



AGENDA FOR THE INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

3 July 2017 – 6.00pm

Location:

**Council Chambers
137 Beamish Street, Campsie**

ORDER OF BUSINESS

1	30–46 AUBURN ROAD, REGENTS PARK	
	Planning proposal with maximum 1.75:1 FSR	3
2	479 HENRY LAWSON DRIVE, MILPERRA	
	Application to include ‘garden centres’ as an additional permitted use	9
3	150 BELMORE ROAD, RIVERWOOD	
	Modification application to extend the hours of operation for the Morris lemma Indoor Sports Centre.	41
4	62 THE MALL, BANKSTOWN	
	Temporary use and fitout of the existing building as a real estate office	55

Independent Hearing and Assessment Panel – 3 July 2017

ITEM 1

30–46 Auburn Road, Regents Park

Planning proposal with maximum 1.75:1 FSR

AUTHOR

Planning

ISSUE

In accordance with the IHAP Charter, the Panel is requested to recommend if a planning proposal with a maximum 1.75:1 FSR for the site at 30–46 Auburn Road in Regents Park should proceed.

RECOMMENDATION

That the planning proposal proceed with a maximum 1.75:1 FSR for the site at 30–46 Auburn Road in Regents Park, consistent with the advice received from Architectus and Olsson & Associates Architects.

BACKGROUND

THE SITE

The site is located at 30–46 Auburn Road in Regents Park. The site is 21,180m² in area and contains some metal clad industrial buildings. The site is bound by Auburn Road to the east, industrial development to the north, and the Bankstown Rail Line to the west and south (see aerial photo below). The site is in close proximity to the boundary with Cumberland Council.

The site also adjoins the Southern Sydney Freight Line (SSFL), which intersects with the Bankstown Railway Line at the Auburn Road overpass. The SSFL is a dedicated 30 kilometre freight line between Macarthur and Sefton and provides a third track in the rail corridor specifically for freight services.

The site is within Zone R4 High Density Residential and is subject to a maximum 0.6:1 FSR and a maximum 13 metre building height (four storeys) under Bankstown LEP 2015.



Subject Site

HISTORY

Proponent's first application to amend the Local Environmental Plan

In **December 2012**, the proponent submitted an application to amend the former Bankstown LEP 2001. The application proposed to increase the maximum FSR to 3:1 and the maximum building height to 17 storeys.

At the Ordinary Meeting of **26 February 2013**, the former Bankstown Council resolved not to support the application.

In **August 2013**, the Sydney West Joint Regional Planning Panel considered a request to review the application. The Panel reviewed relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment and Council. Based on this review, the Panel recommended that the application should not be submitted for a Gateway determination. The reasons are:

1. The proposed development would be markedly out of character with the existing scale and form of development within Regents Park and its broader urban contextual precinct.
2. The proposed development would be markedly out of character with the future scale and form proposed for the locality under planning regulations contained in both existing Bankstown LEP and draft Bankstown LEP.
3. The proposed development would be of a scale that would render it highly visible and out of character with its broader urban contextual setting. That factor would be exacerbated by the site's location on a relatively high landscape element in the district setting.

However, the Panel suggested the site is considered suitable for more intensive housing (compared to the current controls) due to its location within walking distance to rail transport, and the services offered by the Regents Park and Birrong centres. This consideration is subject to the completion of certain studies.

Proponent's second application to amend the Local Environmental Plan

In **February 2014**, the proponent submitted a second application to amend the former Bankstown LEP 2001. The application proposed to increase the maximum FSR to 2:1 and the maximum building height to eight storeys.

At the Ordinary Meeting of **15 April 2014**, the former Bankstown Council resolved not to support the second application. At the same time, Council was preparing the North Central Local Area Plan to guide development in the suburbs of Regents Park, Yagoona, Birrong, Potts Hill and Chullora to 2031. Council considered a maximum 1:1 FSR / four storeys was appropriate for the site in the context of the centres hierarchy.

In **November 2015**, Council re-exhibited the Draft North Central Local Area Plan. The Draft Local Area Plan proposed to increase the building envelope controls for the site to a maximum 1.75:1 FSR and a maximum six storeys along Auburn Road / eight storeys for the remainder of the site. The amended building envelope controls reflected the '*Auburn Road Structure Plan*' and '*Additional Built Form Advice*' (Architectus) commissioned by Council, and the expansion of the Auburn Road rail overpass which increased the road network capacity.

In **March 2016**, the Sydney West Joint Regional Planning Panel considered a request to review the second application. The Panel reviewed relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment and Council. Based on this review, the Panel recommended that:

1. The matter proceed to a Gateway Determination.
2. Based on the publicly exhibited North Central Local Area Plan prepared by the Council and as supported by detailed urban design and traffic analysis:

- (a) The planning proposal proceed at a maximum floor space ratio of 1.75:1 and maximum height provisions reflecting the North Central Local Area Plan of six storeys for Auburn Road and eight storeys for the remainder of the site.
- (b) There is a need for improvement works to establish linkages to Regents Park Village for the benefit of the site and that these works will need to be brought forward to align with development of the site. In this regard, should the matter proceed to Gateway, then the Panel recommends that the proponent and the Council engage in discussion regarding an appropriate mechanism to realise these improvement works in a timely manner.

At the Extraordinary Meeting on **11 May 2016**, the former Bankstown Council adopted the North Central Local Area Plan subject to the following amendment by Councillors: *For the properties at Nos. 30–46 Auburn Road in Regents Park, provide a suitable building height and provide a FSR of 2.25:1, subject to traffic and public domain works.*

Gateway Determination

In **June 2016**, the Department of Planning and Environment informed Council that the Sydney West Joint Regional Planning Panel's recommendation would proceed to Gateway. Consequently, Council was asked to advise if it wishes to be the relevant planning authority for the planning proposal.

At the Ordinary Meeting on **26 July 2016**, Council resolved to be the relevant planning authority for the planning proposal.

In **September 2016**, the Department of Planning and Environment issued a Gateway Determination to proceed with the planning proposal. Prior to exhibition, the Gateway Determination requires Council to amend the planning proposal to reflect the outcome of a FSR review (either 1.75:1 or 2.25:1, or an alternative FSR).

REPORT

Council's FSR Review

In accordance with the Gateway Determination, Council commissioned Architectus to advise an appropriate FSR for the site (either 1.75:1 or 2.25:1, or an alternative FSR).

Architectus reviewed the FSR for the site and confirmed that a maximum 1.75:1 FSR is the best fit for the site given the current site constraints and existing planning context and vision for the surrounding area.

Council's FSR Peer Review

Council commissioned Olsson & Associates Architects to carry out a peer review and to advise an appropriate FSR for the site (either 1.75:1 or 2.25:1, or an alternative FSR).

Olsson & Associates Architects reviewed the FSR for the site and confirmed that a maximum 1.75:1 FSR is the most desirable outcome for the site as it demonstrates the following urban design outcomes:

- *The site layout includes a N–S view corridor which provides views out from the central space between the existing industrial buildings to the north. In the future, this has the potential to be a street connection to Gunya Street when the industrial sites are developed*
- *Wayfinding and legibility of the site is enhanced with small streets that allow at-grade access around the site, with street addresses to all buildings*
- *A range of communal open spaces are provided for a possible range of activities.*
- *These communal open spaces have good amenity due to receiving 2 hours sunlight in mid-winter to a substantial portion of the communal open space. In addition, the communal open spaces are sited away from the noise of the railway line, enhancing their amenity*
- *The design of the central communal open space has good spatial enclosure, creating a good sense of place, with views provided out from the space to the surrounding precincts.*
- *The buildings are a maximum of 45m façade length. Buildings are separated by relatively wide gaps that allow views through the site. The scale and length of the buildings is appropriate to the urban context of the site.*

The recommendation is a maximum 1.75:1 FSR, six storey buildings along Auburn Road and eight storey buildings in the western part of the site.

Advice Being Sought

In accordance with the Gateway Determination, Council is in a position to exhibit the planning proposal based on the outcomes of the FSR reviews i.e. maximum 1.75:1 FSR.

However in May 2017, the proponent requested Council to consider an alternative FSR prior to exhibiting the planning proposal. The proponent is requesting a maximum 4:1 FSR on the site. To date, the proponent has not submitted information to support this request or identified the building heights being sought.

The Panel is requested to recommend if a planning proposal with a maximum 1.75:1 FSR for the site at 30–46 Auburn Road in Regents Park should proceed.

POLICY IMPACT

This matter has no policy implications for Council.

FINANCIAL IMPACT

This matter has no financial implications for Council.

RECOMMENDATION

That the planning proposal proceed with a maximum 1.75:1 FSR for the site at 30–46 Auburn Road in Regents Park, consistent with the advice received from Architectus and Olsson & Associates Architects.

ATTACHMENTS

Nil

Independent Hearing and Assessment Panel – 3 July 2017

ITEM 2

479 Henry Lawson Drive, Milperra

Application to include ‘garden centres’ as an additional permitted use

AUTHOR

Planning

ISSUE

In accordance with the IHAP Charter, the Panel is requested to recommend whether a planning proposal for the site at 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) should proceed to a Gateway Determination.

RECOMMENDATION

That the application to amend Bankstown Local Environmental Plan 2015 by including ‘garden centres’ as an additional permitted use at 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) should proceed to a Gateway Determination, provided a maximum 0.4:1 FSR applies to the additional permitted use.

BACKGROUND

The site is within Zone RE1 Public Recreation under Bankstown Local Environmental Plan 2015. The site is under private ownership and is reserved for open space purposes.

In December 2013, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site under the former Bankstown Local Environmental Plan 2001. Whilst the zone prohibited retail plant nurseries, clause 12 of the former LEP enabled the Panel to approve the use.

In May 2017, Council received an application to amend Bankstown Local Environmental Plan 2015 (Schedule 1) and the Additional Permitted Uses Map by including ‘garden centres’ as an additional permitted use on the site. According to the application:

- The definition of ‘garden centres’ under Bankstown Local Environmental Plan 2015 better aligns with the Flower Power Group’s business model.
- The site does not benefit from the ‘existing use’ provisions under the Environmental Planning and Assessment Act 1979 as the use has not commenced.

Based on the Department of Planning and Environment’s Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to Gateway, the proposal is supported as it is consistent with the Greater Sydney Commission’s Metropolitan Plan (*A Plan for Growing Sydney*) and Draft South District Plan.

Based on the Department of Planning and Environment’s justification matters as set out in the Department’s publication *A Guide to Preparing Planning Proposals*, the proposal is supported for the following key reasons:

- The planning proposal is the best means of achieving the intended outcome.

At present, there are limited opportunities for the site. Firstly, Council’s local strategies do not support a rezoning proposal due to the environmental constraints that restrict development on the site. Secondly, the local strategies do not prioritise the acquisition of the site.

The proposal therefore reflects the decision by the Sydney West Regional Planning Panel to approve a retail plant nursery and associated retail uses on the site. The Panel considered *‘the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City’*.

- The proposal can address relevant state environmental planning policies and Ministerial (117) Directions subject to additional information, should Council decide to proceed with a planning proposal.

Should Council decide to proceed with a planning proposal, it is recommended that a maximum 0.4:1 FSR applies to the additional permitted use. This is to ensure the building design is consistent with the Remediation Action Plan for the site, and addresses the cumulative impact of development on the capacity of the road network (namely Henry Lawson Drive).

