

The NEW City of
**CANTERBURY
BANKSTOWN**

Agenda for the

**Independent Hearing
And Assessment
Panel Meeting**

6 March 2017 – 6.00pm

**Council Chambers
137 Beamish Street, Campsie**

IHAP Chairperson and Panel Members

Notice is hereby given that a meeting of the Independent Hearing and Assessment Panel be held in the Council Chambers, 137 Beamish Street, Campsie on Monday 6 March 2017 at 6.00 P.M.

Disclosure of Interest: Section 451 of the Local Government Act 1993 requires a panel member who has a pecuniary interest in any matter with which the Council is concerned and who is present at the meeting at which the matter is being considered must disclose the interest, and the nature of that interest, to the meeting as soon as practicable. The panel member is required to leave the room while the matter is being discussed and not return until it has been voted on.

Matthew Stewart
GENERAL MANAGER

24 February 2017

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REPORT SUMMARIES

1 26A HARP STREET AND 29 LINEY AVENUE, CLEMTON PARK: APPLICATION TO REZONE 26A HARP STREET FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R3 MEDIUM DENSITY RESIDENTIAL; RETAIN EXISTING R3 ZONING OF 29 LINEY AVENUE AND INCREASE FLOOR SPACE RATIO

- Council is in receipt of an application requesting rezoning of the land at 26A Harp Street and 29 Liney Avenue, Clemton Park. It is proposed to rezone 26A Harp Street from zone IN2 Light Industrial to zone R3 Medium Density Residential and to apply a height of 8.5m on the land. It is also proposed to retain the existing R3 zoning of 29 Liney Avenue, but to increase the floor space ratio from 0.5:1 to 1:1 under Canterbury Local Environmental Plan 2012.
- The site forms part of the Harp Street Campsie/Belmore Industrial Precinct.
- The Department of Planning & Environment's Strategic Merit Test has been used to determine whether this proposal demonstrates strategic and site specific merit to proceed to Gateway.
- It is recommended that the proposal not be supported for the following key reasons:
 - The proposal is inconsistent with the Greater Sydney Commission's Metropolitan Plan (*A Plan for Growing Sydney*) and Draft South District Plan, in particular the priorities and actions to protect and support employment service lands in the district.
 - The proposal is inconsistent with Council's *Towards 2032: Canterbury Economic Development and Employment Strategy 2009*, which identifies the site as part of an industrial precinct to be retained for employment purposes. The findings of this strategy were incorporated into Canterbury Local Environmental Plan 2012. The LEP came into effect on 1 January 2013 and is four years old. According to the assessment criteria, LEP controls less than five years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.
- The proposal is inconsistent with relevant state and local strategies, state environmental planning policies and Ministerial (117) Directions. The assessment findings are discussed in more detail in this report.

2 2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILDCARE CENTRE

- An application has been received for modifications to an approved childcare centre.
- The application has been referred to the Independent Hearing and Assessment Panel as the applicant and owner of the site is Canterbury-

Bankstown Council.

- The proposal is defined as a childcare centre which is permissible with consent within Zone R3 Medium Density Residential under Canterbury Local Environmental Plan 2012.
- The application has been assessed against the terms of the Environmental Planning and Assessment Act 1979, the Canterbury Local Environmental Plan 2012, the Canterbury Development Control Plan 2012 and other relevant planning controls.
- The proposed variation is to allow parking in front of the building line contrary to Part 5.3.6(i) of Canterbury Development Control Plan 2012.
- In accordance with Part 7 of the Canterbury Development Control Plan 2012, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended that the application be approved and the subject application modified.

GENERAL**1 26A HARP STREET AND 29 LINEY AVENUE, CLEMTON PARK: APPLICATION TO REZONE 26A HARP STREET FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R3 MEDIUM DENSITY RESIDENTIAL; RETAIN EXISTING R3 ZONING OF 29 LINEY AVENUE AND INCREASE FLOOR SPACE RATIO****REPORT BY: PLANNING**

Summary:

- Council is in receipt of an application requesting rezoning of the land at 26A Harp Street and 29 Liney Avenue, Clemton Park. It is proposed to rezone 26A Harp Street from zone IN2 Light Industrial to zone R3 Medium Density Residential and to apply a height of 8.5m on the land. It is also proposed to retain the existing R3 zoning of 29 Liney Avenue, but to increase the floor space ratio from 0.5:1 to 1:1 under Canterbury Local Environmental Plan 2012.
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- The Department of Planning & Environment's Strategic Merit Test has been used to determine whether this proposal demonstrates strategic and site specific merit to proceed to Gateway.
- It is recommended that the proposal not be supported for the following key reasons:
 - The proposal is inconsistent with the Greater Sydney Commission's Metropolitan Plan (*A Plan for Growing Sydney*) and Draft South District Plan, in particular the priorities and actions to protect and support employment service lands in the district.
 - The proposal is inconsistent with Council's *Towards 2032: Canterbury Economic Development and Employment Strategy 2009*, which identifies the site as part of an industrial precinct to be retained for employment purposes. The findings of this strategy were incorporated into Canterbury Local Environmental Plan 2012. The LEP came into effect on 1 January 2013 and is four years old. According to the assessment criteria, LEP controls less than five years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.
- The proposal is inconsistent with relevant state and local strategies, state environmental planning policies and Ministerial (117) Directions. The assessment findings are discussed in more detail in this report.

Financial Impact:

This matter has no direct financial implications for Council.

