

9 December 2022

Att: Director Metro East and South
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Sent via email: douglas.cunningham@planning.nsw.gov.au

Submission to the Western Sydney University Campus, Milperra planning proposal – Canterbury Bankstown Council

Thank you for the opportunity to provide comment in response to Western Sydney University Planning Proposal to facilitate the redevelopment of the educational establishment site to a new housing estate with a small commercial centre as proposed by Mirvac Residential (NSW) Development Pty Ltd (Mircvac). The Planning Proposal is on exhibition from 1 November to 14 December 2022.

As you will be aware, Council resolved to not support the Planning Proposal at its 24 August 2021 Council Meeting. Following the granting of a Gateway determination by the NSW Government on 1 June 2022, Council resolved on 23 August 2022 to prepare and exhibit a draft Planning Agreement and draft Development Control Plan in connection with this project to ensure good urban design and development outcomes occurred on the site as well as public benefits being delivered by the developer despite Council not supporting this proposal.

Based on Council's preliminary review of the documentation submitted to the Department of Planning and Environment (the Department) and made available on the Department's website, Council wishes to raise a number of concerns and matters set out in **Attachment A**, to be considered as part of the Department's detailed assessment.

Council requests that the proposal is amended to address the issues raised and the associated recommendations in this submission and that the Department re-exhibits the proposal to provide an opportunity for Council, the community and all interested stakeholders to review and provide further comment before any determination is made by the Minister for Planning and Homes (the Minister).

Please contact Council's Coordinator Strategic Assessments, Patrick Lebon on (02) 9707 5593 or Patrick.Lebon@cbc.city.nsw.gov.au if you require clarification of this matter.

Yours sincerely,



Camille Lattouf
Manager, City Strategy and Design

ATTACHMENT A – PRELIMINARY REVIEW COMMENTS

This Attachment details Council's preliminary comments in relation to the Western Sydney University Campus, Milperra Planning Proposal with recommendations following each section.

Traffic and Road Network:

1. It appears the same report submitted originally with the Planning Proposal in June 2020 has been submitted by Mirvac as part of the current exhibition package.
2. Council wrote to Mirvac in 28 January 2021 advising of numerous traffic and transport related matters that were required to be addressed before the matter would proceed to a Local Planning Panel Meeting. Mirvac provided a submission in May 2021 that responded to the matters raised by Council.
3. It is unclear however whether the exhibition version of the Planning Proposal has incorporated Mirvac's May 2021 response.

Recommendation:

- a. Mirvac provide a response and clarification to confirm what information has been included as part of the exhibition of the Planning Proposal.
- b. A revised traffic and transport report is submitted that includes all additional information and detail that was submitted after the original 'Milperra WSU Masterplan Transport Assessment' prepared by The Transport Planning Partnership dated 2 June 2020 was provided to Council.

Development Control Plan:

4. The draft Development Control Plan (draft DCP) prepared by Mirvac and originally submitted with the Planning Proposal included deficiencies and a lack of detail on development objectives and controls for the site.
5. Council has commissioned an independent urban design expert to provide a review of the draft DCP prepared by Mirvac and recommend amendments and new development objectives controls. A work in progress draft DCP has been placed on exhibition for 28 days from 1 November.
6. The work in progress draft DCP prepared by Council and currently on exhibition has addressed some deficiencies in the draft prepared by Mirvac as follows:
 - Lack of any solar access controls for dwellings on the site – this matter is addressed by the draft DCP.
 - Lack of any landscaping and tree planting requirements – this matter is addressed by the draft DCP.
 - No provisions to reflect the Indigenous and non-indigenous heritage of the place – this will require further analysis by the Proponent post-exhibition.
 - No provisions on the embellishment of the proposed public open space – this will require further negotiation through the Planning Agreement process.
 - Insufficient detail regarding how future residential development manages bush fire and noise impacts – this will require further analysis post-exhibition.
 - No minimum tree canopy coverage for the site – this matter is addressed through by the draft DCP.

7. Following the exhibition period, Council will review all submissions received, update the draft DCP to reflect the matters above and provide a revised draft DCP for a further exhibition period.

Recommendation:

- c. Council reviews the submissions received at the conclusion of the public exhibition of the draft DCP.
- d. Council revise the draft DCP and place the draft on a further exhibition period for further comment before reporting the outcome to a future Council Meeting with a recommendation whether to adopt the draft DCP.