DESCRIPTION OF THE SITE AND LOCAL CONTEXT

The land at 479 Henry Lawson Drive in Milperra is under private ownership and comprises two lots:

Property Address	Property Description	Land Use Zone	Site Area
479 Henry Lawson Drive, Milperra	Lot 2, DP 576251	Zone RE1 Public Recreation	28,838m ²
479 Henry Lawson Drive, Milperra	Lot 3, DP 576251	Zone RE1 Public Recreation	10,444m ²

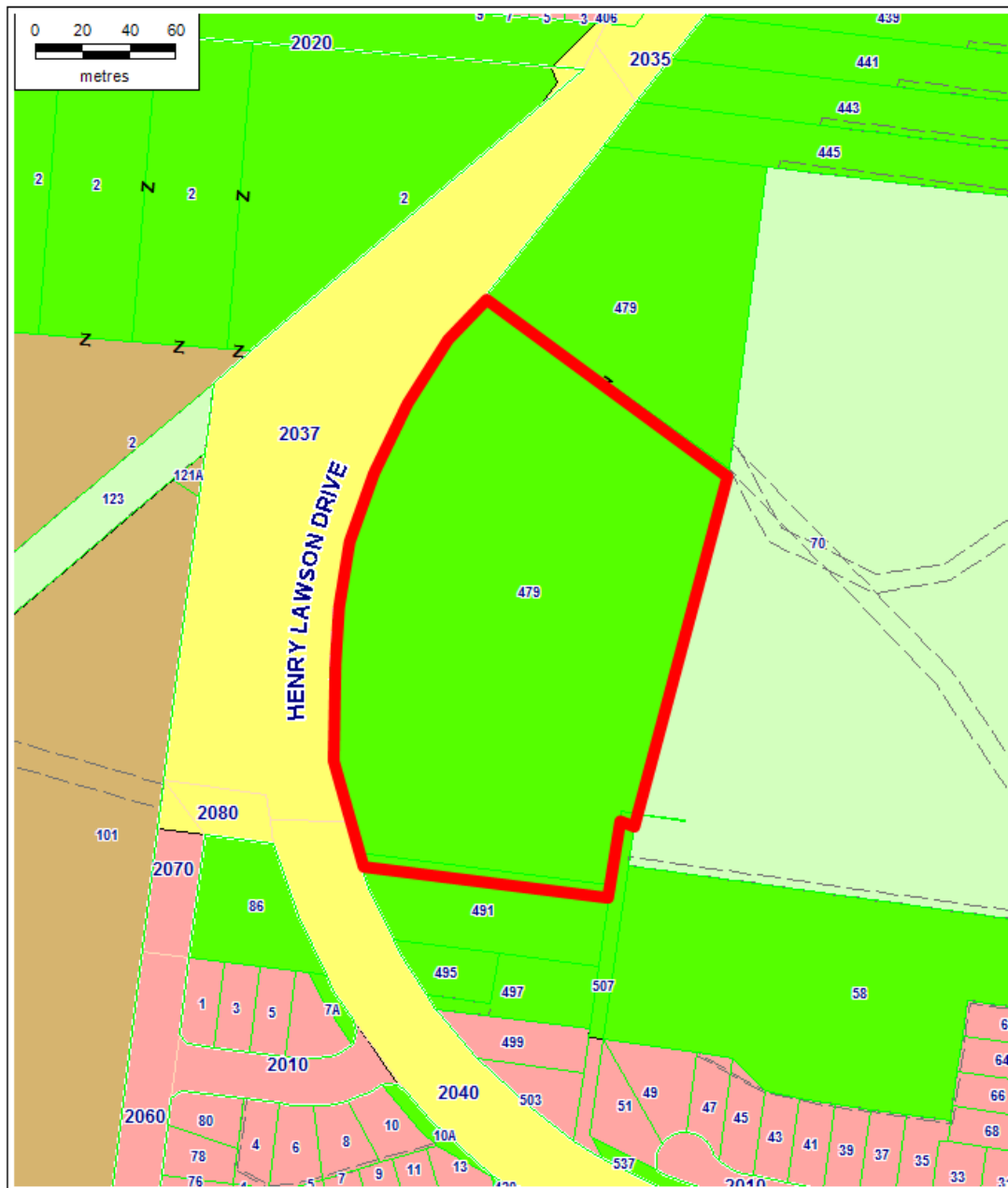
According to the application, Lot 2 is vacant and Lot 3 contains a creek, endangered ecological communities and remnant native vegetation. The proposal is confined to Lot 2 (to be referred to as the ‘site’ for the purposes of this report).

The site is located adjacent to the Bankstown Airport–Milperra Specialised Centre. The Specialised Centre is characterised by the Bankstown Airport, Milperra Industrial Precinct and Bankstown Golf Course site. Henry Lawson Drive provides access to Milperra Road and the M5 Motorway.

In relation to local context, the site is reserved for open space purposes under Bankstown Local Environmental Plan 2015. The site adjoins the Bankstown Golf Course site to the east, Gordon Parker Reserve and Vale of Ah Reserve to the west, and low–rise suburban neighbourhood to the south.



Site and local context



Site and local context (i.e. land use zones)

Sydney West Regional Planning Panel’s approval of a retail plant nursery and associated retail uses on the site

According to the application, the site is a former landfill used for the disposal of dry industrial and trade waste, although some putrescible waste appears to have also been disposed. The former landfill was operational from the 1960s to 1973.

In December 2013, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010). Whilst the zone prohibited retail plant nurseries, clause 12 of the former Bankstown Local Environmental Plan 2001 enabled the Panel to approve the use. Clause 12 read:

- (1) *Despite clause 11, but otherwise subject to this plan, the consent authority may grant consent to development that:
 - (a) is not included in the Table to clause 11, or
 - (b) would be prohibited by the Table to clause 11 in the absence of this clause.*

- (2) *The consent authority may grant consent pursuant to this clause only where it is satisfied that the proposed development:
 - (a) is of a nature (whether by reason of its design, scale, manner of operation or otherwise) that would, in the absence of this clause, justify an amendment to this plan in order to permit the particular development, and
 - (b) is not inconsistent with the objectives of the zone in which the development site is situated, and
 - (c) is not inconsistent with the provisions of any other environmental planning instrument, and
 - (d) will not have an adverse effect on other land in the vicinity.*

- (3) *Development under this clause is advertised development within the meaning of the Act.*

It is noted clause 12 was not transferred to Bankstown Local Environmental Plan 2015.

The Sydney West Regional Planning Panel's decision stated that the Panel:

1. *Considers the proposal would be in the public interest in that it provides for the productive use of land that zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City.*

2. *Considers remediation of the land as a consequence of the proposed use would be in the public interest.*

3. *Considers the proposal adequately addresses stormwater drainage and flooding issues.*

4. *Considers the proposal provides satisfactory arrangements for the management of traffic generated by the proposed development.*

5. *Considers the impact of the proposed development on the occupation and use of adjoining and nearby premises would be reasonable and acceptable.*

6. *Considers the proposal adequately addresses issues relating to the protection and conservation of environmentally sensitive lands and bushfire protection.*

7. *The Panel is satisfied the site can be made suitable for the purposes of the proposed development and will be remediated before it is used for that purpose, thereby satisfying Clause 12 of BLEP.*

8. *The Panel is satisfied that the submitted Remedial Action Plan will appropriately manage Acid Sulphate Soils on the site thereby satisfy the requirements of Clause 22 of BLEP 2001 and Clause 9 of Greater Metropolitan Region Plan No.2 – Georges River Catchment.*

In March 2017, the proponent attended a formal pre-lodgement meeting. The proponent outlined a request to amend Bankstown Local Environmental Plan 2015 prior to submitting the application.

PROPOSAL

In May 2017, Council received an application to amend Bankstown Local Environmental Plan 2015 (Schedule 1) and the Additional Permitted Uses Map by including 'garden centres' as an additional permitted use on the site.

The proponent stated that "Flower Power's current business model seeks to provide a wider range of uses across the site, in addition to some of the uses approved under DA 840/2010. The additional ancillary uses would include a pool shop, pet and pet supply shop, florist and a fresh produce shop.

It is considered appropriate in this instance that an amendment to Schedule 1 is the most appropriate avenue to allow for the expanded uses.

At the time of writing this report, Council had not commenced the Local Area Plan for the Bankstown–Milperra Strategic Area. The LAP will guide and direct any future zoning changes in this area and will consider in a holistic manner whether the current zone for this land and surrounding should remain. The LAP will form the Council's strategic vision for the area. Accordingly, until this strategic review is undertaken, an amendment to the current zoning is not considered the best option.

The use of this site as a retail nursery has previously been deemed a suitable use on this site by the approval of DA 840/2010. The DA and proposed amendment to the LEP will enable the productive use of land that would otherwise remain vacant. Council does not require the land to meet the open space requirements for residents which is reinforced as there are no plans for its incorporation into the public open space lands of Bankstown City.

An amendment to Schedule 1 will retain the existing RE1 Public Recreation zoning, this ensures that the range of permissible uses currently permitted within the RE1 zone would remain, if the retail plant nursery did not commence. It also ensures that the community expectation for the use of the land is not significantly altered".

The proponent submitted a planning proposal report (prepared by LJB Urban Planning, dated 1 May 2017) in support of the application.

REPORT

CONSIDERATIONS

Based on the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment's guidelines, the following key policies are relevant:

- Metropolitan Plan (*A Plan for Growing Sydney*)
- Draft Amendment to the Metropolitan Plan (*Towards our Greater Sydney 2056*)
- Draft South District Plan
- Council's Open Space Strategic Plan
- Department of Planning and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

ASSESSMENT

Strategic Merit Test

In August 2016, the Department of Planning and Environment introduced the Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway.

Based on the Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*, the proposal to include 'garden centres' as an additional permitted use on the site is supported for the following key reasons:

1. Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

The proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016. In particular, the proposal is consistent with the following priorities and actions:

- Section 3.4.4—Planning priorities for strategic, district and local centres. According to this section, the site forms part of the Bankstown Airport district centre. The district centre offers a significant opportunity to grow local employment and advance smart manufacturing. There is also the opportunity to provide some retail options for workers and residents in the immediate area.

Whilst Council's local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs*

of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'.

The proposal reflects the decision by the Sydney West Regional Planning Panel.

- *Sustainability Priority 1: Maintain and improve water quality and waterway health.* According to this priority, Council should ensure that the quality of stormwater and wastewater from public land and new development in established urban areas maintains or improves the health of waterways, in line with community values and expectations of how waterways will be used. To address this priority, additional information is required to assess the likely effect of the proposal on the Georges River and adjacent land.
- *Sustainability Priority 2: Avoid and minimise impacts on biodiversity.* According to this priority, efforts to protect biodiversity values should be based on avoiding and minimising adverse impacts to biodiversity, as far as practicable.

To address this priority, the proposal is confined to the site, and the proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251). It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.

2. Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

The proposal is inconsistent with the Open Space Strategic Plan, which the former Bankstown Council adopted at the Ordinary Meeting of 25 February 2014.

The purpose of the Strategic Plan is to provide a framework for protecting, enhancing and managing open space in the former City of Bankstown.

At present, the site is reserved for open space purposes. The Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site.

In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*.

The proposal reflects the decision by the Sydney West Regional Planning Panel.

3. Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?

The proposal is consistent with the assessment criteria under the Strategic Merit Test as it responds to a change of circumstances, namely the Sydney West Regional Planning Panel's review of controls that are more than five years old.

Other Considerations

In relation to other considerations, Council assessed the proposal based on the justification matters outlined in the Department of Planning and Environment's publication *A Guide to Preparing Planning Proposals*.

The intended outcome is to demonstrate whether there is justification for a proposal to proceed to Gateway based on consistency with relevant state environmental planning policies and Ministerial (117) Directions.

A key issue is managing the likely environmental effects as a result of the planning proposal. An assessment identifies the need to apply a maximum 0.4:1 FSR to the additional permitted use. The reasons are:

- The maximum FSR ensures the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017).
- The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).

Attachment A outlines the assessment findings.

RECOMMENDATION

That the application to amend Bankstown Local Environmental Plan 2015 by including 'garden centres' as an additional permitted use at 479 Henry Lawson Drive in Milperra (Lot 2, DP 576251) should proceed to a Gateway Determination, provided a maximum 0.4:1 FSR applies to the additional permitted use.

ATTACHMENTS

- A. Assessment Findings

ATTACHMENT A – Assessment Findings


Attachment A outlines the assessment findings and is based on the justification matters as set out by the Department of Planning and Environment.

1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning and Environment's Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*. The intended outcome is to determine whether a proposal demonstrates strategic and site specific merit to proceed to Gateway. A proposal that seeks to amend controls that are less than five years old will only be considered where it clearly meets the Strategic Merit Test.

1.1 Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

1.1.1 Draft South District Plan

	Consistent
<p>Proponent's Submission: The site is located within the Bankstown Airport–Milperra Precinct, being identified as a 'Transport Gateway'. The Bankstown Airport locality has been identified in the draft district plan as a district centre and has a job target rate of 20,000 jobs by 2036. The airport is identified as a transport gateway with substantial areas of adjacent employment and urban services land and a Western Sydney University presence.</p>  <p>Source: Draft South District Plan prepared by Department of Planning and Environment</p> <p>The planning proposal is considered consistent with the draft South District planning priorities and outcomes.</p> <p>It is anticipated that this precinct will have the opportunity to grow local employment. This planning proposal will contribute to that opportunity, by not only formalising the approved use it will also create local employment opportunities with the expansion of uses permitted under the 'garden centre' definition.</p>	<p>Yes, subject to additional information to address Sustainability Priority 1.</p>

Council's Assessment: The proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016. In particular, the proposal is consistent with the following priorities and actions:

Section 3.4.4—Planning priorities for strategic, district and local centres.

According to this section, the site forms part of the Bankstown Airport district centre. The district centre offers a significant opportunity to grow local employment and advance smart manufacturing. There is also the opportunity to provide some retail options for workers and residents in the immediate area.

Whilst Council's local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*.

The proposal reflects the decision by the Sydney West Regional Planning Panel.

Sustainability Priority 1: Maintain and improve water quality and waterway health. According to this priority, Council should ensure that the quality of stormwater and wastewater from public land and new development in established urban areas maintains or improves the health of waterways, in line with community values and expectations of how waterways will be used.

To address this priority, additional information is required to assess the impacts the proposal, namely:

- The likely effect of the proposal on adjacent or downstream land (as required by REP No. 2—Georges River Catchment).
- The cumulative impact of the proposal on the Georges River or its tributaries (as required by REP No. 2—Georges River Catchment).
- The quantity and quality of surface and ground water flows to the adjacent coastal wetland (as required by Draft SEPP (Coastal Management) 2016).

Sustainability Priority 2: Avoid and minimise impacts on biodiversity.