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Report:

Site Details

The site comprises the following properties:

Property Address	Property Description	Current zoning	Site Area
26A Harp Street	Lot B DP 367423	Zone IN2 Light Industrial	3,900m ²
29 Liney Avenue	Lot 17 DP 324745	R3 Medium Density Residential	388m ²

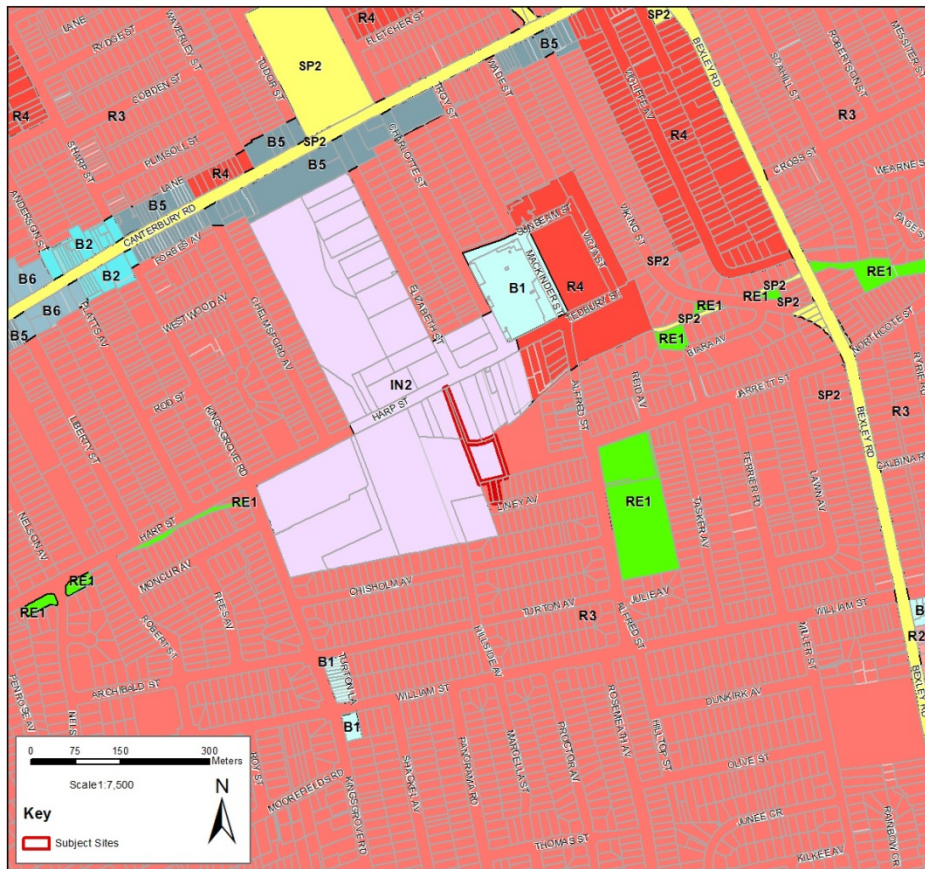
The site is situated within the southern edge of the Harp Street Industrial precinct (approx. 24 ha total). It has a combined area of approximately 4,288m². The larger of the two lots at 26A Harp St is a battleaxe shape with its current access being via an access handle (or driveway) from Harp Street. It currently contains a large industrial shed, used as a taxi change over station. The smaller lot at 29 Liney Avenue is a traditional residential allotment, with frontage to Liney Avenue and it currently contains a single detached dwelling. The inclusion of this site provides a secondary access to the larger site from Liney Avenue, though it currently does not serve this role.

Surrounding development to the north and west of the site consists of industrial/employment related uses with an automotive repair and warehouse/storage focus. Sites to the north along Harp Street are separated by a concrete drain channel. Larger key industrial sites, including Pickles Auctioneers, are situated towards the west of the site. The precinct has access to the M5 Motorway via Harp Street, Kingsgrove Road and Canterbury Road.

Surrounding development to the south and east is low density residential including single dwelling houses and townhouses with a maximum building height of 8.5 metres and floor space ratio of 0.5:1. As the land is zoned for industrial purposes there is no maximum building height reflective of the higher floor to ceiling heights for typical industrial buildings. The site is also situated close to the former sunbeam factory which is currently being redeveloped as part of a new centre (Clemton Park Village), previously zoned for industrial purposes. Redevelopment of the former sunbeam site was granted via a Part 3A approval for a mixed use and residential development on the site.

The subject site is situated approximately 1.6km (walking distance) from Campsie Railway Station and the Campsie town centre.

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Background and History

In July 2016 the proponent met with Council officers at a pre lodgement meeting to discuss the proposal to rezone the site from an industrial zone to a residential zone. Some of the key issues identified at the meeting include whether the proposal will impact on the supply of industrial/employment lands; potential built form on site; potential impact (traffic, parking environmental etc); consistency with Council's Residential Development Strategy; and appropriate infrastructure on the site.

In September 2016 a planning proposal was submitted which is the subject of this report. The intention of the proposal is to allow terraced style townhouse development on this site.

Description of Proposal

The following amendments to Canterbury Local Environmental Plan 2012 in relation to the site at 26A Harp Street and 29 Liney Avenue Clemton Park:

	26A Harp Street		29 Liney Avenue	
	Existing	Proposed	Existing	Proposed
Land Use zone	IN2	R3	R3	Add clause to permit multi dwelling housing
FSR	1:1	No change	0.5:1	1:1
Height	No height	8.5m	8.5m	No change

According to the application, the objectives of the planning proposal are:

- *To enable the efficient redevelopment of under-utilised employment land to provide additional housing choice and mix in the area.*
- *To provide additional medium density residential development in close proximity to existing employment generating land uses including surrounding light industrial development and the Canterbury Hospital precinct.*
- *To ensure future redevelopment of the site is compatible with the adjoining predominantly residential character of the Clemton Park area.*

The request to identify the site as a key site to permit multi-unit dwellings is not considered necessary as the R3 zoning on the land will permit this form of development.

Considerations

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

- Metropolitan Plan (*A Plan for Growing Sydney*) (2014)
- Draft South District Plan (2016)
- Canterbury Economic Development and Employment Strategy (2009).
- Canterbury Residential Development Strategy (2013)
- Department of Planning & Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals* (August 2016).

