

## Post-Exhibition Report – PP-2021-5837

*Western Sydney University Milperra Campus (provision of a maximum 430 dwellings and 0 jobs)*

### 1 Introduction

The planning proposal is at the post exhibition stage, which is the last stage before an LEP may be made and finalised. The Sydney South Planning Panel (the Panel) determined at a rezoning review that the proposal had strategic and site merit (10 December 2021). The Panel was appointed the PPA as Council declined the role. Subsequently, a Gateway assessment was undertaken, and a Gateway determination was issued on 1 June 2022 for the proposal to proceed, subject to conditions. Consultation with Agencies and the community required by the Gateway determination conditions has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public, City of Canterbury Bankstown Council and State government agencies during the public exhibition of the planning proposal (**Attachment A**) for 2-2A Bullecourt Avenue, Milperra, known as the former Western Sydney University Milperra Campus (the site). The report makes a recommendation to the Panel to submit the proposal to the Department of Planning and Environment for finalisation following relevant updates.

**Table 1 – Planning proposal details and timeline**

Element	Description
Date of request to exhibit PP	4 October 2022
Date of panel determination on rezoning review	10 December 2021
Planning Proposal no.	PP-2021-5837
LGA	Canterbury Bankstown
LEP to be amended	Canterbury Bankstown Local Environmental Plan (LEP) 2023
Address	2 and 2A Bullecourt Avenue, Milperra
Brief overview of the timeframe/progress of the planning proposal	<p><b>15 May 2021</b> – Planning proposal lodged with Council</p> <p><b>27 July 2021</b> – Council resolved to defer the proposal and seek additional information</p> <p><b>2 August 2021</b> – Request for information by Council sent to NSW Minister and Federal Ministers for Education and Western Sydney University (WSU).</p> <p><b>24 August 2021</b> – Council resolved not to support the proposal</p>

Element	Description
	<p><b>22 September 2021</b> – Rezoning Review request lodged by proponent</p> <p><b>10 December 2021</b> – The Panel determined that the proposal should be submitted for Gateway</p> <p><b>4 February 2022</b> – The Panel appointed itself as the Planning Proposal Authority (PPA) as Council declined the role</p> <p><b>17 February 2022</b> - Planning proposal was formally lodged with the Department</p> <p><b>1 June 2022</b> – The Department issued a Gateway determination to proceed subject to conditions.</p> <p><b>4 October 2022</b> - Proposal updated to comply with Gateway conditions submitted requesting public exhibition.</p> <p><b>18 October 2022</b> – The Panel endorsed the planning proposal to proceed to exhibition</p> <p><b>1 November 2022</b> – Public exhibition of proposal commenced.</p> <p><b>14 December 2022</b> - Public exhibition of proposal finished.</p> <p><b>February 2023</b> - Responses to submissions Summary Report submitted</p> <p><b>13 April 2023</b> - Proponent provided additional information regarding the proposed Community Title scheme and a response to EHG issues.</p> <p><b>26 April 2023</b> – Response to Gateway Condition 2(d) submitted</p> <p><b>4 May 2023</b> – Flood Impact and Risk assessment submitted.</p>
<b>Finalisation date required by Gateway Determination</b>	1 June 2023
<b>Department contact:</b>	Douglas Cunningham, Specialist Planning Officer, Agile Planning

## 1.1 The Site and local context

The planning proposal applies to 2 and 2A Bullecourt Avenue, Milperra and comprises Lot 1 DP 101147 and Lot 105 DP 1268911 (**Figure 1**). The site has an area of approximately 19.64 hectares.

The site was formerly the Western Sydney University Milperra Campus. Existing development on site includes a mix of building types ranging from 1 to 4 storeys used for education, student accommodation and administrative purposes. The site also contains carparks and three open space areas, including a large playing field in the south.

Primary site access is via Bullecourt Avenue, with secondary access from Horsley Road. There is also a controlled (gated) access point on Ashford Avenue. The site is located 3km north-west of Panania Railway Station and 3km south of the Bankstown Airport. The nearest strategic centre is Bankstown which is 7km away.

There are over 300 trees within the overall site, including approximately 2.035 ha of Cumberland Plain Woodland (CPW), which is considered to be an Endangered Ecological Community (ECC), in the north-eastern part of the site.

Surrounding land uses include a variety of industrial uses to the north and east of the site, the M5 Motorway to the south and low-density residential dwellings to the west. The site adjoins the Milperra Reserve in the northwest corner. The Mount St Joseph Catholic College Milperra adjoins the site to the east, with part of the former campus already being transferred to the College to further expand their site. To the south of the M5 Motorway is the Kelso Waste Facility (KWF) which is a Council operated waste facility.



Figure 1 – Subject site (source: Nearmap, 2023)

## 1.2 Planning Proposal

The Planning Proposal (**Attachment A**) seeks to amend the Canterbury Bankstown LEP 2023 to facilitate redevelopment of the former WSU Milperra Campus for residential, business, recreation and conservation uses.

Table 2 – Overview of planning proposal

Element	Description
Site Area	19.64 ha

Element	Description
Site Description	The planning proposal relates to 2 and 2A Bullecourt Avenue, Milperra (Lot 1 DP 101147 and Lot 105 DP 1268911).
Proposal summary	<p>The planning proposal seeks to amend the Canterbury Bankstown LEP 2023 to facilitate the development of a new low density residential community comprising of 430 dwellings, a new commercial centre and public open spaces.</p> <p>In summary, it seeks to:</p> <ul style="list-style-type: none"> <li>• rezone the site R1 General Residential, E1 Local Centre, RE1 Public Recreation, C2 Environmental Conservation and SP2 Infrastructure (Drainage)</li> <li>• 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)</li> <li>• introduce maximum floor space ratios (FSR) of part 0.5:1 (along Ashford Avenue), part 1:1 (for the neighbourhood centre zone) and a 'sliding scale' FSR for the remainder of the site</li> <li>• introduce a minimum lot size control of 300m<sup>2</sup> (for the general residential zone)</li> <li>• include a provision to limit the residential yield on the site to 430 dwellings</li> <li>• include a provision to permit small lot housing (124m<sup>2</sup> - 300m<sup>2</sup> lots) on certain land</li> <li>• identify that the minimum lot size applies to subdivision for community title schemes on land in the proposed R1 General Residential zone</li> <li>• amend the Terrestrial Biodiversity Map to identify land at the north-east corner of the site.</li> </ul>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"> <li>• Greater Sydney Region Plan – A Metropolis of Three Cities (2018)</li> <li>• South District Plan (2018)</li> <li>• State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021</li> <li>• SEPP (Transport and Infrastructure) 2021</li> <li>• SEPP (Resilience and Hazards) 2021</li> <li>• Section 9.1 Ministerial Directions</li> <li>• Canterbury Bankstown Local Strategic Planning Statement</li> <li>• Canterbury Bankstown Local Housing Strategy</li> <li>• Canterbury Bankstown Employment Lands Strategy</li> <li>• Bankstown CBD and Bankstown Airport Place Strategy (2019).</li> </ul>

The planning proposal seeks to amend the Canterbury Bankstown LEP 2023 per the changes in **Table 2** below.