According to this priority, efforts to protect biodiversity values should be based on avoiding and minimising adverse impacts to biodiversity, as far as practicable.

To address this priority:

- The proposal is confined to the site.
- The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a 'not significant' conclusion with respect to the potential impact upon threatened species, communities and populations on the adjoining lot (Lot 3, DP 576251).

<ul style="list-style-type: none"> The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3, DP 576251) with species characteristic of the Swamp Oak Floodplain Forest. <p>It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.</p>	
---	--

1.2 Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

1.2.1 Council’s Open Space Strategic Plan

	Consistent
<p>Proponent’s Submission: At the time of writing this report, Council had not commenced the Local Area Plan for the Bankstown–Milperra Strategic Area. The LAP will guide and direct any future zoning changes in this area and will consider in a holistic manner whether the current zone for this land and surrounding should remain. The LAP will form the Council’s strategic vision for the area. Accordingly, until this strategic review is undertaken, an amendment to the current zoning is not considered the best option.</p> <p>Council’s Assessment: The proposal is inconsistent with the Open Space Strategic Plan, which Council adopted at the Ordinary Meeting of 25 February 2014.</p> <p>The purpose of the Strategic Plan is to provide a framework for protecting, enhancing and managing open space in the former City of Bankstown.</p> <p>At present, the site is reserved for open space purposes. The Strategic Plan does not contain an action that supports garden centres on land intended to be acquired for open space purposes. The Strategic Plan also does not prioritise the acquisition of this site.</p> <p>In terms of next steps, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The Local Area Plan will implement the Open Space Strategic Plan and will contain actions to inform the supply and function of open space within the Specialised Centre. The timing to complete the Local Area Plan is medium term.</p> <p>In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered <i>‘the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City’</i>.</p> <p>The proposal reflects the decision by the Sydney West Regional Planning Panel.</p>	No

1.3 Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?

	Complies
<p>Proponent's Submission: The use of this site as a retail nursery has previously been deemed a suitable use on this site by the approval of DA 840/2010. The DA and proposed amendment to the LEP will enable the productive use of land that would otherwise remain vacant. Council does not require the land to meet the open space requirements for residents which is reinforced as there are no plans for its incorporation into the public open space lands of Bankstown City.</p> <p>Council's Assessment: The proposal responds to a change of circumstances, namely the Sydney West Regional Planning Panel's review of controls that are more than 5 years old.</p> <p>According to the Sydney West Regional Planning Panel's approval of the retail plant nursery and associated retail uses (DA 840/2010) in December 2013, the Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'</i>.</p> <p>The proposal reflects the decision by the Sydney West Regional Planning Panel.</p>	Yes

1.4 Does the proposal have regard to the natural environment (including known significant environmental values, resources or hazards)?

	Complies
<p>Proponent's Submission: Refer to sections 1.1 and 2.5–2.7 of this attachment.</p> <p>Council's Assessment: The proposal has regard to the natural environment (including known significant environmental values and hazards) for the reasons outlined in sections 1.1 and 2.5–2.7 of this attachment.</p>	Yes

1.5 Does the proposal have regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?

	Complies
<p>Proponent's Submission: The use of this site as a retail nursery has previously been deemed a suitable use on this site by the approval of DA 840/2010. The DA and proposed amendment to the LEP will enable the productive use of land that would otherwise remain vacant. Council does not require the land to meet the open space requirements for residents which is reinforced as there are no plans for its incorporation into the public open space lands of Bankstown City.</p> <p>Council's Assessment: The proposal reflects a decision by the Sydney West Regional Planning Panel. In December 2013, the Panel approved a retail plant nursery and associated retail uses on the site. The Panel considered <i>'the proposal would be in the public interest in that it provides for the</i></p>	Yes

<p><i>productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City.</i></p> <p>In relation to the likely future uses of land in the vicinity of the site, the proposal retains the public recreation zone of the site to build upon the established open space network.</p>	
--	--

1.6 Does the proposal have regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?

	Complies
<p>Proponent's Submission: Refer to section 2.5 of this attachment.</p> <p>Council's Assessment: The proposal has regard to the services and infrastructure that are available for the reasons outlined in section 2.5 of this attachment.</p> <p>A key issue is managing the likely effects on infrastructure as a result of the planning proposal. An assessment identifies the need to apply a maximum 0.4:1 FSR to the additional permitted use. The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4).</p> <p>The proposal does not include a planning agreement.</p>	<p>No, subject to RMS consultation and maximum FSR.</p>

2. Planning Proposals–Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning & Environment's publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway.

2.1 Is the planning proposal a result of any strategic study or report?

	Complies
<p>Proponent's Submission: The planning proposal is not a result of any strategic study or report.</p> <p>The planning proposal is to allow for expanded uses to enable our client to develop the site consistent with their current business model. The definition of a 'garden centre' under the current Bankstown LEP 2015 would enable this to occur. The proposal will not result in any loss of RE1 Public Recreation zoned land, with the zoning remaining unchanged.</p> <p>The planning proposal will provide consistency between the approved retail garden nursery DA (DA 840/2010) and the definition within the current Bankstown LEP 2015.</p> <p>Council's Assessment: The proposal is not the result of any strategic study or report prepared by the Department of Planning & Environment, Greater Sydney Commission or Council.</p>	<p>No</p>

<p>However, the proposal reflects a decision by the Sydney West Regional Planning Panel. In December 2013, the Panel approved a retail plant nursery and associated retail uses on the site. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'</i>.</p>	
--	--

2.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

	Complies
<p>Proponent's Submission: The planning proposal is the best way of achieving the objectives and intended outcomes.</p> <p>A development application cannot be lodged to enable the 'garden centre' use to be undertaken on the site, as the current RE1 Public Recreation zone does not permit this land use. DA 840/2010 was approved under Clause 12 of Bankstown Local Environmental Plan 2001 which has since been replaced by Bankstown Local Environmental Plan 2015. Clause 12 of BLEP 2001 allowed Council to permit additional uses at their discretion. The Council determined that a nursery was an appropriate use of the site and accordingly DA 840/2010 was approved. The current LEP 2015 does not include the same provisions, and therefore Council does not have the authority to use their discretion in relation to prohibited uses.</p> <p>Although DA 840/2010 legally allows for the 'nursery use' which is prohibited in the RE1 zone, the DA consent has been acted upon; however the use has not commenced operation. Therefore the site does not benefit from the 'existing use' provisions under the Environmental Planning and Assessment Act 1979.</p> <p>An alternate option to permit the intended use would be to rezone the site to a zoning that permits a 'garden centre'. However, as the Council is yet to commence its strategic study of this precinct, it is not considered the best approach. It is therefore concluded that the most logical way to achieve the objectives and intended outcome, is to prepare a planning proposal to amend Schedule 1 to include additional permitted uses on the subject site.</p> <p>Council's Assessment: The site is within Zone RE1 Public Recreation and is reserved for open space purposes. Whilst an objective of the zone is to provide a range of recreational settings and activities and compatible land uses, the site is currently under private ownership and is not used for public recreation purposes.</p> <p>At present, there are limited opportunities for the site. Given that Council's local strategies do not prioritise the acquisition of the site for open space purposes, the proposal is the best means of achieving the intended outcome for the following reasons:</p> <ul style="list-style-type: none"> • According to the application, the site does not benefit from the 'existing use' provisions under the Environmental Planning & Assessment Act 1979 as the use has not commenced operation. • Council's local strategies do not support a rezoning of the site due to the environmental constraints that restrict development on the site. 	<p>Yes</p>

- Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The timing to complete the Local Area Plan is medium term.

In light of the above, the Sydney West Regional Planning Panel's approval of the retail plant nursery and associated retail uses (DA 840/2010) in December 2013 considered *'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'*. The proposal reflects the decision by the Sydney West Regional Planning Panel.

It is noted the proposal must apply the definitions under the Standard Instrument Principal LEP. The definition of 'garden centres' is considered to best reflect the Panel's decision as follows:

Approval of the retail plant nursery and associated retail uses (DA 840/2010)	Definition of garden centre under Bankstown LEP 2015
Retail plant nursery, administration office and cafe.	<p>Garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:</p> <ul style="list-style-type: none"> (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas, (b) pets and pet supplies, (c) fresh produce.

2.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?

2.3.1 Metropolitan Plan (A Plan for Growing Sydney)

	Consistent
<p>Goal 1: <i>A competitive economy with world class services and transport.</i></p> <p>Proponent's Submission: One of the key directions of this plan is to grow Bankstown as a strategic centre and work with Council to identify suitable locations for housing and employment. The expansion of uses will not unreasonably affect the adjoining properties but will ensure job growth in the area that is located in close proximity to residential properties. This proposal has the potential to provide increased employment opportunities within the local area to support anticipated residential growth within the LGA.</p>	Yes

<p>Council's Assessment: The site forms part of the Bankstown Airport–Milperra Strategic (Transport Gateway) Centre.</p> <p>The intended outcome of Goal 1 is to grow economic activity in Sydney and provide more jobs closer to home. Action 1.7.3 will require the Greater Sydney Commission to develop a job target for the Strategic (Transport Gateway) Centre, taking into consideration the specialised economic roles and requirements of this precinct.</p> <p>Whilst Council's local strategies do not support a rezoning of the site for employment purposes (due to the environmental constraints that restrict development on the site), the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'</i>.</p> <p>The proposal reflects the decision by the Sydney West Regional Planning Panel.</p>	
<p>Goal 3: <i>A great place to live with communities that are strong, healthy and well connected.</i></p> <p>Goal 4: <i>A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.</i></p> <p>Proponent's Submission: No comment.</p> <p>Council's Assessment: The site forms part of the green grid.</p> <p>The intended outcomes of Goals 3 and 4 are to deliver the green grid and investigate options for a bushland renewal program.</p> <p>In relation to the green grid, the proposal retains the public recreation zone to build upon the established open space network. The Department of Planning & Environment will provide open space guidelines to resource Council to develop recreational and open space policies to meet local community needs and inform the preparation of local level plans and policies that are consistent with the Sydney Green Grid.</p> <p>In relation to bushland, the proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on the adjoining lot (Lot 3, DP 576251), namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands. The Vegetation Management Plan also proposes to replace the weed vegetation on the adjoining lot (Lot 3, DP 576251) with species characteristic of the Swamp Oak Floodplain Forest.</p> <p>It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.</p>	<p>Yes</p>

2.3.2 Draft Amendment to the Metropolitan Plan (*Towards our Greater Sydney 2056*)

	Consistent
<p>Proponent's Submission: No comment.</p> <p>Council's Assessment: The proposal is consistent with the Draft Amendment to the Metropolitan Plan, released for public comment in November 2016. In particular, the proposal can address the metropolitan priorities, namely:</p> <ul style="list-style-type: none"> • To improve the health of waterways. • To protect, extend and enhance biodiversity. • To conserve the natural environment. • To minimise exposure to natural hazards. 	Yes

2.3.3 Draft South District Plan

	Consistent
<p>Proponent's Submission: Refer to section 1.1 of this attachment.</p> <p>Council's Assessment: The proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016 for the reasons outlined in section 1.1 of this attachment.</p>	Yes, subject to additional information to address Sustainability Priority 1.

2.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

2.4.1 Bankstown Community Plan 2023 (former City of Bankstown)

	Consistent
<p>Proponent's Submission: The Bankstown Community Plan 2023 is a 10 year Community Strategic Plan for the City of Bankstown. The plan contains the following five City directions relating to liveable, investment, sustainability and safe and connected city. The planning proposal is considered to meet the strategies and key objectives identified in the plan.</p> <p>Council's Assessment: The vision of the Bankstown Community Plan 2023 is to have 'a thriving centre of Greater Sydney. We enjoy the services and facilities of a prosperous, growing city with lively neighbourhoods and a proud history. Our diverse population live and work together in harmony. Bankstown is a modern, active community with quality transport infrastructure, clean waterways, pristine bushland and great community spaces and parks'.</p> <p>Term Achievement 1 will achieve this vision by having integrated plans for local areas that recognise each location's unique characteristics and heritage that guides the future development of our city. At present, Council is in the process of preparing a Local Area Plan for the Bankstown Airport–Milperra Specialised Centre, which includes the site. The timing to complete the Local Area Plan is medium term.</p>	No

<p>In light of the above, the Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010) in December 2013. The Panel considered <i>'the proposal would be in the public interest in that it provides for the productive use of land zoned 6(a) Open Space under Bankstown Local Environmental Plan that is not required to meet the needs of residents and for which there are no plans for its incorporation into the public open space lands of Bankstown City'</i>. The proposal reflects the decision by the Sydney West Regional Planning Panel.</p>	
---	--

2.4.2 Council's Open Space Strategic Plan

	Consistent
<p>Proponent's Submission: Refer to section 1.2 of this attachment.</p> <p>Council's Assessment: The proposal is inconsistent with Council's Open Space Strategic Plan for the reasons outlined in section 1.2 of this attachment.</p>	No

2.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

	Consistent
<p>State Environment Planning Policy No. 19–Bushland in Urban Areas</p> <p>Proponent's Submission: The accompanying Flora and Fauna Assessment identified the following EECs: River–flat Eucalypt Forest; Swamp Oak Floodplain Forest; and Freshwater Wetland. The report identified that the remnant native vegetation identified on Lots 2 and 3 has been heavily degraded and there are limited habitat linkages.</p> <p>Based on the above and the accompanying Vegetation Management Plan, the approved nursery used which would also apply to the proposed “garden centre” use will enable the significant enhancement of the vegetation and protection of EEC communities. The planning proposal will be consistent with the SEPP.</p> <p>Council's Assessment The SEPP aims to protect and preserve bushland in urban areas. The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3.</p> <p>To address this SEPP, the proposal is confined to Lot 2, and includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest.</p> <p>It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.</p>	Yes

State Environment Planning Policy No. 55–Remediation of Land

Proponent's Submission: The site is the subject of a Site Audit Statement (SAS) that was submitted with the most recently approved development application. A Remedial Works Plan is required as a condition of consent prior to commencement to work. The requirements of the SEPP were met with the current approval which deemed that the site can be made suitable for the commercial use.