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Strategic Merit Test

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

Based on the Strategic Merit Test which is outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*, the planning proposal has been assessed, using the three key questions for the strategic merit test, and is not supported as outlined below:

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 inconsistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016.

In particular, the proposal is contrary to the *Productivity Priorities and Actions* of the Draft South District Plan, which states that the retention of employment, industrial and urban services land is essential. The priorities for managing employment and urban services land are:

- To protect and support employment services land;
- To take a precautionary approach to the conversion of employment and urban services land (in the absence of a district-wide assessment of the values and objectives);
- To develop a better understanding of the value and operation of employment and urban services land.

The Commission is therefore taking a precautionary approach to the conversion of employment lands in the absence of a district wide assessment of their value and objectives. The exception being where there is a clear direction in the regional plan (currently A Plan for Growing Sydney), the District Plan or an alternative strategy endorsed by the relevant planning authority. There is no clear direction in the Regional, District Plan or any alternative strategy that states the subject site should not be retained for industrial uses.

The application of the precautionary approach in the Harp Street Industrial Precinct (where the site is located) is particularly important given that:

- The precautionary approach avoids the intrusion of non-industrial uses, especially residential uses into a developed industrial precinct, which may create amenity conflicts as well as fragment an existing consolidated area of employment land. It also avoids creating an undesirable precedent for other rezoning requests in the Harp Street Industrial Precinct that do not accord with the strategic framework for the City of Canterbury-Bankstown.

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- The Sydney South Planning Panel has already applied the precautionary approach in relation to a rezoning review. The Panel decided not to support a proposal to rezone a site at 45–57 Moxon Road, Punchbowl from an industrial zone to a residential zone as it did not demonstrate strategic merit. According to the Panel, the loss of employment land is inconsistent with the productivity priority and relevant actions in the Draft South District Plan.
- As part of the precautionary approach, the Commission will work with local councils to inform the preparation of appropriate planning controls to protect, support and enhance the economic function of employment lands.

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

The proposal is inconsistent with the relevant local strategies that apply to the site.

The proposal is inconsistent with the recommendations of *the Towards 2032: Canterbury Economic Development and Employment Strategy 2009*, which specifically identified the site as part of a precinct (Harp St Precinct) to be retained for employment purposes. The findings of this strategy were incorporated into Canterbury Local Environmental Plan in 2012.

The proposal is also contrary to the Canterbury Residential Development Strategy (RDS), completed in 2013, three years prior to the lodgement of the planning proposal request, which did not identify the subject land or the surrounding employment lands as being required for residential use.

As part of the LEP submission, the RDS considered a request to rezone a nearby site, within the Harp Street Industrial Precinct, at 2-12 Harp Street and 1-9 Alfred Street. The applicant requested the site to be partially rezoned to R4 High Density Residential and to apply a maximum building height of 13.5m and FSR of 1.4:1. The RDS recommended the following action:

- Retain existing zoning and planning controls
- Review zoning following completion of the neighbourhood centre in the Sunbeam site development.

The justification for the recommendation is as follows:

“Council’s Towards 2032 economic study recommends retaining this area as an employment area. In the event that significant increased housing targets are imposed on Canterbury LGA, there is considered to be merit in reviewing the zoning of not just this site but of the area in general due to the redevelopment of the former Sunbeam site which includes a new commercial centre

Any amendment to the planning controls to provide for denser housing forms should only be undertaken following the completion of the new centre on the Sunbeam site.

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This will allow analysis of the planning constraints and opportunities that emerge from that development, and the need / potential for further residential development in the area.”

Contrary to the RDS recommendation, the site was rezoned to R4 High Density Residential following a Council resolution in October 2014 by the former Canterbury Council. The recommendation applied in the RDS is relevant to the subject planning proposal insofar as the land is situated in the Harp Street Industrial precinct and is situated within close proximity to Clemton Park Village (Sunbeam site) which is still under construction.

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 not responding to a change of circumstances as:

- The planning proposal was lodged after the announcement of the Southwest Metro Line and the draft Sydenham to Bankstown Urban Renewal Corridor Strategy. The site is located well outside the nominated boundary of the urban renewal corridor, and any residential component approved on the site would directly compete in the market place with sites advanced under that framework.
- The Canterbury LEP commenced on 1 January 2013, making the controls for this site less than five years old. According to the assessment criteria, LEP controls less than five years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.

Attachment A outlines the assessment findings in more detail.

Peer review – Economic Justification

SGS Economics and Planning, the authors of Council’s Economic Development and Employment Strategy, were engaged to undertake an independent review of the economic assessments prepared by MacroPlan (the applicant’s consultant). A summary of SGS’s review include:

In reviewing the MacroPlan report, SGS has applied a sequential testing framework which considers whether the following questions have been appropriately addressed through the methods, assumptions and conclusions reached:

- *Is the site surplus to requirements under existing zoning?*
- *If so, is the proposed land use suitable for the site?*

These questions must be satisfied in order to determine if the proposal can be supported on first principles.

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The report is not considered to have done this. In fact, it appears to suggest that there is demand for industrial floorspace in the industrial precinct and the current use is a growing industry. While the MacroPlan report contends that residential-zoned land is in demand, this is considered a secondary issue and does not provide sufficient evidence that the site's current use and industrial zoning is surplus to the requirements of the former or current local government area or the District.

The review has highlighted a number of issues associated with the approach or evidence provided including:

- *The report often interprets the data incorrectly or does not adequately report of the whole picture presented within the data, but rather cherry-picks the evidence to support the argument presented within the report.*
- *It applies inconsistent geographies and contains inconsistent data reporting throughout the industrial and residential supply and demand assessments. Findings are therefore not directly comparable. Concern has also been raised regarding the accuracy of data reported and instances where the data source is not reported.*
- *No empirical market assessment has been prepared to determine past, current and future market trends for industrial floorspace. The report does not consider future growth in population, households and employment when drawing conclusions, which is a significant gap in the analysis.*
- *It is predicated on the concept that the current use and any redevelopment of the site for industrial uses would not contribute significantly to employment. All industries, including those with lower employment densities, require floorspace to adequately and productively execute their function. The number of jobs produced by a land use on site does not make the use invalid if it is performing a productive function and/or service.*

As such, upon review of this report, it is the view of SGS that there has been insufficient evidence provided to support a rezoning of the site away from its current industrial zoning.