**Table 3 – Current and proposed controls**

Control	Current	Proposed
<b>Zone</b>	SP2 Infrastructure (Educational Establishment) SP2 (Electricity Transmission or Distribution Network)	R1 General Residential (approx. 15.2ha) E1 Local Centre (0.82ha) RE1 Public Recreation (1.49ha) C2 Environmental Conservation (2.035ha) SP2 Infrastructure (Drainage) (0.08ha).
<b>Maximum height of buildings</b>	N/A	E1 land – 11m R1 land near Bullecourt Avenue open space – 11m R1 land – part 9m All other zones – N/A
<b>Floor space ratio</b>	N/A	R1 land fronting Ashford Avenue – 0.5:1 Remaining R1 land – Sliding scale FSR E1 land – 1:1 All other zones – N/A
<b>Lot size</b>	N/A	Minimum Lot Size of 300m <sup>2</sup> for the R1 General Residential zone  Introduce a site specific LEP provision to allow lot sizes between 124m <sup>2</sup> - 300m <sup>2</sup> for detached, attached and semi-detached dwellings in circumstances where the application process includes both the built form and subdivision simultaneously.
<b>Lot size for community title subdivision</b>	Applies to R2 Low Density Residential zone	Amend Clause 4.1AA of the Bankstown LEP 2015 to include the R1 General Residential zone as an exclusion to the minimum lot size for community title and strata subdivision
<b>Number of dwellings</b>	N/A	Limit the number of dwellings on the site to 430
<b>Terrestrial biodiversity</b>	N/A	Map the extent of terrestrial biodiversity in the north-east corner of the site.

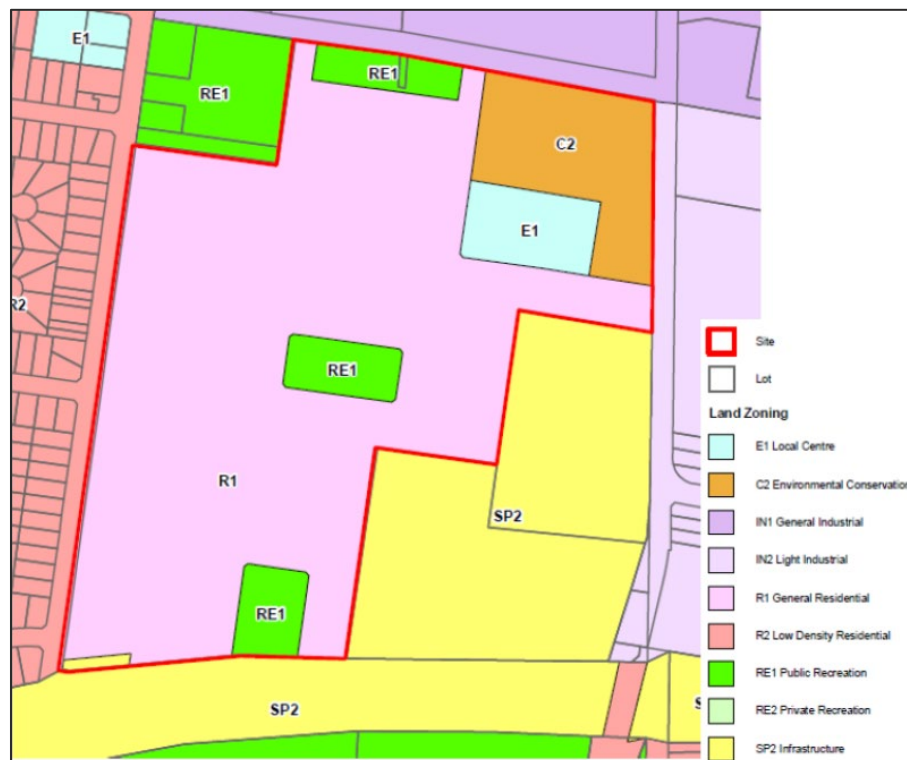
The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.3 Mapping

The planning proposal includes amendments to the following maps:



**Figure 2. Current zoning (Source: Planning Proposal, October 2022)**



**Figure 3: Proposed zoning (Source: Planning Proposal, October 2022)**

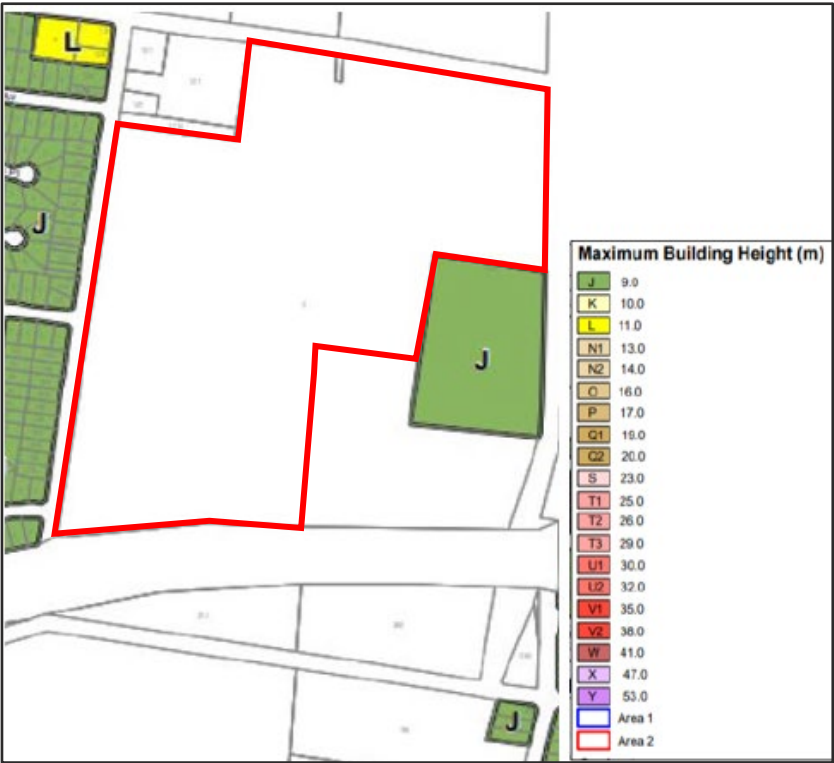


Figure 4 – Current HOB map (Source: Planning Proposal, October 2022)



Figure 5 – Proposed HOB map (Source: Planning Proposal, October 2022)