An accompanying letter from an accredited NSW EPA Contaminated Land Auditor, states that the current SAS conclusions remain applicable where the site is used as a 'garden centre'. An additional contamination report is not required and the proposal will be consistent with the SEPP.

Council's Assessment: The SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

According to the application, the site is a former landfill used for the disposal of dry industrial and trade waste, although some putrescible waste appears to have also been disposed. The former landfill was operational from the 1960s to 1973.

To address this SEPP, the proposal makes reference to the findings of the following contaminated land investigations:

October 2013

The proposal for a retail plant nursery and associated retail uses on the site (DA 840/2010) included a Site Audit Statement (prepared by an Accredited Site Auditor, dated October 2013). According to the Site Audit Statement:

The Auditor notes that the remediation strategy involves capping landfill waste, passive gas venting and management of leachate via aeration and further assessment of the attenuation capacity of the aquifer.

A number of contingency actions are nominated. A validation report is proposed to be completed after the remedial works have been completed. An ongoing EMP (including maintenance and monitoring of the efficacy of the remedial systems) will be required to be prepared and implemented at the completion of remedial works.

The RAP concludes that 'the preferred remedial option will allow the proposed commercial land use of the site'. Based on the information presented in the Geo-logix and EES reports and observations made on site, and following the Decision Process for Assessing Urban Redevelopment Sites in DEC (2006) Guidelines for the NSW Site Auditor Scheme, the Auditor concludes that the site can be made suitable for the purposes of the proposed development as a retail plant nursery and associated retail uses if the site is remediated in accordance with the following remedial action plan:

- *Remediation Action Plan, 479 Henry Lawson Drive, Milperra, dated 15 October 2013 by EES.*

Subject to compliance with the following conditions:

- *Preparation of a remedial works plan that documents the detailed design in consideration of the hydrogeology, flow directions and potential acid sulfate soil and outcomes of further investigations of receptors and extent*

Yes, subject to maximum FSR.

of migration of contaminated groundwater to the west and east. This would also need to include a Groundwater Management Plan that details the proposed verification works.

- *Preparation of and adherence to a specific and appropriate long term environmental management plan at the completion of the remedial works.*
- *Preparation of a Site Audit Statement certifying suitability for the proposed use, at the completion of remediation and validation.*

December 2013

The Sydney West Regional Planning Panel approved a retail plant nursery and associated retail uses on the site (DA 840/2010). The Panel considered the remediation of the land as a consequence of the proposed use would be in the public interest.

March 2017

The Accredited Site Auditor issued an Interim Audit Advice (dated 3 March 2017), which reviewed the *Remediation Action Plan, 479 Henry Lawson Drive, Milperra, dated 13 December 2016 by EES.*

The revised RAP supersedes the RAP that was the subject of a Site Audit Statement (prepared by the Accredited Site Auditor, dated October 2013). According to the Interim Audit Advice:

The Remediation Action Plan outlines a process to be followed to ensure the site can be made suitable for use as a retail plant nursery and associated retail through capping of landfill waste and passive gas venting. A Groundwater Management Plan (GMP) outlines additional groundwater and surface monitoring and assessment to confirm that attenuation of contaminants is occurring due to natural attenuation in groundwater and due to proposed conversion of the drainage line (Golf Course Creek) at the site to a wetland. A number of contingency actions are nominated. A validation report is proposed to be completed after the remedial works have been completed. An ongoing Environmental Management Plan (EMP), including maintenance and monitoring of the efficacy of the remedial systems, will be required to be prepared and implemented at the completion of remedial works. The Auditor shall require review of any revisions of the GMP, ongoing EMP and validation documentation.

The intended outcome, at the completion of the remediation and validation, is for the Accredited Site Auditor to issue a Site Audit Statement that confirms the site is suitable for the proposed uses subject to the implementation of an ongoing long term Environmental Management Plan and Groundwater Management Plan.

April 2017

In a letter dated 13 April 2017, the Accredited Site Auditor confirmed the conclusions of the Interim Audit Advice (dated 3 March 2017) remain applicable where the site is used as a garden centre, and where the building design is consistent with the proposal contemplated in the Remediation Action Plan for the site.

<p><u>Summary</u></p> <p>Having regard to the above information, it is considered that Council can remain satisfied the land will be remediated in accordance with clause 6(1)(c) of the SEPP before it is used for the purposes of a garden centre.</p> <p>In addition, it is proposed to apply a maximum 0.4:1 FSR to the additional permitted use. The intended outcome is to ensure the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017).</p>	
<p>State Environment Planning Policy (Infrastructure) 2007</p> <p>Proponent's Submission: The accompanying Traffic Report demonstrates that the likely uses permitted under the 'garden centre' definition will lower the expected traffic generation, compared with the original DA approval that included a first floor gym and office space. These uses were subsequently removed via a Section 96 approval.</p> <p>The future intersection, required to provide access to the site, will operate significantly better. Consideration has been given to proposed development of the site, existing traffic conditions as well as major redevelopment of the former Riverland's Golf Course for residential development and redevelopment of the Deepwater Motor Boat Club for function centre and restaurant.</p> <p>Overall, the proposed development is consistent with the SEPP and the uses permitted under the 'garden centre' use will not detrimentally affect the traffic flows along Henry Lawson Drive and adequate parking and servicing can still be provided on site.</p> <p>Council's Assessment: The SEPP aims to identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development.</p> <p>The site adjoins Henry Lawson Drive, which is a classified road.</p> <p>To address this SEPP, the proposal includes a Traffic and Parking Assessment. According to the assessment, the proposal will not generally compound with the existing traffic circumstances in the area provided the building design is consistent with the proposal contemplated in the Traffic and Parking Assessment.</p> <p>Having regard to the above information, it is considered the following is required to address this SEPP:</p> <ul style="list-style-type: none"> • Consultation with the Roads & Maritime Services should Council decide to proceed with a planning proposal. • The application of a maximum 0.4:1 FSR to the additional permitted use. The intended outcome is to ensure the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4). <p>A maximum 0.4:1 FSR to the additional permitted use is considered appropriate as:</p>	<p>No, subject to RMS consultation and maximum FSR.</p>

- Firstly, it is consistent with the maximum 0.4:1 FSR applicable to non-residential development within the surrounding suburban neighbourhood (Zone R2), which is the prevailing character of the locality.
- Secondly, it is consistent with the proposed building design contemplated in the proponent's Traffic and Parking Assessment. According to the assessment, the proposal would comprise:

Use	Floor Space
Garden Centre	3,649m ²
Supply Store	1,805m ²
Administration	468m ²
Cafe	417m ²
Bulk Product	2,483m ²
Total	8,822m ²

Site Area (Lot 2, DP 576251)	28,838m ²
------------------------------	----------------------

Floor Space Ratio	0.3:1
-------------------	-------

In future, should the proponent seek to enclose the outdoor nursery display area (3,332m²), this additional floor space would remain within the maximum 0.4:1 FSR.

Greater Metropolitan Regional Environmental Plan No 2–Georges River Catchment

Proponent's Submission: The accompanying Flora and Fauna Report and Vegetation Management Plan demonstrates that the current approved use (DA 840/2010) will enable a significant improvement to the natural environment given the extensive disturbance, which will satisfy the general aims and objectives.

The future use of the site for a 'garden centre' is likely to be within the approved building envelope for the retail nursery and driveways/pathways to remain unchanged. In this instance, the flora and potential fauna will improve due to weed eradication and improvement to the health of the remaining endangered ecological communities, remnants of bushland and future landscaping.

Council's Assessment: The REP (Deemed SEPP) aims to protect and enhance the environmental quality of the catchment for the benefit of all users through the management and use of the resources in the catchment in an ecologically sustainable manner.

To address this REP, additional information is required to address the planning principles in relation to flooding, namely:

- The likely effect of the proposal on adjacent or downstream land.
- The cumulative impact of the proposal on the Georges River or its tributaries.

Draft State Environmental Planning Policy (Coastal Management) 2016

Proponent's Submission: Lot 3, DP 576251 is located entirely within the area the draft SEPP covers, while approximately 17,700m² of Lot 2, DP 576251 is affected by the draft SEPP.

No, subject to additional information to address planning principles in relation to flooding.

No, subject to additional information to address adjacent coastal wetland.

<p>Notwithstanding the above, there appears to be anomalies with the drafting of the maps and the location of the wetland as it relates to the subject site. It is expected that these anomalies will be corrected with the final issue of the SEPP.</p> <p>This proposed planning proposal does not seek to alter or affect the identified Coastal wetland and proximity area beyond what has been determined acceptable. The additional permitted uses are capable of being accommodated within the site and no additional impact is likely. Should any intensification of development footprint occur within the wetlands, this would require further investigation by a suitably qualified ecologist to ensure that the wetlands and proximity areas are not further affected.</p> <p>Council's Assessment: The Draft SEPP aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the <i>Coastal Management Act 2016</i>.</p> <p>The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The Draft SEPP identifies coastal wetlands on Lot 3 and the neighbouring golf course site. Lot 2 is located within a proximity area to the coastal wetlands.</p> <p>According to the Draft SEPP, development consent must not be granted unless Council is satisfied the proposal will not significantly impact on:</p> <ul style="list-style-type: none"> • the biophysical, hydrological or ecological integrity of the adjacent coastal, or • the quantity and quality of surface and ground water flows to the adjacent coastal wetland. <p>Additional information is required to address the quantity and quality of surface and ground water flows to the adjacent coastal wetland.</p>	
---	--

2.6 Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

	Consistent
<p>Direction 2.1–Environmental Protection Zones</p> <p>Proponent's Submission: Two small sections of the identified EEC that will be disturbed by the recent DA approval (DA 840/2010) were required to enable the construction of the access road to the site opposite Keys Parade and the small section at the south–eastern section of the site was to allow for the construction of a landscape strip and swale (this abuts the full length of the Henry Lawson Drive frontage).</p> <p>The accompanying Vegetation Management Plan ensures that the remaining vegetation will be retained and improved, providing protection and conservation of the remaining environmentally sensitive areas. This demonstrates that the future 'garden centre' use can occur on the site and the biodiversity of the site protected and enhanced.</p> <p>Council's Assessment: The objective of this direction is to protect and conserve environmentally sensitive areas.</p>	<p>Yes</p>

<p>The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3.</p> <p>To address this SEPP, the proposal is confined to Lot 2, and includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest.</p> <p>It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.</p>	
<p>Direction 4.1–Acid Sulfate Soils</p> <p>Proponent’s Submission: Environmental Health Sciences have confirmed that given the nature of the use it is unlikely there will be a need to excavate into the natural soil deep, enough to expose ASS and that no ASS were identified within the top 2 metres of natural soil.</p> <p>Based on the above, unless there will be significant building works required, following this planning proposal, the proposal does not require any further supporting documentation. Any intensification of uses and development, beyond current considerations, would require a further assessment at DA stage.</p> <p>Council’s Assessment: The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The site is subject to acid sulfate soils (classes 3 and 5).</p> <p>To address this direction, the proposal includes an Acid Sulfate Soils Assessment. The assessment did not identify acid sulfate soils within the top 2 metres of natural soil on the site. In future, should a proposal seek to excavate the site, the development application process would consider this issue.</p>	Yes
<p>Direction 4.3–Flood Prone Land</p> <p>Proponent’s Submission: The subject site is located within the Georges River Flood plain and is identified as high risk. The approved DA (DA 840/2010) has a Flood Emergency Plan which ensures the development of this site can occur in a safe manner. In accordance with the S117 Direction, this Planning Proposal does not seek to rezone flood prone land. The effect of the Planning Proposal will be to formalise and expand the approved use on the site.</p> <p>The rezoning application seeks further commercial uses of land that is already deemed suitable, for commercial use. The 1% AEP Georges River flood level at the site is 5.8m AHD. This indicates that only some portions of the site are subject to inundation of any significant depth. As per the Floodplain Development Manual (NSW, 2005) large portions of the site are not subject to high hazard flooding.</p>	No, subject to additional information to address potential flood impacts.