Additional Considerations

In relation to other considerations, Council assessed the proposal based on the justification matters 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 based on consistency with relevant state and local strategies, state environmental planning policies and Ministerial (117) Directions.

The proponent's suggestion that the site is suitable for residential use ignores the locational attributes that were noted as prohibitive to the continuing operation of the industrial uses, including:

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- Poor vehicular access
- Potential noise impacts
- Traffic congestion
- Accessway used for parking

The report does not address these constraints when discussing residential options for the subject site and why they are considered detrimental for the current industrial use but not the proposed residential use. These issues would also impact on residents, and may be compounded by the addition of 20 dwellings on the site. The inclusion of 29 Liney Avenue to the development lot will also isolate the adjoining dwelling at 31 Liney Avenue.

The proposal seeks to apply a FSR of 1:1 on the site at 26A Harp Street and to increase the FSR from 0.5:1 to 1:1 at 29 Liney Avenue to accommodate terraced style townhouses. The surrounding FSR in the R3 zone is 0.5:1 and the maximum FSR for residential flat buildings in the R4 zone is 0.9:1. The proposed FSR of 1:1 is not considered to be consistent with surrounding FSR (0.5:1) and is considered to be excessive when compared to the FSR applying to medium density housing such as townhouses and RFBs in higher density zones.

RECOMMENDATION:

THAT

1. The application for rezoning and other planning control changes to the site at 26A Harp Street and 29 Liney Avenue, Clemton Park from Zone IN2 Light Industrial to Zone R3 Medium Density Residential not be supported.
2. Council review the planning controls for the Harp Street Industrial Precinct as part of the broader review of employment lands in the new City of Canterbury-Bankstown.

ATTACHMENTS

- A. Assessment of planning proposal

26A HARP STREET AND 29 LINEY AVENUE, CLEMTON PARK: APPLICATION TO REZONE 26A HARP STREET FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R3 MEDIUM DENSITY RESIDENTIAL; RETAIN EXISTING R3 ZONING OF 29 LINEY AVENUE AND INCREASE FLOOR SPACE RATIO (CONT.)

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 & Environment.

1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning & 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 the Gateway. A proposal that seeks to amend controls that are less than 5 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

	Complies
<p>Proponent’s Submission: The proponent has not addressed whether the planning proposal is consistent with the relevant draft District Plan.</p> <p>It is noted that the planning proposal was submitted (September 2016) prior to the District Plans being released by the Greater Sydney Commission. Council has not asked the applicant to address this as it has a clear direction for employment land as outlined below.</p> <p>Council’s Assessment: The proposal is inconsistent with the Greater Sydney Commission’s Draft South District Plan, released for public comment in November 2016. In particular, the proposal is inconsistent with the following priorities and actions:</p> <p>The proposal is contrary to the <i>Productivity Priorities and Actions</i> of the Draft South District Plan, which states that the retention of employment, industrial and urban services land is essential. The priorities for managing employment and urban land are:</p> <ul style="list-style-type: none"> • To protect and support employment service land; • To take a precautionary approach to the conversion of employment and urban services land (in the absence of a district wide assessment of their values and objectives) • To develop a better understanding of the value and operation of employment and urban services land. <p>The application of the precautionary approach in the Harp Street precinct (the area which the site is located) is particularly important given that:</p>	<p>No</p>

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<ul style="list-style-type: none"> • The precautionary approach avoids the intrusion of non-industrial uses, especially residential uses into a developed industrial precinct, which may create amenity conflicts as well as fragment an existing consolidated area of employment land. It also avoids creating an undesirable precedent for other rezoning requests in the Harp Street Industrial Precinct that do not accord with the strategic framework for the City of Canterbury–Bankstown. • The Sydney South Planning Panel applied the precautionary approach in relation to a rezoning review. The Panel decided not to support a proposal to rezone a site at Nos. 45–57 Moxon Road in Punchbowl from an industrial zone to a residential zone as it did not demonstrate strategic merit. According to the Panel, the loss of employment land is inconsistent with the productivity priority and relevant actions in the Draft South District Plan. • As part of the precautionary approach, the Commission will work with local councils to inform the preparation of appropriate planning controls to protect, support and enhance the economic function of employment lands. 	
<p>The proposal is also contrary to <i>Action L2: Identify the opportunities to create the capacity to deliver 20 year strategic housing supply targets</i>. According to this action, the vision for accommodating homes for the next generation is intrinsically linked to planning for, and integration with, new infrastructure and services. This action identifies the preferred locations to create housing capacity, namely urban renewal corridors (e.g. Sydenham to Bankstown Urban Renewal Corridor) and land release areas in the West District. The site is not located in an urban renewal corridor or land release area.</p>	

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

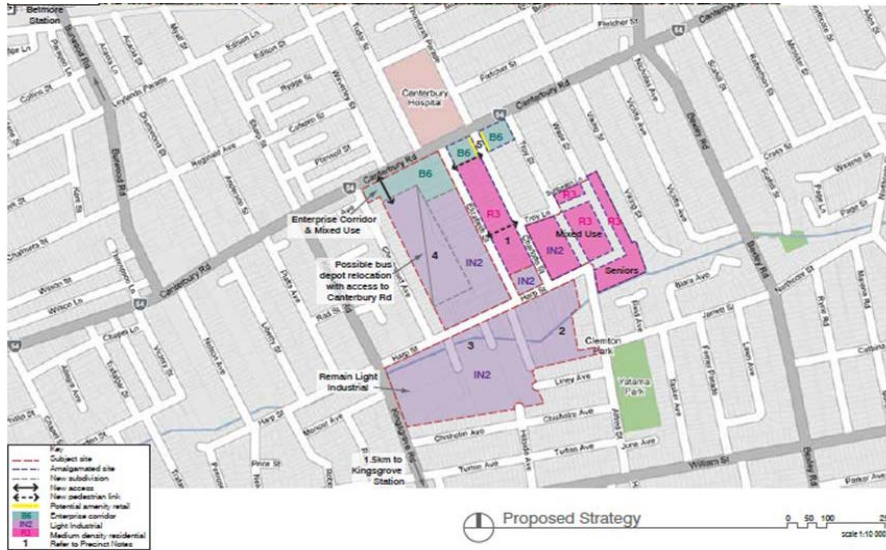
1.2.1 Council’s Towards 2032 – City of Canterbury Economic Development & Employment Strategy (ED &ES) (2009)