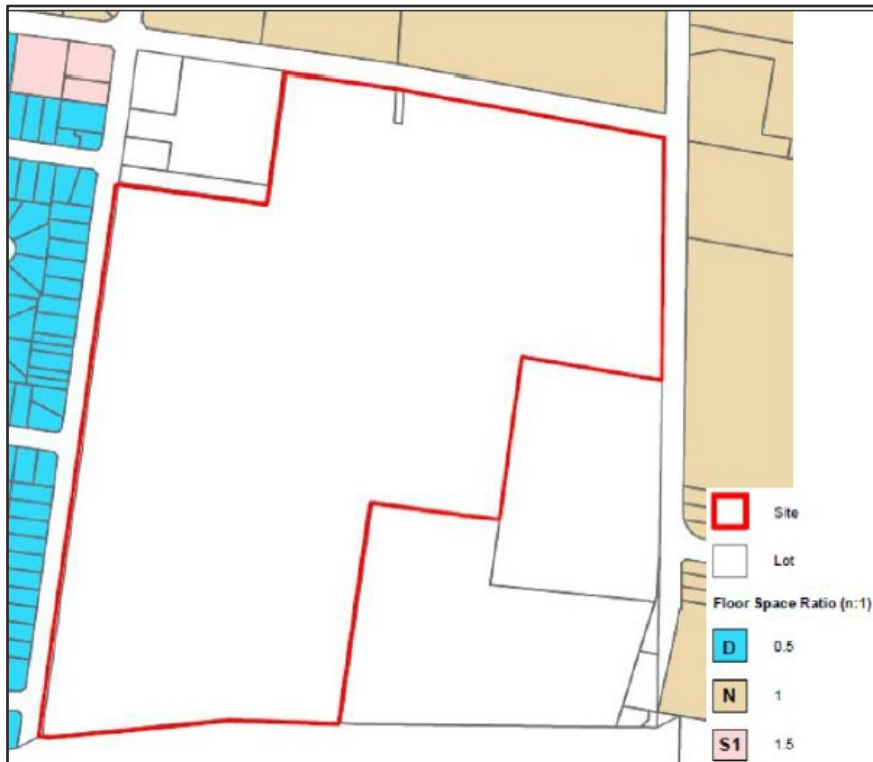


Figure 6 – Current FSR map (Source: Planning Proposal, October 2022)

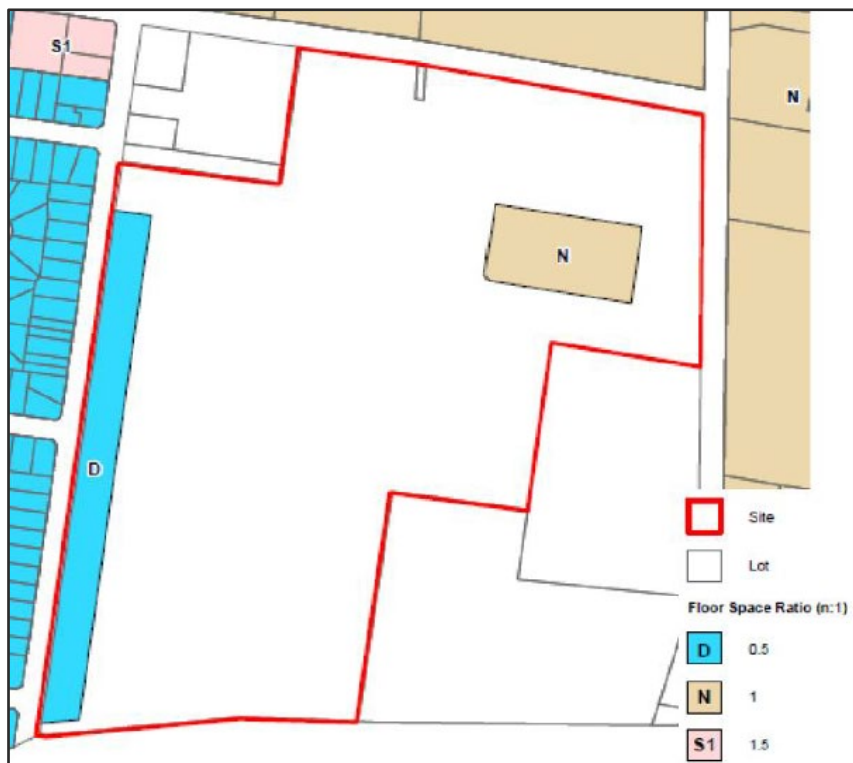


Figure 7 – Proposed FSR map (Source: Planning Proposal, October 2022)

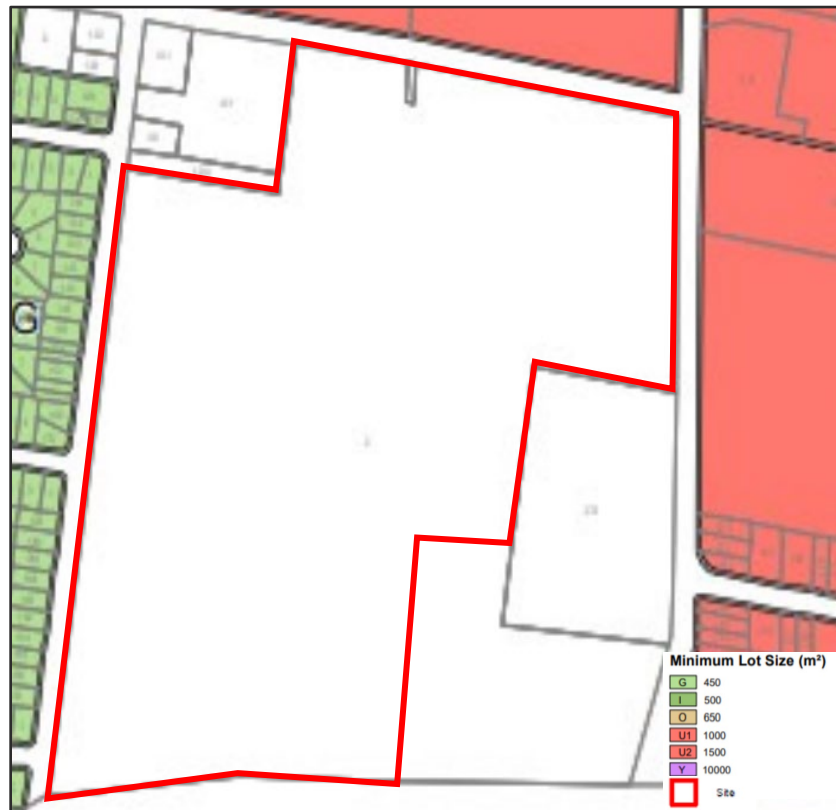


Figure 8 – Current Minimum Lot Size map (Source: Planning Proposal, October 2022)