<p>The subject site does lie within a High Hazard zone as defined by Council's DCP however the subject site is not uniformly subject to High Hazard based on the definition of such as per the Floodplain Development Manual (NSW, 2005).</p> <p>The principle flood risk issue with the site lies in egress. The proposed rezoning does not impact on this issue and the commercial use of the land is compatible with flood risk at the subject site as per the intent of the Floodplain Development Manual (NSW, 2005). The ancillary uses permitted under the 'garden centre' use definition are not more sensitive than the current approved commercial uses and would not significantly increase the risk to human life. It is considered that the Planning Proposal is not inconsistent with the S117 Direction.</p> <p>Council's Assessment: The objective of this direction is to ensure the provisions of a LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>The site is affected by the high riverine flood risk precinct and the high and medium stormwater flood risk precincts.</p> <p>To address this direction, the proposal includes a Flood Impact Assessment. The assessment indicates the development of the site is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>.</p> <p>However, additional information is required to assess the potential flood impacts both on and off the site, namely:</p> <ul style="list-style-type: none"> • The likely effect of the proposal on adjacent or downstream land. • The cumulative impact of the proposal on the Georges River or its tributaries. 	
<p>Direction 4.4–Planning for Bushfire Protection</p> <p>Proponent's Submission: It is noted that the current approval on the site DA 840/2010, approved a future building with appropriate asset protection zones (APZs), refer to the accompanying Bushfire and Ecology Report.</p> <p>The additional permitted uses that this planning proposal would allow, can be accommodated within the already approved building form and as such this planning proposal is capable of being consistent with this direction. If the building form was increased in size and or amended in the future this would be a consideration of Council when assessing a future DA. The minimum setback to enable the APZ would need to be adhered to. Based on the above, the development is consistent with the direction and the proposed additional uses will not be any more sensitive than the current approval.</p> <p>Council's Assessment: The objective of this direction is to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas.</p> <p>The site is within a bushfire prone buffer. The adjoining lot (Lot 3, DP 576251) together with the neighbouring golf course site are bushfire prone land (Category 1).</p>	<p>No, subject to RFS consultation.</p>

<p>To address this direction, the proposal includes a Bushfire Protection Assessment. The assessment contains recommendations to address the <i>Planning for Bushfire Protection Guidelines</i>. However, consultation with the Rural Fire Service is required to address this direction should Council decide to proceed with a planning proposal.</p>	
<p>Direction 6.2–Reserving Land for Public Purposes</p> <p>Proponent’s Submission: No comment.</p> <p>Council’s Assessment: The objective of this direction is to facilitate the provision of public services and facilities by reserving land for public purposes.</p> <p>The site is within Zone RE1 Public Recreation and is reserved for open space purposes. Whilst an objective of the zone is to provide a range of recreational settings and activities and compatible land uses, the site is currently under private ownership and is not used for public recreation purposes. Council’s local strategies do not prioritise the acquisition of the site for open space purposes.</p> <p>According to clause 4 of this direction, a planning proposal may alter an existing reservation of land for public purposes with the approval of the relevant public authority. In this case, the relevant public authority is Council.</p>	<p>Yes</p>
<p>Direction 6.3–Site Specific Provisions</p> <p>Proponent’s Submission: The planning proposal is consistent with this direction as the additional permitted use as a ‘garden centre’ on the subject site will allow for the site to be used for this purpose without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>In addition, the planning proposal does not contain or refer to drawings that show details of the future development proposal. Other than the already approved retail nursery plans for DA 840/2010, which have been used to highlight the approved built form and site layout. Overall, the planning proposal is consistent with this direction.</p> <p>Council’s Assessment: The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The proposal is inconsistent with clause 4 of this direction as it introduces a site specific provision to allow a particular development to be carried out. This is in addition to the current provisions of Bankstown Local Environmental Plan 2015. The site specific provision is to include ‘garden centres’ as an additional permitted use.</p> <p>However, in accordance with clause 6 of this direction, the inconsistency is considered to be of minor significance as the site specific provisions do not impose unnecessarily restrictive requirements, and do not contain or refer to drawings that show details of development proposals.</p>	<p>No, as the proposal introduces a site specific provision.</p>
<p>Direction 7.1–Implementation of A Plan for Growing Sydney</p> <p>Proponent’s Submission: This Planning Proposal will increase employment opportunities within the Enterprise Corridor and the Bankstown Airport–Milperra Transport Gateway precinct. The amendment to Schedule 1 will still achieve the strategic vision of the Plan for Growing Sydney and considered to be consistent with this direction.</p>	<p>Yes</p>

<p>Council's Assessment: The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in <i>A Plan for Growing Sydney</i>.</p> <p>The proposal is consistent with this direction as outlined in Section 2.3 of this attachment.</p>	
---	--

2.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

	Consistent
<p>Proponent's Submission: The planning proposal will not result in any significant impact to any critical habitats, threatened species, populations or ecological communities.</p> <p>The Vegetation Management Plan has been prepared and accompanies this planning proposal. It demonstrates that the approved works will improve and invigorate the identified remaining EEC parts located on the site. The addition of uses on the site will not result in further impact. The approved Vegetation Management Plan demonstrates that this site can be developed with positive environmental outcomes.</p> <p>Council's Assessment: The site known as No. 479 Henry Lawson Drive in Milperra comprises two lots: Lot 2, DP 576251 and Lot 3, DP 576251. The proposal identifies a creek, endangered ecological communities and remnant native vegetation on Lot 3.</p> <p>To ensure the proposal does not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats:</p> <ul style="list-style-type: none"> • The proposal is confined to Lot 2. • The proposal includes a Flora and Fauna Assessment. The 7 part test indicates a 'not significant' conclusion with respect to the potential impact upon threatened species, communities and populations on Lot 3. • The proposal includes a Vegetation Management Plan to manage the creek and endangered ecological communities on Lot 3 (namely the River Flat Eucalypt Forest, Swamp Oak Floodplain Forest and Freshwater Wetlands). The Vegetation Management Plan also proposes to replace the weed vegetation on Lot 3 with species characteristic of the Swamp Oak Floodplain Forest. <p>It is noted the approval of the retail plant nursery and associated retail uses (DA 840/2010) by the Sydney West Regional Planning Panel in December 2013 requires the implementation of the Vegetation Management Plan as a condition of consent.</p>	Yes

2.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

	Consistent
<p>Proponent's Submission: There is adequate separation from nearby residential zones to mitigate any detrimental impacts from noise, privacy and built form. It is unlikely that the adjoining land uses will be intensified due to the flooding, bushfire, biodiversity and ASS constraints.</p> <p>Council's Assessment: In relation to managing the environmental effects, there is a need to apply a maximum 0.4:1 FSR to the additional permitted use. The reasons are:</p> <ul style="list-style-type: none"> • The maximum FSR ensures the building design is consistent with the Remediation Action Plan for the site (as recommended by the Accredited Site Auditor's letter dated 13 April 2017). • The maximum FSR ensures the building design addresses the cumulative impact of development on the capacity of the road network, namely Henry Lawson Drive (in accordance with Bankstown LEP 2015, clauses 1.2 and 4.4). 	<p>Yes, subject to maximum FSR</p>

2.9 Has the planning proposal adequately addressed any social and economic effects?

	Consistent
<p>Proponent's Submission: The planning proposal is consistent with the Plan for Growing Sydney, with increased employment opportunities within the Enterprise Corridor and Bankstown Airport–Milperra strategic precinct. In addition, the land can be made suitable for the 'garden centre' use to enable Flower Power to implement their current business model that has enabled their successful operation on similar sites across the Sydney Metropolitan area.</p> <p>The proposal will maintain the current RE1 Public Recreation zoning. This ensures that site cannot be developed for any other purpose than what is permitted within this zone or for the purpose of a 'garden centre'. This ensures that compatibility of uses is maintained with adjacent zones. The adjoining zones will not be affected by the additional permitted use as a 'garden centre', with community expectations of redevelopment not significantly altering from the current approval on the site.</p> <p>Council's Assessment: In relation to social and economic effects, the proposal is consistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016 for the reasons outlined in section 1.1 of this attachment.</p>	<p>Yes, subject to additional information to address Sustainability Priority 1.</p>

2.10 Is there adequate public infrastructure for the planning proposal?

	Consistent
<p>Proponent's Submission: The subject site is well serviced by existing transport and infrastructure. Any augmentation to services will be dealt with appropriately at the DA stage.</p>	<p>No, subject to RMS consultation and maximum FSR.</p>

<p>Council's Assessment: In relation to public infrastructure, the proposal is inconsistent with State Environment Planning Policy (Infrastructure) 2007 for the reasons outlined in section 2.5 of this attachment.</p>	
<p>The Metropolitan Plan, Draft South District Plan, NSW Long Term Transport Master Plan, and State Infrastructure Strategy do not identify any new infrastructure investment for Henry Lawson Drive.</p>	

2.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

	Complies
<p>Proponent's Submission: At this stage, the appropriate State and Commonwealth public authorities have not been identified or consulted. As required, this will occur following the Gateway Determination.</p>	Yes
<p>Council's Assessment: This proposal has not been the subject of consultation with State and Commonwealth public authorities. This would be undertaken, should Council decide to proceed with a planning proposal.</p>	

Independent Hearing and Assessment Panel – 3 July 2017

ITEM 3	150 Belmore Road, Riverwood
	Modification application to extend the hours of operation for the Morris lemma Indoor Sports Centre
	DA-509/2007/B – Roselands Ward
ZONING	RE Public Recreation – Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	14 December 2016. Further information received 11 May 2017, 30 May 2017 and 2 June 2017.
APPLICANT	City of Canterbury Bankstown
OWNERS	The Minister Administering the Environmental Planning and Assessment Act 1979 C/- Canterbury Bankstown Council
ESTIMATED VALUE	N/A
SITE AREA	28,261m²
AUTHOR	Planning

RECOMMENDATION

That Development Application DA-509/2007 (as modified) be modified in accordance with the attached conditions.

SUMMARY REPORT

In accordance with the Canterbury Bankstown Independent Hearing and Assessment Panel Charter, this matter is reported to Council's Independent Hearing and Assessment Panel (IHAP) for determination.

The City Development Committee of the former Canterbury City Council, at its meeting on 12 June 2008, resolved to approve the original development application for construction of an indoor recreation centre with car parking and landscaping.

The Applicant is seeking approval to extend the hours of operation from:

Monday to Friday: 6am – 9pm

Saturday to Sunday: 7am - 8pm; to:

Monday to Thursday: 5am - 10pm

Friday: 5am – midnight

Saturday: 6am – midnight

Sunday: 6am – 10pm

The Section 96 modification application has been assessed against the provisions contained the Canterbury Local Environmental Plan 2012 and the Canterbury Development Control Plan 2012. The proposed modified hours of operation were found to have satisfied the relevant numerical requirements and standards contained within the above mentioned planning documents.

Council’s Environmental Health Officer has reviewed the application, including the plans and acoustic report, and raises no objection to the proposal subject to the imposition of suitable conditions.

The application was notified in accordance with our Notification Policy. No submissions were received.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

That Development Application DA-509/2007 (as modified) be modified in accordance with the attached conditions.

ATTACHMENTS

- A. Section 79C Assessment Report
- B. Conditions of Consent

DA-509/2007/B ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The site is located on the eastern side of Belmore Road, Riverwood, immediately south of the road's intersection with the M5 Motorway. Irregular in shape, the site has a 63.96 metre frontage to Belmore Road, depths of 274.85 metres and 294.22 metres along the northern and southern boundaries respectively and a rear (eastern) boundary of 121.82 metres. The site has an area of 28, 261m².

The site is occupied by the constructed Morris lemma Indoor Sports Centre and has been operational since 2011.

Immediately to the north of the site is the M5 Motorway while to the east of the site is Bland Oval and Lance Hutchison Oval. The southern boundary of the site is adjoined by residential developments fronting Coorabin Place while to the south east of the site is Hannans Road Primary School. Opposite the site is the Riverwood Community Centre and a skate park.



Aerial photograph of site (Source: NearMaps 2017)

BACKGROUND

The City Development Committee of the former Canterbury City Council, at its meeting of 12 June 2008, resolved to approve the Development Application for construction of an indoor recreation centre with car parking and landscaping subject to conditions. The approved indoor recreation centre provides the following facilities:

- Health club;
- Group fitness room;
- Spinning room (bike);
- Physiotherapy;
- Semi outdoor fitness area;
- Two sports courts;

- Reception area, office area, café, male and female toilets (and change rooms), multi-purpose room, crèche, and associated equipment storerooms; and
- A mezzanine level to accommodate associated plant equipment.

The centre provides a total of 140 car parking spaces along the northern boundary of the site and to the immediate east of the centre. 17 bicycle racks have also been provided. In addition to the 140 car parking spaces, the centre provides a parking area for motor cycles while a 'bus layby' area has been provided immediately adjacent the main entrance to the facility. In the north western corner of the site an outdoor waste storage area has been provided. No alcohol is served on the premises.

The approved hours of operation of the centre are:

Monday to Friday: 6.00am to 9.00pm

Saturday and Sunday: 7.00am to 8.00pm

On 27 September 2010, a section 96 modification (DA-509/2007/A) was approved under delegated authority to modify the landscaping plan to remove seven existing trees along the front footpath.