1.2.2 Canterbury Residential Development Strategy (2013)

	Complies
<p>Proponent’s Submission: Council’s ED & ES Strategy states that the Harp Street industrial precinct will face difficulties for redevelopment due to lot configuration and fragmentation. The MacroPlan report argues that the proposal is ‘entirely consistent’ (page 17) with the planning vision for the Harp Street industrial precinct, citing the following direction for the precinct:</p> <p><i>Strategy Direction: Consider the future of this area for low-rise, medium density housing, medical related businesses and a small neighbourhood centre, adjacent to light industry. (Towards 2032, page 47)</i></p>	No

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Council's Assessment: The proponent's interpretation of the Strategy is incorrect. While the strategy direction cited is correct, the direction must be read in conjunction with other general economic development directions and Appendix A. Direction P27 of the strategy outlines the proposed configuration of the Harp Street industrial precinct noting that industrial uses are to be retained north and south of Harp Street which includes the subject site. A copy of Appendix A (below) provides further details and a structure plan of the strategy direction.



The subject site is proposed to be retained for light industrial uses. The increase in residential density is recommended in areas that are zoned for residential purposes between Charlotte and Elizabeth Streets, and the neighbourhood centre with medical related businesses is recommended at Canterbury Road. A mixed use precinct is shown at the former Sunbeam site. These uses are illustrated on page 106 of *Towards 2032*.

The proposal is inconsistent with Council's *Towards 2032* as the Strategy recommends preserving and nurturing local business and employment lands in the Harp Street Industrial Precinct. The findings of this strategy are reflected in the Local Planning Strategy, which resulted in retaining the sites IN2 light industrial zoning in the CLEP 2012.

Although the ED & ES is not formally endorsed by the Department, Council notes that it has been referenced in the preparation of the District Plan. The proposal is inconsistent with this Strategy.

The planning proposal is also inconsistent with the Canterbury Residential Development Strategy (2013). The RDS:

- Recommends providing housing opportunities in and around centres and public transport infrastructure. The subject site is not situated in a centre or within close proximity to rail station.
- Did not identify the subject land or surrounding employment lands as being required for residential use (either as part of a mixed use

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<p>development or otherwise).</p> <ul style="list-style-type: none"> • Recommends the retention of the existing zoning (IN2 and R3) and planning controls at 2-12 Harp St and 1-9 Alfred Street, Clemton Park. It also recommends that a review of the zoning be carried out following the completion of the neighbourhood centre on the sunbeam site development. 	
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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 Sydenham to Bankstown Urban Renewal Corridor strategy establishes a 20 year strategic planning framework to guide future development and infrastructure delivery throughout the corridor. The strategy identifies opportunities for additional housing and jobs around each station along the proposed Sydney Metro rail line (the Bankstown Line), and the infrastructure required to support future growth.</p> <p>The strategy generally applies to land north of Canterbury Road, which excludes the subject site.</p> <p>The proponent also states that the site benefits from direct public transport access to two of the stations and precincts covered in the draft strategy and the background information relating to employment and housing supply and choice are relevant considerations for the subject site.</p> <p>Council’s Assessment: The proposal is inconsistent with the assessment criteria under the Strategic Merit Test as it does not respond to a change of circumstances, namely:</p> <ul style="list-style-type: none"> • <i>New Infrastructure:</i> The Metropolitan Plan and the Draft South District Plan do not identify any new infrastructure investment in the Clemton Park locality. The site is located outside the nominated boundary from the Sydney South West Metro Line and the draft Sydenham to Bankstown Urban Renewal Corridor Strategy. Any residential component approved on the site would directly compete in the marketplace with sites advanced under that framework. The site is located approximately 1.6km (closest walking distance) from Campsie Railway Station and Campsie Town Centre. The site is serviced by a number of local bus routes within 400m walking distance. The closest public bus route (490) provides services every half hour on weekdays and every hour on weekends and public holidays. The site located along any rapid bus routes (ie Metrobus). 	<p>No</p>

26A HARP STREET AND 29 LINEY AVENUE, CLEMTON PARK: APPLICATION TO REZONE 26A HARP STREET FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R3 MEDIUM DENSITY RESIDENTIAL; RETAIN EXISTING R3 ZONING OF 29 LINEY AVENUE AND INCREASE FLOOR SPACE RATIO (CONT.)