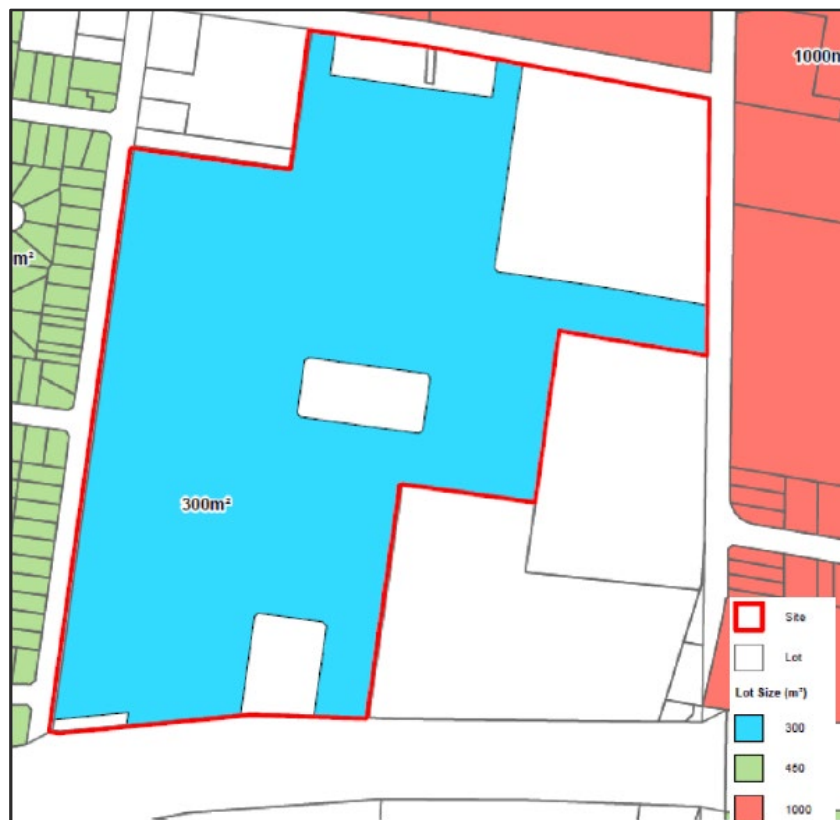
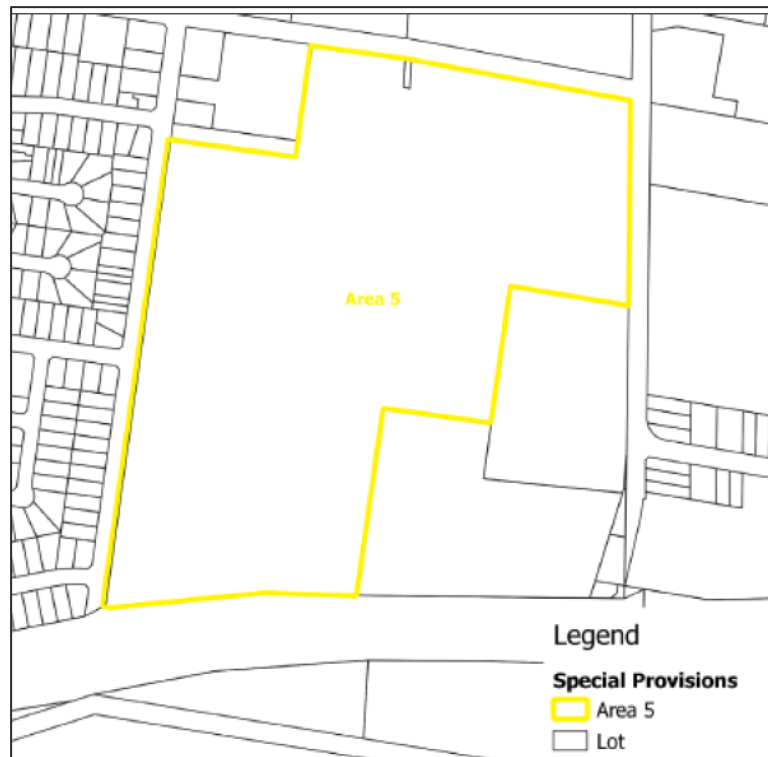
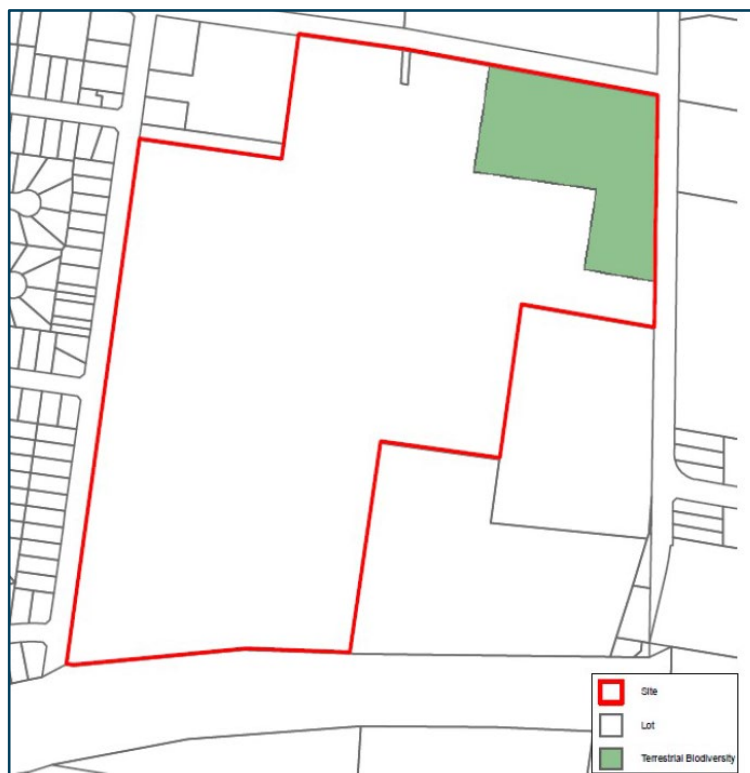


Figure 9 – Proposed minimum Lot size map (Source: Planning Proposal, October 2022)



**Figure 10 – Proposed special provisions area map**  
(Source: Planning Proposal, October 2022)



**Figure 11 – Proposed Terrestrial Biodiversity map**  
(Source: Planning Proposal, October 2022)

## 1.4 Rezoning Review

On 10 December 2021, the Panel considered a rezoning review for this planning proposal due to Council notifying the proponent it would not support the proposed amendments.

The Panel determined to support the planning proposal because the proposal has demonstrated strategic and site-specific merit. The Panel recommended the following amendments be made to the proposal prior to exhibition:

- Further traffic modelling
- Revised Remedial Action Plan (RAP)
- Additional Flooding and stormwater information to ensure FFL's meet 1:100 flood levels and address site planning implications
- Minimisation of cut and fill with a view to respect existing topography and maximising tree retention
- Updated Arborist report-to minimise tree loss, determine additional trees that can be retained plus additional trees planted to maximise urban greening and management of heat island impacts
- Street and lot layout to be modified to maximise tree retention and accommodate tree growth
- Pedestrian links from Ashford Avenue to central park be confirmed (RE1 public recreation zone)
- Further ecological assessment to recommend extent of biodiversity mapping
- Resolution of ownership and management of Cumberland Plain Woodland and associated APZs (C2 zone)
- Proposed E2 zone to be C2 zone environmental conservation zone
- Cap of dwellings to 430 DUs in LEP Additional provision clause
- Sliding scale approach to FSR in LEP clause
- The planning proposal should be exhibited with:
  - A site-specific DCP prepared by Council and exhibited concurrently, noting Council requirements for road reserves, housing solar access etc
  - A site-specific Landscape Masterplan
  - VPA should be exhibited concurrently and include agreed affordable housing contribution and agreed developer contribution.

The Panel's determination and reasons for its decision are provided in **Attachment B**. On 4 February 2022, the Panel appointed itself as the PPA after Council declined the role.

The planning proposal was submitted to the Department for Gateway assessment on 17 February 2022.