A review of Council's records indicates that no complaints have been received in relation to the existing trading hours or noise issues.

PROPOSED DEVELOPMENT

The proposal seeks to increase the approved hours of operation for the Morris lemma Indoor Sports Centre as follows:

Approved hours

Monday to Friday: 6am – 9pm

Saturday to Sunday: 7am to 8pm

Hours proposed

Monday to Thursday: 5am-10pm

Friday: 5am – midnight

Saturday: 6am – midnight

Sunday: 6am – 10pm

The extended hours result in an additional hour of operation in the morning period across all seven days; and in the evenings an additional hour Mondays-Thursdays, three hours on Fridays, four hours on Saturdays and two hours on Sundays.

The Applicant seeks to increase the hours of operation in accordance with other indoor recreation centres. Further, after the departure of the YMCA, the increase in hours is more attractive to incoming operators to offer increased access to the centre outside of usual business hours.

As a result of the proposed modifications, the proposal will primarily amend the following condition (amendments highlighted in bold).

16. The hours of operation being confined to between **5.00am and 10.00pm Mondays to Thursdays, 5am-midnight Friday, 6am-midnight Saturdays and 6.00am to 10.00pm Sundays.**

Section 96(2) Modification

In accordance with the Environmental Planning and Assessment Act, a consent authority may modify the consent if the following provisions are satisfied:

- (2) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:*
- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment

The modifications have not significantly changed the development or the intensity of the use and retain the approved building envelope. The development therefore remains substantially the same as that approved.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment

The original development was not Integrated under Division 5 and did not require concurrence from a public authority under that Division.

- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, and*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment

The application was advertised in accordance with Canterbury Development Control Plan (CDCP) 2012.

- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the*

development control plan, as the case may be.

Comment

No submissions have been received.

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

Comment

Section 79C(1) provisions have been addressed within the next section of this report and it is found that the proposal is acceptable with respect to those provisions.

- (4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

Comment

The proposal is a modification of a development consent already granted.

Section 79C(1) Evaluation, Matters for Consideration - General

Section 79C(1) prescribes that Council is required to consider certain matters as are of relevance to the development, including the following matters:

Section 79C (1)(a)(i) – The provisions of any environmental planning instrument

- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**
The original development was considered under the now repealed State Environmental Planning Policy 11 – Traffic Generating Development. The application received concurrence subject to separate ingress and egress, provision of a right turn lane into the subject site and provision of a right turn lane into the adjacent community centre and skate park. These arrangements were considered acceptable to manage traffic in and around the site without significantly impacting the movement of traffic and the road system by both the RMS (former RTA) and Council's Traffic Committee.

The proposed modifications do not seek to change access into the site, increase the gross floor area or the amount of car parking spaces on site. As such the modified hours of operation do not result in further traffic generation that would require referral or concurrence under State Environmental Planning Policy (Infrastructure) 2007.

- **State Environmental Planning Policy 19 - Bushland in Urban Areas (SEPP 19)**
The site adjoins land zoned public open space hence the provisions contained within SEPP 19 are applicable. The proposed hours of operation do not create any additional impacts than otherwise considered in the original application.

- **State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)**
The appropriateness of the site for use as an indoor recreation facility was considered in the original assessment. Appropriate site investigation conditions were included in the development consent to satisfy the relevant clauses (particularly clause 7) of SEPP 55.
- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**
The subject site is zoned RE1 Public Recreation. An 'indoor recreation facility' is permissible in the subject zone. The proposed modification to hours of operation does not modify the built form of the existing development, and as a result, do not impact on compliance with the development standards of the CLEP 2012. The proposed hours of operation continue to meet the objectives of the RE1 Public Recreation zoning.

Section 79C (1)(a)(ii) – The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

None relevant to the subject application.

Section 79C(1)(a)(iii) – The provisions of any development control plan

- **Canterbury Development Control Plan 2012 (CDCP 2012)**
The controls provided in the Canterbury Development Control Plan (DCP) 2012 generally relate to the construction of new development. Accordingly the controls contained are not overly relevant to the increased hours of operation sought by the application.

Notwithstanding, the general provisions of Part 6 including access and mobility, energy efficiency, flooding/stormwater management, landscaping, waste management and parking remain unchanged from that already approved. Part 6.3 is addressed below in relation to patron and staff safety.

Part 6.3 Crime Prevention Through Environmental Design

The original application was assessed under the former DCP. However similar controls were carried through into CDCP 2012, including DCP 29 – Crime Prevention through Environmental Design.

The original assessment found that the proposal provided sufficient natural surveillance, access control (for both patrons and staff) and 'ownership' (i.e – a cared for environment) was satisfied by the Indoor Sports Centre. In particular, the following measures were recommended by a representative from the NSW Police Campsie Local Area Command and Council's Community Safety Officer:

- *Lighting similar to category P1 of Australian Standard 1158.3.1:1999 for road lighting of pedestrian areas should be installed in parking areas. This will increase surveillance of the car park.*

- *Signage on the premises needs to be located at the front of the building directing traffic to parking areas and the buildings entrance. This will prevent loitering and direct people where they need to go.*
- *The DA subcommittee is concerned about the footpath/cycle path on the south side of the building, as there is no natural or casual surveillance from the centre itself, people using this footpath will be accessing an isolated area of the site. It is recommended that this part of the site be altered so as to not encourage use. The current footpath as illustrated on the plans may encourage opportunities for crime and anti-social behaviour.*
- *We advise that the entrance to the building is monitored with security guards and CCTV cameras. We recommend that the main access points for this facility is the entrance on the north side of the building. Additional exits around the building need to be fitted with fire safety doors that open one way. This will enable effective monitoring of who is entering and leaving the site.*
- *It is recommended that fire safety doors that open one way are placed on all stairwells throughout the building. This will reduce loitering and excuse making opportunities within the facility.*
- *It is the opinion of the DA subcommittee that all 'staff only' areas should be restricted to staff by security access with a swipe card or coded locks.*

With the exception of the footpath, which was conditioned to be redesigned to allow direct sight lines and low level planting, the above recommendations were adopted in the consent.

The proposed hours of operation in the early morning and late evening require appropriate safety measures due to the absence of daylight and decreased casual surveillance. In particular, the recommendations relating to adequate lighting of the car parking area and pedestrian areas, signage, presence of security guards and CCTV will provide adequate perceived and actual surveillance of these areas that may be vulnerable to crime related activities during the extended hours. These conditions (with proposed modifications shown in bold) include:

4.
 - a. ***Use of the premises must be strictly in accordance with the Management Plan.***
 - b. ***A security guard must be on premises (when operational) between 5.00am-7.00am and from 8pm to midnight.***
 - c. ***The Management Plan submitted with this application must be modified to accommodate the above and a Complaints Hotline shall be set up by the proponent to be active for a 24 month period so that comments and complaints can be received. All complaints must be recorded (including the name and contact details of the complainant and the reason for the complaint) and the complaint must be investigated.***
38. ***The use of the car parking area of the premises before 7.00am and after 8pm being restricted to the northern side of the indoor recreation centre complex. The use of the car parking area of the premises before 7.00am being restricted to the northern side of the indoor recreation centre complex. Signage must be affixed to the car parking areas advising patrons of the parking restriction.***

40. *Signs being appropriately located within the premises advising patrons of the proximity of nearby residences and seeking quiet and orderly entry and departure from the premises. The proprietors must ensure that staff give appropriate directions to, and take reasonable steps to, control noisy or offensive behaviour of patrons entering and leaving the premises.*
41. *Adequate lighting complying with Australian Standard AS1158.1:1999 being provided and maintained with the car parking area of the site.*
50. *Signage on the premises needs to be located at the front of the building directing traffic to parking areas and the buildings entrance. This will prevent loitering and direct people where they need to go.*
52. *'Staff only' areas within the building shall be restricted to staff who have security access with a swipe card or coded locks.*
53. *The main access points for this facility are the entrance on the northern side of the building. Additional exists around the building need to be fitted with fire safety doors to enable effective monitoring of who is entering and leaving the site. Details shall be provided on the plans forwarded with the application for the Construction Certificate.*

The conditions imposed which reflect the above safety recommendations are considered to appropriately mitigate safety concerns for both staff and patrons. The amended Management Plan generally reflects these safety measures and the relevant conditions of consent are recommended to be modified in line with the proposed hours of operation to enforce these safety measures.

On this basis, it is considered that the proposed development satisfies the crime prevention objectives of Part 6.3 of CDCP 2012. Overall, the proposed hours of operation are considered acceptable and meet the requirements of the CDCP 2012.

- **Canterbury Development Control Plan 2012 – Amendment 3**
Amendment 3 of the CDCP came into force on 30 January 2017. Due to the savings provision of Amendment 3, the subject application is not subject to the now in force controls. However a review of the new CDCP 2012 has found that the proposal meets the Amendment as the majority of controls remain the same.

Section 79 (1)(b) - Likely impacts on the locality

Consideration of the potential natural, built, social and economic impacts of the proposal has found that any impacts are likely to be negligible and are acceptable. The key issues arising from the assessment of the proposal include:

- **Acoustic impacts and residential amenity**
The modification involves hours of operation in the later evening period and early morning period. The subject site is bound by the M5 motorway (north), a community facility (west), parkland (east) and residential neighbours to the south. Due to the proximity to residential development (directly adjoining), an Acoustic Report was required to determine if the proposal would unreasonably impact on the amenity enjoyed by those properties.

An Environmental Noise Impact Assessment (acoustic report) was submitted to assess the potential noise impacts associated with the proposed hours of operation. The report concludes that noise emissions will comply with the relevant noise criteria subject to the recommended attenuation measures being implemented. In particular, the acoustic report considered:

- Primary noise sources being patrons using the sports courts, health club, spinning room and use of the car park;
- Worst case car parking to the south including car noise, car doors being slammed;
- Worst case scenarios for patrons and instructors shouting/speaking in the health club, group fitness and spinning rooms;
- Worst case scenarios for patrons shouting/speaking from the sports courts; and
- The effect of these activities on the southern R3 Medium Density Residential zone.

The report concluded that the increased hours of operation met the EPA's Industrial Noise Policy for intrusive noise impacts and sleep disturbance at each residence subject to:

- Closure of the ventilation louvres on the southern façade of the sports courts; and
- Restricting the playing of anything except background music to the indoor spaces.

Council's Environmental Health Officer also reviewed this report and raised no objections subject to conditions. The recommended conditions have been included and would form part of the consent, should the application be approved.

Further to the above, the original development consent included conditions to prevent use of the southern car park before 7am to protect the amenity of the southern residential neighbours. It is considered appropriate to extend this condition to include the increased evening hours of operation. The condition minimises not only the acoustic impacts of the proposal, but also limits the number of vehicles shining headlight beams across the properties during night time/early morning hours. This condition was put to the Applicant with no objection raised.

In order to ensure that the recommended acoustic measures adequately respond to the acoustic impacts of the extended hours of operation, the amended Management Plan details that complaints can be lodged to the Morris lemma Centre through feedback forms both online and at the customer service area. In line with standard industry practice, it is considered that a complaints phone line should also be operational for a period of two years to ensure the hours of operation are not unreasonably impacting on the southern residential properties. A condition of consent has been included to this effect to amend the Management Plan.

Based on the above, the proposal is therefore considered to be acceptable with respect to potential acoustic impacts.

- **Traffic Impacts**

The modification involves an increase in hours of operation in the early morning and later evening/night periods. The likely use of the premises for sports games in the increased evening hours would create some additional cross flow periods where patrons from the previous games are leaving and new patrons are arriving. However, as the capacity of the centre remains unchanged, the traffic impacts will be substantially the same as approved. Further, the increased hours of operation occur in the pre-peak hours and later evening period when there is increased traffic capacity. The proposed modifications do not increase the gross floor area or the amount of car parking spaces on site, and as such does not result in further traffic generation.

Section 79C (1)(c) - Suitability of the site for the development

The site is suitable for the development as approved and no issues of concern relating to site suitability have arisen from this proposal.

Section 79C (1)(d) - Submissions made in accordance with the Environmental Planning and Assessment Act 1979 or the regulations

The application was notified in accordance with Part 7 – Notification of Development Applications of CDCP 2012. There were no submissions received for this modification application.

Section 79C (1)(e) - The public interest

The public interest was taken into consideration when assessing this original development application. This current proposal will not contravene the public interest and is acceptable.

CONCLUSION

The proposed modification is substantially the same development that was originally considered and approved by the former Canterbury City Council City Development Committee. The proposed modification is considered acceptable having regard to the provision of Sections 79C and 96 of the Environmental Planning and Assessment Act, 1979 and is unlikely to adversely impact on the amenity of the locality. Approval of the modification application under Section 96 is recommended.