<ul style="list-style-type: none"> • <i>Review of controls that are less than 5 years old:</i> The Canterbury LEP 2012 commenced on 1 January 2013, making the controls for this site less than 5 years old. There are no identified changing demographic trends that have emerged in the area that are not recognised within the current planning controls that exceeds the significant uplift that Councils decision grants the site. 	
<p>According to the assessment criteria, LEP controls less than 5 years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.</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 former Canterbury Council developed the "Towards 2032 - City of Canterbury Economic Development and Employment Strategy "(2009) which recognised for Harp Street Precinct (page 47) that there is a need to consider <i>“the future of this area for low rise, medium density housing... adjacent to light industry. ”</i></p> <p>The Planning Proposal has been prepared having regard to a range of existing strategic studies guiding Metropolitan strategic planning outcomes, as well as local housing and employment strategies.</p> <p>According to the proponent’s economic justification report (MacropPlan), the rezoning provides for the potential for an increased residential supply of the Canterbury Bankstown LGA. In particular, an element of townhouse format housing is proposed, which will provide an intermediate position between established detached houses and new apartments.</p> <p>The report further notes that recent industrial trends within the former Canterbury LGA have shown that manufacturing industries are on the decline. These trends suggest that there has been limited demand from industrial related entities contributing to limited redevelopment of industrial zoned land.</p> <p>Recent evidence provides a market context for consideration of the subject site and its potential towards achieving other strategic outcomes for the LGA. There is also previous strategic context in support of the planning proposal, which is detailed within ‘Towards 2032 – City of Canterbury Economic Development & Employment Strategy.</p>	<p>No</p>

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<p>Council’s Assessment: The proposal is not the result of any strategic study or report prepared by either, the Department of Planning & Environment, Greater Sydney Commission, or Council.</p> <p>In considering the economic effects, the proposal seeks to depart from the intended outcomes of the Metropolitan Plan, Draft South District Plan and relevant local strategies to protect and support employment lands as discussed in section 1.1, 1.2 and 2.3 of this attachment.</p> <p>An independent review of the proponent’s economic justification report was carried out by SGS.</p> <p>A summary of SGS’s assessment of MacroPlan’s justification for the proposed residential use is as follows:</p> <p><i>“The argument to support the rezoning for the precinct from industrial uses has not been justified. The data and evidence presented is largely inadequate or is not referenced. The MacroPlan report expresses opinion as fact and ignores presented empirical evidence. No assessment has been prepared to determine the likely future demand for industrial floorspace. Instead, the MacroPlan report presents supply trends as an indication of demand, which is a circular, misleading argument. Furthermore, MacroPlan has not demonstrated that the current use is unable to continue on the site due to undue constraints or lack of market demand.</i></p> <p><i>The MacroPlan report has not demonstrated that the site is surplus to requirements under the existing zoning. If anything, the MacroPlan report has demonstrated that there is demand for industrial uses, such as vehicle storage and transport, postal and warehousing businesses, which can be accommodated at the current site given its industrial zoning that permits such uses. The MacroPlan report therefore is considered to have not passed the first hurdle of the sequential test – whether the site under its current use is surplus to requirements.”</i></p>	
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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 means to achieve the outcomes for the site otherwise the proposed use (medium density town house development) cannot be achieved, not to the appropriate height and FSR controls.</p> <p>The proponent’s economic study concluded that redevelopment of the site would improve the mix and choice of housing available to both the rental and owner/occupier segments of the housing markets and may contribute to improving housing affordability in the area.</p>	No

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Council's Assessment: The proposal is not the best means of achieving the objectives or intended outcomes, which is to provide housing opportunities in the local area.

According to Council's Residential Development Strategy (RDS), the Strategy recommends providing housing opportunities in and around centres and public transport infrastructure. This approach is consistent with the planning principles that underpin the Draft South District Plan, namely the principle to increase housing choice in centres with good access to the public transport network. The subject site is not situated within a town centre and the site is located approximately 1.6km from Campsie Station.

The RDS Strategy has established that Canterbury had more than sufficient potential to meet the housing target in the draft South Subregional Strategy. In addition, the Canterbury RDS did not consider it necessary to rezone land from industrial to facilitate additional residential accommodation.

SGS's independent review also notes the following in relation to the suitability of the site for residential development:

"The residential market assessment contains inconsistent data reporting, applies inconsistent geographies and therefore does not enable an accurate comparison to be made between supply and demand trends. Concern has also been raised regarding the validity of reporting supply at an SA2 level in the context of a local housing market and the accuracy of the data being reported. A number of claims, such as the presence of fragmented ownership, are not supported by data or empirical evidence.

The report treats site constraints inconsistently, ignoring these impediments to argue that the site is well located to support medium density development. This selective reporting is not supported and ignores what could be considerable issues currently and could be compounded by the addition of 20 townhouses on the subject site.

A number of qualitative arguments put forward by MacroPlan, such as providing an indication of sales prices, are not planning matters and are not substantiated with empirical evidence."

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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)

	Complies
<p>Goal 1: <i>A competitive economy with world class services and transport.</i></p> <p>Proponent’s Submission: No comment/not addressed.</p> <p>Council’s Assessment: The site is located in the Harp Street Industrial Precinct and is zoned for industrial purposes. The intended outcome of Goal 1 is to grow economic activity in Sydney and provide more jobs closer to home. The proposed loss of employment land is inconsistent with the following state and local strategies that support Goal 1:</p> <ul style="list-style-type: none"> • The proposal is inconsistent with the Draft South District Plan, which takes a precautionary approach to the conversion of employment lands in the absence of a district wide assessment of their value and objectives. • The proposal is inconsistent with Council’s Economic Development and Employment Strategy and Residential Development Strategy, which identified the need to retain employment land in the Harp Street Industrial Precinct for industrial purposes. 	No
<p>Goal 2: <i>A city of housing choice, with homes the meet our needs and lifestyles.</i></p> <p>Proponent’s Submission: Rezoning the site for medium density residential development will provide for increased housing choice and mix within the local area. The proponent’s economic assessment found that townhouses are not prevalent in the area and thus can add to the available housing stock in the area, including potentially providing more rental accommodation.</p> <p>While not identified as designated infill area, the site exhibits the characteristics of an infill site and is capable of being redeveloped from its current underutilised employment use to meet a range of alternative Metropolitan Strategic planning objectives and outcomes.</p> <p>MacroPlan in their assessment also found that the LGA has seen relatively few additions of semi-detached, row or terrace housing. Proposed townhouses are an extension of the current residential offering. It is expected that the proposed townhouses can contribute to stimulating more medium density and meet demand and price point.</p>	No