## 1.5 Gateway determination

The Gateway determination issued on 1 June 2022 (**Attachment C**) determined that the proposal should proceed subject to the following conditions:

1. *Prior to public exhibition the planning proposal is to be updated to:*
  - a) *Provide a cut and fill assessment having regard to existing topography, maximising tree retention and satisfying flood requirements.*

- b) *Include an 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 LEP 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 detailed 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, and*
  - 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. 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 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 Zone B1 Neighbourhood Centre has strategic and site-specific merit, addresses impacts on the viability of 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.*
- 3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:*
  - a) the planning proposal is categorised as complex as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 days; and*

- b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021).  
Exhibition must commence within 5 months following the date of the gateway determination.*
4. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
- Environment and Heritage Division of NSW Department of Planning and Environment
  - Environmental Protection Authority (EPA)
  - Transport for NSW (TfNSW)
  - Roads and Maritime Services (RMS)
  - Sydney Water
  - Rural Fire Service (RFS)
  - Canterbury-Bankstown Council
  - Ausgrid
  - NSW Department of Education
  - NSW Health.
5. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge the Panel from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
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 Panel as planning proposal authority is not authorised to be the local plan-making authority under section 3.36(2) of the EP&A Act.*
8. *The LEP should be completed on or before 12 months from the date of the Gateway determination.*

Note: Since the gateway has been issued the Canterbury Bankstown LEP 2023 has been made. Any references to the Bankstown LEP 2015 are taken to refer to the CB LEP 2023 and references to the B1 zone refer to E1 Local Centre zone under the new LEP.

## 1.5.1 Consistency with Gateway conditions

A full assessment of the proposal's consistency with the Gateway conditions is contained in **Attachment D**. The Gateway determination contained five conditions that required the planning proposal to be updated to finalisation. A summary of how the proposal has met these conditions is below.

### Consistency with Ministerial Directions

Gateway Condition 2(a) required the proposal be updated to address consistency with the following section 9.1 Directions:

- 3.1 Conservation Zones

- 4.1 Flooding
- 4.4 Remediation of Contaminated Land
- 5.2 Reserving Land for Public Purposes
- 7.1 Business and Industrial Zones.

On 3 May 2023, the proponent submitted an addendum to the planning proposal discussing the proposals consistency with the Ministerial Directions (**Attachment K**) and the following supporting documents:

- Additional ecological advice (prepared by Ecological Australia, April 2023) (**Attachment M**)
- Flood and Risk Impact Assessment (prepared by J Wyndham Prince, May 2023) (**Attachment O**)
- Site Audit Report (prepared by Ramboll September 2022), a Site Audit Statement (prepared by EPA September 2022), Remedial Action Plan (prepared by Alliance Geotechnical September 2022) and a Detailed Site Investigation (prepared by Alliance Geotechnical January 2020) (**Attachment A, Appendix A, A1 and A2**)
- Milperra Commercial Centre Needs Analysis (prepared by Urbis September 2022). (**Attachment A, Appendix M**).

Based on the information provided in the Ministerial Directions consistency document contained at **Attachment K** and the additional supporting documents listed above, the Agile Planning team is satisfied that the proponent has met this condition. For completeness, it is recommended that the planning proposal document is updated prior to submission for finalisation to formally incorporate the additional information contained in the supporting documents.

#### Proposed Zone RE1 Public Recreation land

Gateway Condition 2(b) required the proposal be revised to confirm that proposed Zone RE1 Public Recreation land will have appropriate arrangements to ensure the land is reserved for a public purpose. The proponent has advised that they are working with Council to finalise a draft VPA, which will containing provisions relating to the dedication of open space.

The Agile Planning team has sought advice from Council post-exhibition to confirm the timing of the VPA and if the transfer the public recreation open space to Council will be included within the VPA. Council has advised that although the VPA has not been finalised, the draft includes a Clause that will allow Council to acquire the RE1 zoned land for \$1 in the event that the land is not dedicated prior the agreed draft VPA timing threshold and that the planning proposal should be updated to identify the RE1 land in the Land Reservation Acquisition (LRA) maps under the CB LEP 2023 (**Attachment P**).

Whilst not specified in Condition 2(b) of the gateway, the letter from Council also requests that the SP2 Infrastructure (Drainage) land in the south western corner of the site be included in the LRA maps.

Notwithstanding the additional advice provided by Council on the timing of the VPA, it is recommended that both the RE1 Public Recreation and SP2 Infrastructure (Drainage) land be identified in the Land Reservation Acquisition map to ensure that both the public open space and drainage land is included in any future development.

Based on the recommendation to update the planning proposal as above, the Agile Planning team is satisfied that the proponent has met this condition sufficient to proceed to finalisation.

## Employment study

Gateway Condition 2(c) required the proposal be updated to provide an employment study that demonstrates the has strategic and site-specific merit for the E1 Local Centre Zone. As identified above, the proponent has provided a Milperra Commercial Centre Needs Analysis.

The Agile Planning team is satisfied that the proponent has met this condition.

## Urban design testing

Gateway Condition 2(d) required the proposal be updated to 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 proponent has submitted an urban design testing report (**Attachment N**) that demonstrates how the sliding scale controls are appropriate for the site.

It's noted that Council and the proponent are still working on the finer details of the built form controls as part of finalising a draft DCP. However, the Agile Planning team is satisfied that the proponent has met this condition sufficiently to proceed to finalisation.

## Flood and Risk Impact Assessment

Gateway Condition 2(e) required the proponent provide flood impact and risk assessment and address the requirements of Ministerial Direction 4.1 Flooding. As identified above, additional information including a Flood and Risk Impact Assessment prepared by J Wyndham Prince (May 2023) (**Attachment O**) was submitted to address this condition. The report has been prepared since the release of the 2022 NSW Flood Inquiry report. However, it is noted that the Department is in the process of responding to the recommendations of the 2022 NSW Flood Inquiry report which recommended taking a risk-based approach to flooding. In this regard, the Department may require further updates to the proposal at finalisation.

The Agile Planning team is satisfied that the proponent has met this condition sufficient to proceed to finalisation.

## 2 Public Exhibition

### 2.1 Public Exhibition

On 18 October 2022 the Panel authorised the exhibition of the planning proposal (**Attachment E**).

The planning proposal and supporting material was publicly exhibited on the NSW Planning Portal from 1 November 2022 to 14 December 2022, for 31 working days. Notification letters were mailed to surrounding properties and an advertisement was also placed in the local paper.

## 3 Submissions

### 3.1 Submissions during exhibition

A total of 111 submissions were received during and after the exhibition period including:

- 100 public submissions
- Two organisation submissions (Mount St Joseph Milperra/ Sydney Catholic Schools and Bankstown Bushland Society)

- Eight Government Agency submissions (Environment and Heritage Group (EHG) of NSW Department of Planning and Environment, EPA, TfNSW, Sydney Water, RFS, SINSW, Office of Strategic Lands (Planning Ministerial Corporation (PMC)) and Ausgrid)
- One Council submission.

All public submissions objected to the proposal and of the two organisation submissions, one supported the proposal, and one submission didn't fully support or fully oppose the development. Council objected to the proposal and the State agencies provided comments only.

A table summarising the Agile Planning team and proponent's response to the submissions is provided in **Attachment F** and the proponent's response to the submissions is provided at **Attachment G**.