CONDITIONS OF CONSENT

THAT Development Consent DA-509/2007 (as modified) be MODIFIED by amending conditions 4, 16, 37, 38, 41 as follows:

4.
 - a. Use of the premises must be strictly in accordance with the Management Plan.
 - b. A security guard must be on premises (during the relevant hours of operation as set out in Condition 16) between 5.00am-7.00am and from 8pm to midnight.
 - c. The Management Plan submitted with this application must be modified to accommodate the above and a Complaints Hotline shall be set up by the proponent to be active for a 24 month period so that comments and complaints can be received. All complaints must be recorded (including the name and contact details of the complainant and the reason for the complaint) and the complaint must be investigated.
16. The hours of operation being confined to between 5.00am and 10.00pm Mondays to Thursdays, 5am-midnight Friday, 6am-midnight Saturdays and 6.00am to 10.00pm Sundays.
37. The premises being operated strictly in accordance with the Noise Assessment Report prepared by Koikas Acoustics Pty Ltd titled 'Noise Assessment – Proposed Riverwood Indoor Recreation Centre' with Reference No. R011007nk1548.wpd dated 10 October 2007. The supplementary letter provided by Koikas Acoustics Pty Ltd with Reference No A301007nk1548.wpd dated 31 October 2007 forms an addendum to the above report. The premises must also be operated strictly in accordance with the Environmental Noise Impact Assessment prepared by Day Design Pty Ltd, report no. 6078-1.1R dated 6 October 2016.
 - a. The louvres on the southern façade of the sports courts must be closed after 9pm each night.
 - b. Only background music is to be played in the semi outdoor fitness area after 9pm.
38. The southern car parking area must not be used by patrons or staff before 7.00am and after 8pm. Signage must be affixed to the car parking areas advising patrons and staff of the parking restriction.
41. Adequate lighting complying with Australian Standard AS1158.1:1999 being provided and maintained within the car parking area of the site before and after dusk.

WE ALSO ADVISE:

1. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
2. If you are not satisfied with this determination, you may:
 - 2.1. Apply for a review of an Application to Modify a Development Consent which may be sought under Section 96AB of the Environmental Planning and Assessment Act 1979 but only within 28 days of the modification determination; or
 - 2.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97AA of the Environmental Planning and Assessment Act 1979.

(Sections 97 and 97AA of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.)

-END-

Independent Hearing and Assessment Panel – 3 July 2017

ITEM 4	62 The Mall, Bankstown
	Temporary use and fitout of the existing building as a real estate office and display suite
FILE	DA-1048/2016 - Bankstown Ward
ZONING	B4 Mixed Use
DATE OF LODGEMENT	2 November 2016
APPLICANT	Fioson Pty Ltd
OWNERS	Canterbury Bankstown City Council
ESTIMATED VALUE	\$190,000
SITE AREA	1949m²
AUTHOR	Planning

RECOMMENDATION

It is recommended that Development Application DA-1048/2016 be approved subject to the attached conditions.

REPORT

Development Application DA-1048/2016 proposes the temporary use and fitout of the former library building at 62 The Mall, Bankstown as a real estate office and display suite and included the provision of signage to a number of the façades of the former library building.

A report was prepared and included in the agenda of Council's Independent Hearing and Assessment Panel meeting of 5 June 2017 in respect to the merits or otherwise of Development Application DA-1048/2016.

The Panel resolved as follows:

THAT

- A. *Development Application DA-1048/2016 be **DEFERRED** to enable the applicant to consider the suggestions made by the Panel and submit an amended application.*
- B. *Council consider preparing a signage policy, especially for the B4 zone, in light of the imminent development that is going to occur in this area.*

Relevantly the 'Panel Assessment', which was also included in the minutes of the meeting, stated the following:

Panel Assessment

The Panel notes that this is an application on Council land associated with a proposed development which is currently the subject of a planning proposal and a development application. The application is for a display fit out and signage for the promotion of this development.

In summary at this stage, the Panel does not agree that the application should be approved as currently proposed for a number of reasons.

The Panel is of the opinion that the application should be amended to take into account these matters.

The matters to be addressed are as follows:

- a) *The Panel is of the opinion that the current assessment has failed to justify the current size, location and configuration of the signs, which as proposed are likely to have an adverse impact on the streetscape, for example, multiple signs on the northern elevation will make the streetscape visually unattractive. The Panel considers that any reconsideration of the application should reduce the size, number and location of the signs;*
- b) *The illumination of the signs should also be clarified. There should be an analysis of the timing of the illumination and importantly the intensity of the illumination and how it affects surrounding properties, noting that a large amount of the signage faces north, and can be viewed from a number of points including public spaces (the library for example) and a number of residential apartments to the north of the park;*
- c) *The size and colour combination should be more sympathetic with the cultural precinct being developed by the Council in this area; and*
- d) *If the application is to be amended, once complete the application should be re-advertised, and in doing so, the notification area extended to include the residential apartments to the north (59 Rickard Road, 61 Rickard Road and 75 Rickard Road, Bankstown).*

In the event that the applicant is prepared to consider the above matters and lodge an amended application, the assessment of the application should be carried out in the context of the site (the Panel for example noted that the “Brian Brown Theatre” signage attached to the library integrated well with the existing building and surrounding area).

Any further assessment should be undertaken in accordance with the NSW Government’s ‘Draft Transport Corridor Outdoor Advertising and Signage Guidelines’ issued in December 2015 which supports the implementation of State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64).

The Panel has made this assessment having regard to the proposal that the consent will be a time limited consent for three years only. The Panel is of the opinion that the three year time limit should commence after the planning proposal has been approved. Also in terms of the time period for the consent, further information could be provided as to the estimated time of construction for the main development so that the timing of the consent can be linked to this.

The Panel is unsure about the statement in the report as to whether there will be any direct financial implications; however, the Panel is assessing the application independently on its merits.

The Panel also recommends that the Council consider developing a signage policy, especially for the B4 zone given the potential for adverse impacts of signage on land uses within the mixed use zone, including residential development.

In response to the resolution of the Panel, Council is now in receipt of correspondence from the applicant dated 26 June 2017 in which they indicate the following:

We wish to advise that further to IHAP's consideration of the DA application for a display suite and associated marketing signages at council's old library building, our client (FS PROPERTY GROUP) have instructed H3 Architects to inform council that they wish to withdraw the proposed signages from the DA application. We trust that this would address the concerns of IHAP.

The application is now amended such that the applicant is now seeking approval for the temporary use and fitout of the former library building as a real estate office and display suite. No signage is proposed in association with this development application.

The vast majority of the concerns raised by the Panel, as reflected in the ‘Panel Assessment’, related to the proposed signage including the size of the signs, the number of signs proposed, the level of illumination etc. The removal of the signage satisfactorily addresses these concerns.

The application is reported back to the Panel for consideration.

The report recommends that the application, as amended, be approved.

RECOMMENDATION

It is recommended that Development Application DA-1048/2016 be approved subject to the attached conditions.

ATTACHMENTS

- A. Copy of report to the Independent Hearing and Assessment Panel and Section 79C Assessment Report (IHAP 5 June 2017)
- B. Revised Conditions of Consent

ATTACHMENT A - Copy of report to the Independent Hearing and Assessment Panel and Section 79C Assessment Report (IHAP 5 June 2017)

Independent Hearing and Assessment Panel – 5 June 2017

ITEM 1	62 The Mall, Bankstown
	Temporary use and fitout of the existing building as a real estate office and display suite including the provision of signage to façades of the building
FILE	DA-1048/2016 - Bankstown Ward
ZONING	B4 Mixed Use
DATE OF LODGEMENT	2 November 2016
APPLICANT	Fioson Pty Ltd
OWNERS	Canterbury Bankstown City Council
ESTIMATED VALUE	\$190,000
SITE AREA	1949m²
AUTHOR	Planning

RECOMMENDATION

It is recommended that Development Application DA-1048/2016 be approved subject to the attached conditions.

SUMMARY REPORT

This matter is reported to IHAP as the land being the subject of this development application is owned by Canterbury Bankstown City Council.

Development Application DA-1048/2016 proposes the temporary use and fitout of the premises as a real estate office and display suite including the provision of signage to a number of the façades of the building.

It is relevant to note that the applicant, in response to concerns raised by Council during the course of the assessment of the application, modified their original plans by way of reducing the number of signs (from eight signs to six) in addition to reducing the size and dominance of the signs as provided to the façades of the building.

The application has been assessed against, amongst other things, the provisions contained within State Environmental Planning Policy 64 – Advertising and Signage, Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment, Bankstown Local Environmental Plan (BLEP) 2015 and Bankstown Development Control Plan (BDCP) 2015.

The application satisfies the aims, objectives and controls contained within each of the above environmental planning instruments while the development is appropriate having regard to ‘Part B5 – Parking’ of the Bankstown Development Control Plan 2015.

The application was notified for a period of 14 days from 5 April 2017 to 18 April 2017. No submissions were received during this period. While amended plans were lodged with Council they provided for a reduction in both the size and the number of the signs that are proposed along the façades of the development. In light of the extent of the changes undertaken, neighbour notification of the amended plans was not considered necessary.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that Development Application DA-1048/2016 be approved subject to the attached conditions.

ATTACHMENTS

- A - Section 79C Assessment Report
- B - Conditions of Consent

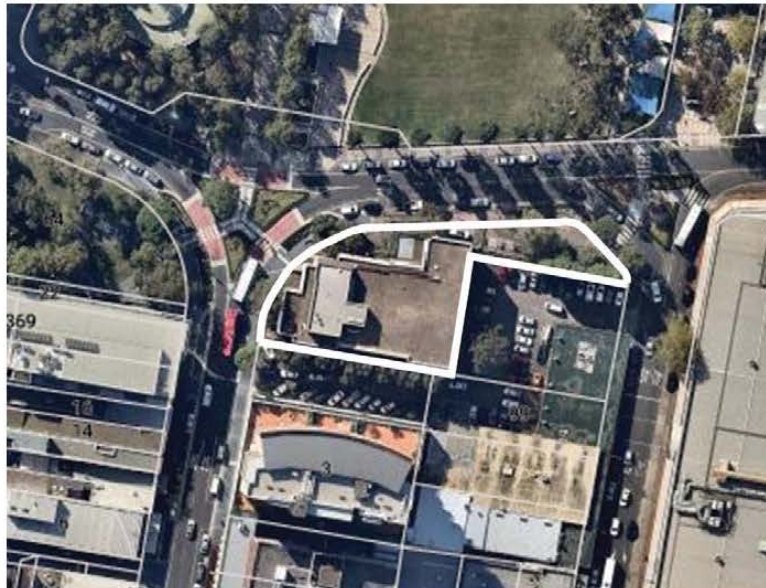
DA-1048/2016 ASSESSMENT REPORT

SITE AND LOCALITY DESCRIPTION

The subject site is legally described as Lot 9 in Deposited Plan 777510. The site is located in the south eastern corner of the intersection of The Mall and Fetherstone Street, Bankstown and is occupied by the former Bankstown City Council library building. The site is irregular in shape with an area of 1949m². The site has a 118.2 metre frontage to The Mall.

Opposite the site to the north is Paul Keating Park while retail/commercial premises including the Bankstown Compass Centre are located generally to the south. An open at-grade car park immediately adjoins the sites eastern boundary while further to the east is the Bankstown Central shopping centre. The subject site is located within the core administrative business district of Bankstown.

The context of the site is illustrated in the following aerial photo.



BACKGROUND

Of relevance to this development is the fact that Council is in receipt of a Development Application (referenced as DA-877/2016) for an extensive redevelopment of the majority of the sites bounded by The Mall, Fetherstone Street, The Appian Way and North Terrace. The subject site (62 The Mall) falls within the redeveloped site.

Development Application DA-877/2016 proposes the following:

Demolition of existing structures and construction of proposed mixed use development comprising a Council administration building of 4,426m², ground and first floor retail and commercial premises of 7,054m², and upper levels in four residential flat buildings containing 471 apartments with car parking for 794 spaces and stratum subdivision.

While exhibition and neighbour notification of Development Application DA-877/2016 has occurred, the application is yet to be determined.

Signage to be provided along the façades of the development (as proposed through the subject development application) specifically relates to the above mentioned development.

PROPOSED DEVELOPMENT

Development Application DA-1048/2016 seeks Council approval for the temporary use and fitout of the premises (the former Bankstown Library) as a real estate office and display suite promoting the development that is the subject of DA-877/2016 including the provision of signage to a number of the façades of the building. Specifically the plans, being the subject of this report, propose the following temporary signage:

- Signage (LED illuminated) measuring 1.5m x 5m to be provided along the verandah pelmet along the front (north) elevation (referenced as Sign 1A on the plans)
- Signage (LED illuminated) measuring 1.5m x 4.1m to be provided along the verandah pelmet along the side (east) elevation (referenced as Sign 1B on the plans)
- Signage (LED illuminated) measuring 7.8m x 12.5m to be provided along the northern elevation of the building (referenced as Sign 3 on the plans)
- Signage measuring 4.6m x 6.1m to be provided along the western elevation of the building (referenced as Sign 4 on the plans)
- Signage measuring 6.1m x 4m to be provided along the northern elevation of the building (referenced as Sign 5 on the plans)
- Signage (LED illuminated) measuring 6.1m x 4m to be provided along the eastern elevation of the building (referenced as Sign 6 on the plans)

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the Environmental Planning and Assessment Act, 1979.

Environmental planning instruments [section 79C(1)(a)(i)]

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The applicant seeks approval for the temporary use and fitout of the existing premises as a real estate office. No site excavation is required to be undertaken. It is therefore considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55.