Site Contamination:

8. Council acknowledges the Remediation Action Plan, Site Audit Report and Site Audit Statement that has been included in the Planning Proposal exhibition.
9. Council notes that the Site Audit Statement makes the following statement (p11):
"Preparation of a Section A Site Audit Statement and Site Audit Report by a NSW EPA Accredited Site Auditor reviewing the above information and confirming the suitability of the site for the intended use."
10. The Site Audit Statement identifies the following is required:
 - *"Development of a sampling analysis and quality plan (SAQP) for the data gap assessment and review and approval by a NSW EPA Accredited Site Auditor.*
 - *Should the results of the data gap assessment indicate the requirement for a change in the remediation strategy, the requirements for remediation of groundwater or ground gas issues, or should containment of asbestos impacted soils be confirmed as a remediation strategy, a revision to the RAP (either as an addendum to the RAP or as a remedial works plan (RWP)) will be required, which should be reviewed and approved by a NSW EPA Accredited Site Auditor.*
 - *Preparation of an environmental management plan (EMP) for the management of any contamination remaining on site following redevelopment that presents a risk to human health or the environment."*
11. Council considers that the confirmation of the suitability of the site for the intended use must be resolved before the Planning Proposal is finalised and a decision by the Minister is made. The Section 9.1 Local Planning Direction No. 4.4 Remediation of Contaminated Land states:
"(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used."
12. Given there is further work to be completed by Mirvac's environmental consultants, as identified in the Site Audit Statement, it is not clear whether the contamination on the site can be remediated and whether the site would be suitable for all the purposes proposed under the proposed R1 General Residential, RE1 Public Recreation and B1 Neighbourhood Centre Zones.

Recommendation:

- e. Further contamination investigation work as identified in the Site Audit Statement is undertaken before the Planning Proposal is finalised and the LEP Amendment is made by the Minister.

Draft Planning Agreement:

13. Council has received and reviewed the in-principle Letter of Offer from Mirvac to enter into a Planning Agreement with Council to support the redevelopment of the site.
14. In accordance with its resolution of 23 August 2022, Council has placed on exhibition a draft site specific Development Control Plan and the draft Planning Agreement that was received from Mirvac. The exhibition of these documents commenced on 1 November 2022, concurrently with the Planning Proposal, and are available on Council's Have Your Say website.
15. Council will continue to liaise with Mirvac regarding the details of draft Planning Agreement are acceptable to Council. The key issues that remain unresolved include the following:
 - The amount of offset sought by Mirvac against future Section 7.11 Development Contributions for local open space is higher than what is supported by Council as the offsets proposed would result in other public infrastructure investment not being funded.
 - Two of the three public parks that Mirvac intends to dedicate to Council will include the bioretention wetlands and also serve as stormwater detention basins. These functions will impact the usability of these public parks as genuine public recreation open space. Council will not accept dedication of these two public reserves due to the significant financial cost for ongoing maintenance in perpetuity.
16. It is noted that as this submission relates to the Planning Proposal, the Planning Agreement process will occur separately and will be reported to Council as a separate matter in the future, following the exhibition of the final draft Planning Agreement.

Recommendation:

- f. Council to continue discussions with Mirvac regarding the matters raised in this submission. Council requests that any Planning Agreement should address the concerns raised above.

Council Resolution Regarding Future Use of the Site

At its Ordinary Meeting on 22 November 2022, Council resolved to include in this submission *"its concern in terms of the loss of the university as an educational facility and that there is no plans or intention to provide any form of educational facility for the local community at this point in time"*.

Douglas Cunningham

From: Patrick Lebon <Patrick.Lebon@cbc.city.nsw.gov.au>
Sent: Tuesday, 13 December 2022 8:48 AM
To: Douglas Cunningham
Cc: Camille Lattouf; Kris Walsh
Subject: Canterbury Bankstown Council submission to WSU Milperra planning proposal (PP-2021-5837)
Attachments: 2022.12.09 - Council submission to Planning proposal, WSU Milperra Submission FINAL.pdf

Hi Douglas

Please find attached the submission from Canterbury Bankstown Council. I have also uploaded the submission via the Planning Portal page this morning.

Further to the matters raised in the attached submission we raise with the Department the following procedural issues:

Sliding Scale Floor Space Ratio

Condition 2(d) of the Gateway determination for this planning proposal states:

"2. Prior to finalisation the planning proposal is to be revised to:

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."

Council seeks to be consulted by the Department regarding the proposed sliding scale FSR for this site given Council will be the consent authority for the future residential development on the site. We request an opportunity to review and provide a written submission to the Department in regard to the sliding scale FSR approach before a final decision is made on the finalisation of this planning proposal.

Timing for LEP Amendment to become Effective

Council is continuing its negotiations with Mirvac in respect to the draft Planning Agreement for the site. At the time of writing, Council and Mirvac have yet to agree on a final draft version of the Planning Agreement that would be exhibited.

Concurrently, Council is also preparing a revised final draft site specific Development Control Plan that will require exhibition for 28 days in accordance with Council's Community Participation Plan.

To ensure there is sufficient time to deal with these matters we request that the LEP Amendment, if made, provides provision for at least 4 weeks before the new LEP controls become effective. This will allow time for any remaining issues regarding the draft DCP and draft Planning Agreement to be resolved and the final executed Planning Agreement to be registered by the developer before the LEP Amendment takes effect.

If you have any questions please contact me.

Regards



Patrick Lebon - Coordinator Strategic Assessments
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