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<p>Council's Assessment: According to Council's RDS, the best means to meet changing demographic trends is to provide housing opportunities in the centres, next to the railway stations and shops. This approach is consistent with the planning principles that underpin the Draft South District Plan, namely the principle to increase housing choice in centres with good access to the public transport network. The subject site is not situated within a town centre and the site is located approximately 1.6km from Campsie Station and is not located within a local centre.</p> <p>SGS assessment also notes that while it is accepted that housing supply needs to be met by a range of dwelling types to support a range of household types and sizes, the MacroPlan report has not demonstrated that the forecast population and households is likely to result in demand for townhouses.</p>	
<p>Goal 3: <i>A great place to live with communities that are strong, healthy and well connected.</i></p> <p>Proponent's Submission: The site is not within a local centre, but rather in close proximity to Canterbury Road, as well as the new Clemton Park centre.</p> <p>The site is underutilised, and located between industrial uses and medium density housing. It is slightly isolated due to the canal, and has more of a relationship to the residential area. The redevelopment can thus revitalise the area and provide housing type that is not prevalent.</p> <p>Council's Assessment: the proponent's economic justification (MacroPlan) for rezoning the site away from industrial has been independently assessed by SGS which concludes the rezoning has not found to be justified on economic grounds. Further details of SGS assessment is outlined in Section 2.1 of this attachment.</p>	No
<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: In considering the economic effects, the proposal is inconsistent with the Metropolitan Plan (Direction 1.4), where jobs closer to home is pivotal to a sustainable city. Improving the scale and mix of job opportunities will help more people work closer to home and reduce commuting times, making Sydney more productive. The reference to Sydney's subregions recognises the need to strengthen Sydney's manufacturing industries (particularly in the City of Canterbury–Bankstown) to achieve a competitive economy, alongside the ongoing development of</p>	No

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the Western Sydney Employment Area.	
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2.3.2 Draft Amendment to the Metropolitan Plan (*Towards our Greater Sydney 2056*)

	Complies
<p>Proponent's Submission: No comment.</p> <p>Council's Assessment: The proposal is inconsistent with the Draft Amendment to the Metropolitan Plan, released for public comment in November 2016. In particular, the proposal is inconsistent with the following priorities and actions:</p> <ul style="list-style-type: none"> The proposed loss of employment land is inconsistent with the proposed metropolitan priority to have a 30 minute city i.e. to increase the range of jobs and services that people can get to within 30 minutes. The site is not located within a proposed growth area to accelerate housing opportunities such as urban renewal corridors (e.g. Sydenham to Bankstown Urban Renewal Corridor) and land release areas in the West District. The vision is to integrate homes for the next generation with new infrastructure and services. 	No

2.3.3 Draft South District Plan

	Complies
<p>Proponent's Submission: Refer to section 1.1 of this attachment.</p> <p>Council's Assessment: The proposal is inconsistent 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>	No

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

2.4.1 Canterbury Community Plan 2023 (former City of Canterbury)

	Complies
<p>Proponent's Submission: The Community Strategic Plan identifies the long term aspirations of the community has for life and work in Canterbury City. The plan is developed around 5 themes each of which includes long term goals and outcomes. Under Attractive City theme, one of the goals is to ensure that the City has a prosperous economy. The plan identifies that the community would like Canterbury to have prosperous and growing</p>	No

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<p>businesses with more local jobs, particularly in professional fields. Council has identified that one of the strategies to achieve this includes making improvements to town centres and industrial precincts.</p>	
<p>Council’s Assessment: None of Council’s strategic planning documents identify that there is a surplus of employment generating lands that are located in a large consolidated industrial area that should be rezoned to facilitate high density residential development with ground level retail and business premises. The Canterbury Community Strategic Plan 2014-2023 seeks to provide a balance between employment generation and residential development and it is considered that this application is skewed towards the residential component compared to the employment generating component of the site.</p>	

2.4.2

Council’s Towards 2032 – City of Canterbury Economic Development & Employment Strategy

	Complies
<p>Proponent’s Submission: Refer to section 1.2 of this attachment.</p> <p>Council’s Assessment: The proposal is inconsistent with Council’s Towards 2032 – City of Canterbury Economic Development and Employment Strategy 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?

	Complies
<p>State Environment Planning Policy No. 55–Remediation of Land</p> <p>Proponent’s Submission: Douglas Partners completed a Preliminary Site Contamination Investigation. The objective of the Preliminary Site Investigation was to assess the potential for contamination of the site based on past and present uses, to comment on the suitability of the site for the proposed rezoning from industrial to residential land use and to comment on the need for further investigation and/or management of contamination.</p> <p>The report recommends that given the preliminary nature of the current investigation, a detailed site investigation (DSI) is required. Further, the report concluded that it considers any contamination issues which may be</p>	<p>Yes</p> <p>(Subject to further investigation).</p>

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<p>identified during the DSI would be able to be remediated to render the site suitable for residential land use. The site is considered compatible with residential rezoning from a contamination perspective subject to appropriate application of SEPP55.</p> <p>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. To satisfy this SEPP, Council must obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. Given the other critical issues raised in relation to this planning proposal, this aspect of the proposal would be subject to further investigation should the endorsement of the rezoning.</p>	
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2.6 Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

	Complies
<p>Direction 1.1–Business and Industrial Zones</p> <p>Proponent’s Submission: The planning proposal seeks to rezone land currently zoned but underutilised for employment purposes. However the economic and employment study completed for the proposal demonstrates that there are a number of significant constraints which would impact on the feasibility of retaining the site for ongoing employment purposes. The MacroPlan Dimasi Study also identified that the existing employment provided on the site (ie 2 people) could easily be accommodated within adjoining employment lands and that the smaller nature of the lot size also potentially preclude the site from being redevelopment to continue employment related uses on site.</p> <p>Council’s Assessment: An objective of this direction is to protect employment land in business and industrial zones. A proposal must therefore retain the areas and locations of existing business and industrial zones unless justified by a strategy.</p> <p>The planning proposal is inconsistent with this Direction as it seeks to rezone industrial land for residential uses, which will reduce the availability of industrial land in the local government area. In this regard, it is also inconsistent with Councils economic development and employment strategy of retaining employment land.</p>	No