Greater Metropolitan Regional Environmental Plan 2 - Georges River Catchment

It is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies.

State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64)

The application proposes the provision of signage to a number of the façades of the existing building. Specifically the plans, being the subject of this report, propose the following signage:

- Signage (LED illuminated) measuring 1.5m x 5m to be provided along the verandah pelmet along the front (north) elevation (referenced as Sign 1A on the plans)
- Signage (LED illuminated) measuring 1.5m x 4.1m to be provided along the verandah pelmet along the side (east) elevation (referenced as Sign 1B on the plans)
- Signage (LED illuminated) measuring 7.8m x 12.5m to be provided along the northern elevation of the building (referenced as Sign 3 on the plans)
- Signage measuring 4.6m x 6.1m to be provided along the western elevation of the building (referenced as Sign 4 on the plans)
- Signage measuring 6.1m x 4m to be provided along the northern elevation of the building (referenced as Sign 5 on the plans)
- Signage (LED illuminated) measuring 6.1m x 4m to be provided along the eastern elevation of the building (referenced as Sign 6 on the plans)

Pursuant to Clause 8 of the SEPP, a consent authority must not consent to an application to display signage unless the consent authority is satisfied that:

- (a) *The signage is consistent with the objectives of this Policy as set out in clause 3(1)(a) and*

The objectives and aims of SEPP 64, as referred to in Clause 3(1)(a) are as follows:

- (a) *to ensure that signage (including advertising):*
- (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (ii) *is of high quality design and finish, and*

The signage is confined to the façades of the building with no signage proposed beyond or above the roofline. All signage is proposed flush with the building walls with no projecting elements or features. The size of each of the signs responds appropriately to the scale and form of the former library building to which they are attached. As such the development is deemed to be consistent with the aims of the SEPP.

- (b) *The signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The table below provides for assessment of the development against the assessment criteria provided in Schedule 1 of SEPP 64.

State Environmental Planning Policy 64 – Advertising and Signage		
Schedule 1 – Assessment criteria	Response	Complies
<p><i>Character of the area</i></p> <p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p> <p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>The site is located in the core commercial/administrative centre of Bankstown. It is reasonable to expect that the character of the area accommodate signage of this form and scale.</p> <p>Council has not adopted a theme for outdoor advertising in the immediate area or the wider locality.</p>	Yes
<p><i>Special areas</i></p> <p>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>While the site is not located within an environmentally sensitive area, a heritage area, a waterway, rural or residential area it is located essentially in the heart of the administrative centre of Bankstown and is readily visible from Paul Keating Park. The extent of the signage that presents to the park is more or less confined to Signs 3 and 5. Each of these signs do not project above the roofline. Sufficient ‘curtilage’ is provided around each of these signs such that the existing building form of the old library remains visible.</p>	Yes
<p><i>Views and vistas</i></p> <p>Does the proposal obscure or compromise important views?</p> <p>Does the proposal dominate the skyline and reduce the quality of vistas?</p> <p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>In the absence of any signage projecting above the roofline and given that the signage is proposed flush to the building, views and vistas throughout the CBD will not be compromised. Furthermore the signs will not impact the viewing rights of other advertisers.</p>	Yes

State Environmental Planning Policy 64 – Advertising and Signage		
Schedule 1 – Assessment criteria	Response	Complies
<p><i>Streetscape, setting or landscape</i></p> <p>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p> <p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p> <p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p> <p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>The applicant does not seek approval to provide any signage that extends beyond the façades of the building rather intends utilising and taking advantage of the dominant built form elements of the library building (particularly for Signs 4, 5 and 6).</p>	<p>Yes</p>
<p><i>Site and building</i></p> <p>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>Plans that were originally lodged with Council, in the most part, extended and consumed the majority of the façades of the building. The amended plans, those being the subject of this report, satisfactorily reduce the size and dominance of the signs. Sufficient ‘curtilage’ is provided to Signs 4, 5 and 6 such that elements of the former library building are visible thereby enabling the building to continue to be read from Paul Keating Park, The Appian Way and The Mall.</p> <p>A condition of consent is recommended to be imposed requiring that the parapet feature that sits proud of the northern façade of the building to remain visible and that Sign 3 be positioned beneath the parapet. The purpose of this condition is again to ensure that features or elements of the building remain visible.</p>	<p>Yes</p>
<p><i>Associated devices and logos with advertisements and advertising structures</i></p> <p>Have any safety devices, platforms, lighting devices or logos been designed as an</p>	<p>No safety devices, platforms etc are proposed in association with this development.</p>	<p>Yes</p>

State Environmental Planning Policy 64 – Advertising and Signage		
Schedule 1 – Assessment criteria	Response	Complies
integral part of the signage or structure on which it is to be displayed?		
<p><i>Illumination</i></p> <p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>Of the six signs proposed, four are proposed to be LED illuminated. They include the sign proposed along the eastern elevation (facing the car park), signage provided along the verandah pelmet and the sign proposed along the northern elevation (facing Paul Keating Park). The illumination of the signs will have no impact on the amenity of any residents in the absence of residents to the north and east of the site. Illuminated signage through the use of LED is unlikely to result in unacceptable glare.</p>	Yes
<p><i>Safety</i></p> <p>Would the proposal reduce the safety for any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</p>	<p>The signs do not contain any images, logos or content that would necessarily distract motorists using The Mall or The Appian Way.</p> <p>Pedestrians and cyclists using the immediately adjoining road network will similarly not be impacted by the signage.</p> <p>Sightlines to and from Paul Keating Park will not be obscured by the signage.</p>	Yes

Bankstown Local Environmental Plan 2015

The following clauses of Bankstown Local Environmental Plan (BLEP) 2015 are relevant to the proposed development and were taken into consideration:

Clause 1.2 – Aims of Plan

- (2) The particular aims of this Plan are as follows:
- (a) to manage growth in a way that contributes to the sustainability of Bankstown, and recognises the needs and aspirations of the community,
 - (b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,
 - (c) to protect the natural, cultural and built heritage of Bankstown,

- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,
- (e) to minimise risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,
- (f) to provide a range of housing opportunities to cater for changing demographics and population needs,
- (g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,
- (h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,
- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,
- (j) to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,
- (k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,
- (l) to enhance the quality of life and the social well-being and amenity of the community.

The temporary use and fitout of the former library building as a temporary real estate office and display suite is an appropriate use of this building in response to the potential development opportunities afforded to this site and those adjoining to the immediate south. Maintaining occupation and use of buildings within the CBD ensures the area remains a vibrant, active and community friendly environment.

Clause 2.3 – Zone objectives and Land Use Table

The objectives of the B4 Mixed Use zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To maintain the role of the Bankstown CBD as a major metropolitan centre.

The development remains consistent with the objectives of the zone in so far as approval of the development will contribute to the growth of the Bankstown CBD with respect to employment generation and the re-utilisation of the former Bankstown library building.

In accordance with the land use table the development is permissible with the consent of Council being a commercial premises with associated building identification signs.

Clause 2.8 – Temporary use of land

Clause 2.8(2) of the LEP reads as follows:

- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

While the applicant has indicated the use of the building (and the associated signage) will be temporary, the applicant has not sought approval pursuant to the provisions contained within Clause 2.8(2) of the LEP. The temporary nature of the development reflects the fact that the old library building will be demolished to accommodate the development as promoted in the display suite.

Clause 4.3(2) – Height of buildings

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Buildings Map identifies a maximum permissible building height of 41 metres for this particular site. In the absence of any external works proposed, other than the provision of signage along a number of the façades of the building, the development remains compliant with Clause 4.3(2) of the BLEP.

Clause 4.4(2) – Floor space ratio

- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The floor space ratio map identifies a maximum permissible floor space ratio of 4.5:1. The applicant seeks a use and fitout of the premises resulting in no increase to the existing gross floor area of the building. The development remains compliant with Clause 4.4(2) of the BLEP.

As identified above, an assessment of the development application has revealed that the proposal complies with the matters raised in each of the above clauses of Bankstown Local Environmental Plan 2015.

Draft environmental planning instruments [section 79C(1)(a)(ii)]

As indicated earlier in this report, Council is in receipt of a Development Application in which the applicant is seeking approval for a large mixed use development on this site. Exhibited with the development application was both a Planning Proposal and a Voluntary Planning Agreement that specifically related to this mixed use development.

The Planning Proposal seeks to increase the maximum building height to 83 metres and the maximum floor space ratio to 5:1 where it can be demonstrated that the development delivers a better built form and public benefits. The intended outcome is to provide a site

specific framework that delivers design excellence and public benefits to the Bankstown CBD.

In the event that the Planning Proposal has been exhibited, consideration under Section 79C(1)(a)(ii) of the EP&A Act is required. The Planning Proposal is neither certain nor imminent, with the Planning Proposal only coming off exhibition on 12 May 2017. Notwithstanding the stage at which the Planning Proposal is at, the merits or otherwise of the subject development application is not inconsistent with the Planning Proposal.

Development control plans [section 79C(1)(a)(iii)]

Part B2 of the Bankstown Development Control Plan 2015 supplements the LEP by providing additional objectives and development controls to enhance the function and appearance of centres, corridors and business parks in the City of Bankstown. The DCP however is silent with respect to development controls and specific objectives relating to 'land use' and signage controls within the B4 Mixed Use Zone.

Part B5 of the Bankstown Development Control Plan 2015 provides for controls relating to off-street parking specifically in respect to design, access, layouts and circulation. In order to determine required on-site car parking, it is relevant to have regard to the car parking demand of the former use of the building when determining whether the new or proposed use will generate any additional demand. The Schedule for Off-street Parking Requirements in Section 2 of Part B5 is silent with respect to the car parking requirements associated with a library building.

It is reasonable to assume that the car parking requirements/demands associated with a library building would exceed that of a real estate office and display suite. Accordingly requesting additional on-site parking in association with the new use cannot be justified.

Planning agreements [section 79C(1)(a)(iia)]

There are no planning agreements applicable to this development application.

The regulations [section 79C(1)(a)(iv)]

The proposed development is not considered to be inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 79C(1)(b)]

The report identifies the likely impacts of the development particularly with respect to the impact of the signs on the visual amenity of the locality and on the motorists. The applicant has indicated that both the use of the premises and the signage is temporary. It is therefore recommended that the consent notice reflect this with the consent being limited to 3 years. Furthermore in that time should Council develop a specific signage strategy within the CBD then the merits of such signage can be revisited with any new development application.

Suitability of the site [section 79C(1)(c)]

The use of the site as a temporary real estate office and display suite is an appropriate use of the site having regard to the development opportunities potentially afforded by the exhibited planning proposal (that relates specifically to this site) and the existing vacancy of the premises.

Submissions [section 79C(1)(d)]

The application was notified for a period of 14 days from 5 April 2017 to 18 April 2017. No submissions were received during this period. While amended plans were lodged with Council they provided for a reduction in both the size and the number of the signs that are proposed along the façades of the development. Bankstown Development Control Plan 2015 is silent with respect to requiring re-notification of applications to occur upon the receipt of amended plans.

In light of the extent of the changes undertaken, being a reduction in the number and size of the signs, notification of the amended plans was not considered necessary.

The public interest [section 79C(1)(e)]

Having regard to the relevant planning considerations, the proposed development is in the public interest. The proposed development would not contravene the public interest. It responds appropriately to the standards contained in State Environmental Planning Policy 64 – Advertising and Signage, as well as the relevant provisions of the Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, requiring, amongst other things, an assessment against the provisions contained within State Environmental Planning Policy 64 – Advertising and Signage, Greater Metropolitan Regional Environmental Plan 2 - Georges River Catchment, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposed development represents an appropriate response to the opportunities afforded to the site. Approval of this application is considered to be consistent with the B4 Mixed Use zoning and would not result in an unacceptable or unreasonable impacts on the surrounding locality.

ATTACHMENT B – Revised Conditions of Consent

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of this Development Consent.
- 2) Development shall take place in accordance with Development Application No. DA-1048/2016, submitted by Fioson Pty Ltd, accompanied by Drawing Nos. 10200_DA01[3], 10200_DA02[3], 10200_DA03[3], 10200_DA04[3] and 10200_DA05[3] all dated 17 February 2017 and all Issue 3, all prepared by Nettleton Tribe and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.
- 3) This approval is valid for a period of 3 years from the date of determination after which time the use of the subject premises will require further consent of Council.
- 4) The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 5) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 6) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 7) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 8) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$950.00 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 9) The use of the existing building must be brought into conformity with the Building Code of Australia (BCA), to protect persons using the building, and to facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby. Details indicating compliance with the Performance Requirements of the BCA must be provided to the certifying authority prior to the issue of a construction certificate.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION COMMENCING

- 10) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.
- 11) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 12) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is

capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 13) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 14) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 15) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 16) The building work must be carried out in accordance with the requirements of the Building Code of Australia.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 17) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 18) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied.

USE OF THE SITE

- 19) The hours of operation of the real estate office and display suite shall be limited to between 10.00am and 3.00pm (Monday to Friday) and 10.00am to 5.00pm (Saturdays and Sundays).

[END]