### 3.1.1 Submissions from the community

A total of 100 public submissions were received during the exhibition period from the community. All community submissions objected to the proposal. In summary, the concerns raised in community submissions include:

- Built form, density and local character
- Loss of community and social infrastructure
- Traffic and parking
- Flooding impacts on-site and on adjacent properties
- Loss of open space and impact on threatened and endangered ecological communities
- Site ownership and use for public purposes.

Redacted copies of the public submissions are provided at **Attachment H**.

### 3.1.2 Submissions from Organisations

Two submissions were received from organisations during the exhibition period:

- One combined submission was received from Mount St Joseph Milperra and Sydney Catholic Schools which was supportive of the proposal as the resulting development will address housing needs and diversity within the Milperra and wider LGA region. The submission also stated that Sydney Catholic Schools has purchased buildings and additional land to ensure the enrolment needs of future population can be met.
- Bankstown Bushland Society made a submission neither fully in support or fully opposing the proposal. The Society supported the conservation and proposed zoning of the bushland (known locally as Wonga Smith's Bush) in the north-eastern corner of the site, however, did not support this land being held in private ownership. The submission argued that the area should be retained in public hands either by Council, the Department of Education or another appropriate government agency. If not possible, the Society stated they were able to take ownership of the land.

Copies of the organisations submissions are included in the public submissions table provided at **Attachment H**.

### 3.1.3 Submissions from Agencies and Council

In accordance with the Gateway Determination, the following government agencies were consulted:

- Environment and Heritage Division of the NSW Department of Planning and Environment (now called Environment and Heritage Group (EHG))
- EPA
- TfNSW / RMS
- Sydney Water
- RFS
- Ausgrid
- NSW Department of Education
- NSW Health.

Given the Office of Strategic Lands (Planning Ministerial Corporation (PMC)) also held land near the site, they were sent letters of consultation.

Submissions were received from the following agencies:

- EHG
- EPA
- PMC
- RFS
- Schools Infrastructure NSW (SINSW)
- Sydney Water
- TfNSW
- Ausgrid.

TfNSW, RFS, Ausgrid, and Sydney Water raised no objections to the proposal, noting further consultation would be needed when a future development application for the site is lodged. SINSW also raised no objection but recommended the planning proposal be updated to consider pedestrian travel opportunities and identify active transport links to existing school travel paths.

EHG raised matters relating to Cumberland Plain Woodland, flood impact assessment and management of trees and vegetation on site.

EPA noted potential land-use conflict with KWF and the potential for site contamination.

PMC raised concern that without adequate funding it could not be the acquisition authority for this land and would also be unable to manage and operate the land for public open space.

An assessment of the issues raised by the government agencies is include in **Attachment F**. All agency submissions are provided in full at **Attachment I**. No issues raised by the relevant agencies prevent the progression of the planning proposal to finalisation.

Council's submission raised multiple concerns with the proposal including:

- Traffic and road network
- Draft Development Control Plan (DCP)
- Site contamination
- Draft Voluntary Planning Agreement (VPA)
- Sliding scale Floor Space Ratio
- Timing for LEP amendment to become effective.

No issues were raised by Council that would prevent the progression of the planning proposal to finalisation. An assessment against the issues raised by Council is included in **Attachment F**. Council's submission is provided in full at **Attachment J**.

## 3.2 Key Issues from submissions

A full assessment of the submissions received by the Agile Planning team can be found at **Attachment F**.

### 3.2.1 Built form, density and local character

#### Community submissions:

The community raised concerns that the proposed FSR, types of dwellings and lot sizes are not consistent with the surrounding built form and the wider Milperra area. The proposed R1 General Residential zone is not suitable for the area given its permissible uses allow for higher densities building typologies.

84 out of 100 (84%) of the submissions received related to associated with built form, density and local character.

#### Proponent response:

The proposed structure plan seeks to deliver a range of housing typologies, including low rise detached, attached (terrace style) and semi-detached dwellings. This is consistent with the objectives of Council's housing strategy that requires the delivery of housing diversity within the local government area (LGA). Given the diversity of housing typologies envisaged for the site, the objective of the R1 General Residential zone is deemed the most appropriate for the site.

The site is a consolidated land holding that allows for master planning to be undertaken which will facilitate cohesive streetscapes, connectivity and amenity. This will allow new development to set a consistent local character that is sympathetic to the existing resident dwellings near the site rather than in an ad hoc fashion.

#### Agile Planning Teams Response

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 E1 Local Centre reinforces the role of the new centre.

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

Fine grain detail relating to local character will can be established through a site specific DCP. Council is currently working with the proponent on a draft DCP.

The Agile Planning team is satisfied that the issues relating to built form, density and local character in relation to the proposed rezoning have been addressed and that further detailed matters will be addressed in the draft DCP and at the development stage by the proponent. These matters do not prevent the planning proposal progressing to finalisation.

### 3.2.2 Loss of community and social infrastructure

#### Community submissions

Community submissions raised concerns around a lack of infrastructure to service the cumulative population growth in association with this and other planning proposal. This includes roads, education facilities (public schools), childcare centres, public transport and health services. 75 out

of 100 (75%) of the submissions received related to the loss of community infrastructure and social infrastructure.

#### Agency and other organisation submissions

Sydney Catholic Schools have stated that they have purchased buildings and additional land to ensure the enrolment needs of future population can be met.

SINSW has reviewed the exhibition package and has advised that the number of students projected to be generated by the proposal can be accommodated by the surrounding schools, subject to upgrades and intake area adjustments.

#### Proponent response

In relation to the potential cumulative impacts of the future population growth in the area, the proposal has been referred to the relevant state agencies during the exhibition period. Further consultation may also be required during any future subdivision and housing development application stage.

The site is in close proximity to 11 bus stops which provide access to activity centres, including include Bankstown, Panania, East Hills and Liverpool CBDs, which include jobs, healthcare, general services and rail stations.

The proposed Bankstown Lidcombe Hospital project, currently being planned by the State Government, will increase hospital capacity in the LGA.

The WSU has previously engaged with the NSW Government/ Department of Education who advised that the site was not required to meet future growth and primary/high school education demand for the local area.

There are several projects on major state-owned roads, such as Henry Lawson Drive, at various levels of completeness. Works are being carried out in stages to focus on key areas of congestion and to minimise impact to motorists and the community.

The proponent has also offered to enter into a VPA which will contribute to the maintenance and upgrading of the existing local infrastructure and provide additional public benefits to be delivered via a works in kind arrangement or monetary contributions.

#### Agile Planning Teams Response

Key infrastructure and services agencies such as TfNSW, Sydney Water, NSW Health and SINSW have all been consulted as part of the exhibition of the proposal. No agencies raised concern regarding the capacity of existing services and infrastructure to meet the needs of the future population resulting from this proposal.

SINSW, Sydney Catholic Schools and the proponent have provided submissions stating that there is sufficient capacity to accommodate demand for educational facilities generated by redevelopment of the site for predominately residential purposes.

The structure plan seeks to retain the childcare centre located on site. The proposed zoning permits a range of community infrastructure land uses.

