and Maritime Services
- Sydney Water
- Rural Fire Service
- Canterbury-Bankstown Council
- Ausgrid
- NSW Department of Education
- NSW Health

3. Prior to finalisation, the planning proposal is to be revised to:

- a) address consistency with section 9.1 Directions 3.1 Conservation Zones, 4.1 Flooding, 4.4 Remediation of Contaminated Land, 5.2 Reserving Land for Public Purposes and 7.1 Business and Industrial Zones
- b) confirm that land proposed Zone RE1 Public Recreation land will have appropriate arrangements to ensure the land is reserved for a public purpose

- c) provide an employment study that demonstrates the impacts of the Zone B1 Neighbourhood Centre zone on other nearby centres and Council's *Employment Lands Strategy*
- d) provide urban design testing to demonstrate that the numerical controls provided under the FSR 'sliding scale' and new small lot size controls are appropriate. The testing should demonstrate the lots are capable of achieving suitable amenity, landscaped area, deep soil planning, tree canopy, private open space, visual and acoustic privacy and solar access
- e) provide a Flood and Risk Impact Assessment that addresses:
 - i. the Floodplain Development Manual 2005 and the Department's *Considering Flooding in Land Use Planning Guideline* (July 2021);
 - ii. Council's Milperra Catchment Flood Study (2015), Kelso Swamp Flood Study (2009) and Mid Georges River Floodplain Risk Management Plan (2017);
 - iii. intensification of land uses on in the southern part of the site which is flood affected;
 - iv. flood impacts to other properties;
 - v. evacuation of the site, having regard to the proposed childcare facility;
 - vi. minimum floor levels of future development required to address the 1 in 100 year and Probably Maximum Flood events on the site; and
 - vii. calculations of the stormwater detention requirements and post-development stormwater discharge rates.
- 4. The planning proposal should be made available for community consultation for a minimum of 30 days.
- 5. The planning proposal must be exhibited within 5 months from the date of the Gateway determination.
- 6. The planning proposal must be reported to the Sydney South Planning Panel for a final recommendation 9 months from the date of the Gateway determination.
- 7. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
- 8. Given the nature of the proposal and that the South Sydney Panel is the Planning Proposal Authority (PPA), Council should not be authorised to be the local plan-making authority.



Renee Coull
Manager, Place and Infrastructure



Laura Locke
Director, Eastern and South Districts



1 June 2022

Amanda Harvey
Executive Director, Metro East and South

Assessment officer

Bailey Williams
Planning Officer, Eastern Harbour City
8275 1306