The Agile Planning team is satisfied that the issues relating to infrastructure have been addressed by the proponent and do not prevent the planning proposal progressing to finalisation.

### 3.2.3 Traffic and parking

#### Community submissions

The community submissions raised concerns that the proposal will add to the existing traffic congestion problems in the area and will exacerbate existing on-street parking issues.

58 out of 100 (58%) of the submissions received raised concern surrounding the impact the proposal would have on traffic and parking in the area.

#### Agency submission

TfNSW provided a submission stating that they had reviewed the proposal and had no requirements as the proposed development is unlikely to have a significant impact on the state road network.

#### Council submission

Council raised concerns that the exhibited planning proposal did not include the additional traffic assessment information that proponent provided to Council in response to an RFI issued in May 2021.

#### Proponent response:

Traffic modelling concludes that although the development will result in a small increase in traffic volumes, the key intersections surrounding the site would continue to operate effectively, being at level of service C or better during both AM and PM peak periods.

The proposed vehicle entry points to the site generally align with existing access to the site.

The proposal seeks to provide on and off-street parking. This includes approximately 355 on-street car parking spaces via parking bays and on-street parking, which exceeds current requirements.

#### Agile Planning Teams Response

The proponent has provided traffic modelling which concludes that any potential traffic impacts will be minor and not significantly reduce the operating capacity of surrounding key intersections.

TfNSW have advised that the proposed development is unlikely to have a significant impact on the state road network. SIDRA traffic modelling data was provided to TfNSW for review. The Agile Planning team is satisfied the proponent has satisfactorily addressed matters relating to additional traffic assessment information and that TfNSW has raised no objections.

Both the initial transport and traffic assessment report and RFI updated traffic assessment have been made available on the planning portal.

The Agile Planning team is satisfied that the issues relating to traffic and parking have been addressed by the proponent and do not prevent the proposal progressing to finalisation.

### 3.2.4 Flooding impacts on site and on adjacent properties

#### Community submissions

Community submissions raised concerns related to flooding on and off site and the potential that existing flood impacts will be exacerbated by the development.

6 out of 100 (6%) of the submissions received raised flooding issues with the proposal.

#### Agency submission

EHG noted that existing flood studies have been considered as part of this proposal, however, has excluded the revised Georges River Flood Study 2019 prepared by Liverpool City Council.

EHG also noted that the flood assessment must consider the flood impact of the proposed development, within and outside the subject site, for both mainstream and overland flooding for the

full range of floods, up to the PMF, rather than the 1% AEP flood event. This should also consider climate change impacts from increased rainfall for mainstream and overland flooding, which may include 0.5% and 0.2% AEP year flood events.

EHG recommend consultation with NSW SES to determine the adequacy of evacuation plans present in the proposal, however it is noted that this could occur with Council and the proponent at the detailed development stage.

## Proponent response

The majority of the site is non-flood affected, with some portions of the lower southern portion of the site identified as 'low flood risk' and "Flood Stormwater Medium Risk".

The Stormwater Concept Plan states that the basins will manage the larger storm events to ensure that flooding in Georges River is not worsened as a result of the development on site.

Flood Advice (July 2022, prepared by J Wyndham Prince), advises that:

- Overland flooding is not an issue as the site is located at the upper reach of the catchment, and the detention basins have adequate storage and retention to manage stormwater sufficiently,
- The portion of the site within the 'low flood risk' precinct would not result in a change in flood behaviour or impact external to the site, and
- There is sufficient continuous rising grade within the development to a level above the PMF event for all residents should the need for evacuation arise during an extreme flood event.

## Agile Planning Teams Response

The proponent has provided a Stormwater and Flooding Report post-exhibition which considers the flood hazard on the site for climate change-based scenarios for various flooding events. This testing shows that flood hazard within the site is generally within the H1 category. It identifies that Basin 1 and Basin 2 have a flood hazard of H5 and H4 respectively, however this is expected as they are flood mitigation tools. Their report concludes that there is no significant change to flood hazard external to the site compared to existing conditions.

Whilst EHG have raised concern about the completeness of the exhibited flood reporting and modelling, the revised post exhibition period floods report contains consideration of existing flood studies, including the Georges River Flood Study.

As discussed above in relation to Ministerial Direction 4.1 Flooding, it is noted that the Department is in the process of responding to the recommendations of the 2022 NSW Flood Inquiry report which recommended taking a risk-based approach to flooding. In this regard, the Department may require further updates to the proposal at finalisation.

The Agile Planning team is satisfied that the issues relating to flooding have been addressed by the proponent sufficient for the proposal to progress to finalisation.

## 3.2.5 Loss of open space and impact on threatened and endangered ecological communities

### Community submissions

Although there was community support for the protection of identified CPW on site, there was still community concern about the impact of the development on the remaining CPW and the loss of previously publicly accessible open space and bushland.

13 out of 100 (13%) of the submissions received concern about the loss of open space and the impact the proposal will have on the CPW located on site.

## Organisation submission

The Bankstown Bushland Society supported the conservation and proposed zoning of the bushland in the north-eastern corner of the site, however, did not support this land being held in private ownership. They also suggested that should a suitable government agency or council not be willing to take on ownership of the land, the Society is willing and able to take on ownership of the land.

## Agency submission

EHG raised concerns that the area of CPW on the site is likely to have been underestimated. EHG notes that there are areas mapped as 'landscaped native vegetation' on the site, which may still contain remnant CPW species. EHG considers the CPW (landscaped) which is adjacent to CPW in low and good condition be considered as representative of CPW. Given the EEC status of CPW, impacts to any locations containing CPW should be avoided where possible. The future redevelopment of the site to provide a range of residential housing and associated amenity has the potential to impact CPW through land clearing and indirect impacts.

EHG supports in principle the measures taken by the proponent to protect the CPW on site, however considers the approach should be applied to all areas on the site to protect and conserve all existing remnant CPW and linkages to CPW on site. EHG's preference is for the C2 Environmental Conservation zoned land is held under state government ownership to ensure the land is protected and managed consistently. Alternative it should be consolidated into a single private lot to ensure its protection.

EHG recommends the proposed Structure Plan for the site is amended to protect and conserve all existing remnant CPW on the site and that the fragmented patches of CPW are actively managed and linked to improve the prospects of long-term survival of the remnants and habitats on site.

Regarding the future management of the CPW land, EHG recommends:

- the CPW areas in low condition and landscape are rehabilitated and planted with local native provenance species from the CPW
- a permanent barrier (such as a fence) is placed at the outside edge of the CPW that is to be retained to delineate and protect the site from inadvertent damage to the CPW. The fence needs to be appropriate for the site and be designed to allow for small native fauna passage
- local native seed are collected from CPW vegetation on the site that is approved for removal and propagated as soon as possible for use in rehabilitating the CPW on the site and for use in the landscaping of the site with CPW species
- a VMP is prepared and implemented for the site by a suitably qualified bush regenerator for the rehabilitation, management, and long-term maintenance any retained CPW.

## Proponent response

The proposal preserves a significant area of CPW, which is identified as a EEC under Commonwealth and State biodiversity legislation. The protection of this remnant vegetation will be preserved through the rezoning of over 2 hectares of the site to C2 Environmental Conservation.

Over 88% of mature trees within the campus (1554 of 1776) will be retained and over 99% of the higher order ecologically significant vegetation (Cumberland shale plain woodlands) will be retained and maintained. The removal of 0.54% of Cumberland plain tree species is proposed to be offset via biodiversity credits. The proposal will include planting of at least 540 trees along proposed roads and parks. The final quantum of tree retention will depend on the proposed cut and fill levels and utility infrastructure required to service the residential proposal.

The sporting field currently located on the WSU Campus are owned by WSU and operated through a booking system (as opposed to Council owned fields which are available to the public). The proposal incorporates three publicly accessible open space areas totalling over 14,400m<sup>2</sup> which will incorporate a variety of public amenities, such as seating, bicycle paths, BBQ facilities and play equipment. It is intended these parks are dedicated to Council in perpetuity as to ensure they remain accessibly by current and future communities.

Council and PMC have cited ongoing maintenance costs of the conservation land as to cost prohibitive to take over ownership. In the event a government entity is not willing to accept ownership, the land may be included within the proposed commercial centre's community or strata scheme. Ongoing funding from the scheme would be allocated to the required bushland maintenance in perpetuity.

### Agile Planning Teams Response

It is noted that while the proposal will result in the loss of some existing CPW vegetation, the proponent has offered management solutions to offset the loss of this vegetation. This includes, purchasing and retiring Biodiversity credits and revised basin designs to reduce the removal of trees.

The proponent has advised that the C2 Environmental Conservation land will be privately managed and that this can include limiting public access to ensure conservation of the CPW is prioritised. This is consistent with EHG proposed management of the land and is consistent with management practices of other C2 Environmental Conservation zoned land.

Given the status of the vegetation on site, it may be appropriate to insert a site-specific objective, or similar mechanism to reflect the aspiration to ensure maximum tree retention. The Agile Planning team recommends that the Panel insert a site-specific objective to reflect the intent to maximise tree retention and conservation of CPW.

In regard to the loss of open space, the proposed structure plan seeks to provide to open space in three separate locations. The planning proposal seeks to zone these sites RE1 Public Recreation to ensure they are provided and protected as future development occurs across the site. It is noted that the proponent and Council are in the process of finalising the draft VPA, however it may not be completed by the time the LEP amendment is notified. As noted above, the Agile Planning team recommends that the RE1 zoned land be identified on the Land Reservation Acquisition map of the CB LEP 2023.

The Agile Planning team is satisfied that the issues relating to biodiversity and open space have been addressed by the proponent and do not prevent the proposal progressing to finalisation.

## 3.2.6 Site ownership and use for public purposes

### Community submissions

A number of submissions raised concerns that the land was gifted to WSU and accordingly it should be retained under government ownership and used for educational purposes or other community uses to benefit the public.

37 out of 100 (37%) of the submissions received did not support the loss of the site given it was originally gifted to WSU.

### Proponent response

WSU have recently gained approved for two campus in the Bankstown CBD and Liverpool CBD. With the relocations of the university's activities to nearby centres WSU continues to prioritise the

importance of education in this area through its extensive investment in its facilities, the local community and educational needs.

WSU's Western Growth transformation program for the Milperra Campus was undertaken with the Minister's consent and in accordance with the Western Sydney University Act.

In assessing the options for the site, WSU had engaged with the NSW Government who advised that the site was not required to meet future growth and primary/high school education demand for the local area.

### Agile Planning Teams Response

The proponent has undertaken consultation with relevant government agencies prior to the lodgement of the proposal with regard to the future use of the site and whether it is required for educational purposes. Although the Milperra area will see a reduction in educational facilities directly as a result of the proposal, WSU will offset this loss through the provision of other similar educational facilities in nearby local centres, including the new Bankstown CBD campus.

As noted above, SINSW's submission advises that there is capacity in educational facilities to account for the growth in population. Sydney Catholic Schools have also advised in their submission that enrolment needs of future population can be met. Other government agencies, such as NSW Health, made no comment about the proposal.

The Agile Planning team is satisfied that suitable consultation with agencies has been undertaken in relation to the future use of the site for the proposal to progress to finalisation.

## 4 Next Steps

As outlined in this report the project has been the subject of a rezoning review and was then recommended by the Panel to proceed to Gateway. The Department subsequently issued a Gateway determination and the project progressed to a public exhibition. Consultation with Agencies and the community has been completed. The Panel as the PPA is now tasked with confirming if the proposal should proceed to the finalisation stage.

The Department is the Local Plan-Making Authority (LPMA) for this planning proposal.

The Panel's decision and the final planning proposal will be submitted to the Department through the NSW Planning Portal for finalisation.

The Department will prepare a finalisation report in accordance with the LEP Making Guidelines (September 2022) and will determine whether to make the LEP, with or without variation. The Department may defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the EP&A Act, the Department will organise drafting of the LEP and finalisation of maps and will consult the panel on any draft instrument.

## 5 Recommendation

Based on this post-exhibition report, it is recommended that the Sydney South Planning Panel determine that the planning proposal should be submitted to the Department for finalisation with the following changes, to address the matters discussed in this report relating to the Gateway conditions and issues raised in submissions:

- a) That the planning proposal document is to be updated prior to submission for finalisation to formally incorporate the additional information provided by the proponent to address the relevant Section 9.1 Ministerial Directions.
- b) That the planning proposal be updated to identify both the RE1 Public Recreation and the SP2 Infrastructure (Drainage) land in the south western corner of the site within the Land Reservation Acquisition Maps of the CB LEP 2023.
- c) That during finalisation the Department insert a site-specific objective to reflect the intent to maximise tree retention and conservation of CPW.

The planning proposal is considered suitable for finalisation because:

- The proposal continues to demonstrate strategic and site-specific merit.
- Submissions raised have been adequately addressed by the proponent.
- The conditions of the Gateway have been met subject to minor amendments to the planning proposal noted above.
- Agency and community consultation has raised no matters preventing the progression of the planning proposal.

## 5.1 Attachments

**Attachment A-A18** - Planning Proposal and Appendices (October 2022)

**Attachment B** - Rezoning Review Panel Determination (RR-2021-91)

**Attachment C** - Gateway Determination

**Attachment D** - Assessment Against Gateway Determination

**Attachment E** - Panel authorisation to exhibition

**Attachment F** - Summary of Submissions – Department

**Attachment G** - Proponents Response to Submissions

**Attachment H** - Redacted public submissions, including organisations

**Attachment I** - Combined Agency Submissions

**Attachment J** - Council Submission

**Attachment K** - Ministerial 9.1 Directions update

**Attachment L** - Proposed Community Title scheme

**Attachment M** - Proponents response to EHG Submission

**Attachment N** - Urban Design testing for sliding scale FSR

**Attachment O** - Flood and Risk Impact Assessment

**Attachment P** – Council letter – Dedication of RE1 Public Recreation

# Post-Exhibition Report

PP-2021-5837



\_\_\_\_\_  
(Signature)

\_\_\_\_22/6/23\_\_\_\_ (Date)

Louise McMahon

Director, Agile Planning

\_\_\_\_\_  
(Signature)

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