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<p>Direction 3.1–Residential Zones</p> <p>Proponent’s Submission: Not specifically addressed.</p> <p>Council’s Assessment: An objective of this direction is to ensure new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands. A proposal must therefore provide housing that will make more efficient use of existing infrastructure and services, unless justified by a strategy.</p> <p>The planning proposal is partly consistent with Direction 3.1: Revitalise Existing Suburbs. The Direction aims to facilitate the concentration of new housing in established suburbs to lower infrastructure costs, reduce commuting times, improve access to jobs and services, and enhance liveability. The proposal is partly consistent with the Direction, as it seeks to facilitate new housing in an established suburb and that is serviced by good public bus services. However, the proposal is not consistent with the Direction, as it will result in the removal of a currently active local business from the area.</p>	Partially
<p>Direction 3.4–Integrating Land Use and Transport</p> <p>Proponent’s Submission: The Planning Proposal will facilitate the redevelopment of the site which has direct public transport access to centres providing a range of services and facilities including upgraded public transport as part of the Metro roll-out.</p> <p>Council’s Assessment: An objective of this direction is to ensure that urban structures improve access to housing, jobs and services by walking, cycling and public transport. A proposal must therefore locate zones for urban purposes consistent with the principle to increase housing choice in centres with good access to the public transport network.</p> <p>A consideration of this direction does not identify any need or justification to rezone the site to residential uses, particularly as the proposal seeks to depart from Council’s RDS.</p> <p>According to the RDS, the best means to achieve this direction is to provide housing opportunities in the Campsie Centre, next to the railway stations and shops. This approach is consistent with the planning principles that underpin the Draft South District Plan, namely the principle to increase housing choice in centres with good access to the public transport network.</p> <p>The site is located approximately 1.6km (closest walking distance) from Campsie Railway Station and Campsie Town Centre. The site is serviced</p>	No

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<p>by a number of local bus networks within 400m walking distance. The closest bus route (490) provides services only every half hour on weekdays and Saturdays and every hour on Sundays and public holidays. The subject site is not within 400m walking distance of a Metrobus network which provides high frequency service (10 min frequency during peak periods, every 15 minutes during weekday off-peak).</p>	
<p>Direction 4.3–Flood Prone Land</p> <p>Proponent’s Submission: The stormwater and flooding assessment identified that the site would not be subject to flooding or inundation and that appropriate measures could be incorporated into the site design to address stormwater flow generated from the site following its redevelopment. The reports also identified that stormwater runoff quality could also be adequately managed with the incorporation of appropriate on-site measures.</p> <p>Council’s Assessment: The subject site is affected by overland flooding. Future development of the site will need to comply with all relevant planning and development assessment. Any relevant future development application for the site will be required to address the NSW Government’s Flood Prone Land Policy, the principles of the Floodplain Development Manual 2005 and the Canterbury LEP 2012 Flood Prone Land controls.</p>	<p>Yes</p> <p>(Subject to further investigation).</p>
<p>Direction 7.1–Implementation of A Plan for Growing Sydney</p> <p>Proponent’s Submission: The proposal is consistent with the aims of <i>A Plan for Growing Sydney</i>.</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>. Proposals must therefore be consistent with the NSW Government’s <i>A Plan for Growing Sydney</i> published in December 2014. The proposal is inconsistent with this direction for the reasons outlined in section 2.3 of this attachment.</p>	<p>No</p>

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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?

	Complies
<p>Proponent’s Submission: No comment.</p> <p>Council’s Assessment: Further investigation is required to determine whether there is 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.</p> <p>This is unlikely as the site has already been developed for a range of industrial uses and is unlikely to contain any original native vegetation or animal habitats. Also, the site is surrounded with a fully urbanised environment. As a result there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected.</p>	<p>Yes (Subject to further investigation).</p>

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

	Complies
<p>Proponent’s Submission: The background studies completed to inform this planning proposal did not identify any potential significant environmental issued that would impact on the environment.</p> <p>In summary:</p> <ul style="list-style-type: none"> • The site has been subject to a preliminary site contamination assessment that has concluded the site is, or can be made suitable for residential development. • The future redevelopment of the site would not generate traffic volumes that would have an adverse impact on the adjoining local traffic network. The proposal also increases the number of potential residents in close proximity to public transport and in walking distance of local employment opportunities. • The urban design assessment of the preliminary site redevelopment concept has demonstrated the proposed redevelopment generally complies with council’s key planning controls which are aimed at minimising impacts on adjoining development. • The infrastructure assessment identified that the site could be adequately serviced with essential infrastructure to facilitate the redevelopment opportunity. • The stormwater and flooding assessment identified that the site would not be subject to flooding or inundation and that appropriate measures 	<p>No</p>

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could be incorporated into the site design to address stormwater flow generated from the site following its redevelopment. The reports also identified that stormwater runoff quality could also be adequately managed with the incorporation of appropriate on-site measures.

Council's Assessment: The planning proposal relates to urban land that will be converted from existing urban uses (industrial) to a new urban use (residential).

The key likely environmental impacts arising from the planning proposal are determined below:

Urban Design/Built form

An urban design report prepared by Design Inc accompanies this Planning Proposal. The concept design provides 19 to 20 medium density dwellings in the form of two storey 2 and 3 bedroom townhouses. Despite the low scale nature of the proposal it is considered inappropriate to locate this form of development in an existing industrial area without considering the long term viability and appropriateness of the entire industrial area in the Harp Street industrial precinct. Allowing this form of development on the site will create a precedent that would be difficult to manage and will likely cause pressure on other industrial areas to be converted for similar residential development.

FSR

The proposal seeks to apply a FSR of 1:1 on the site at 26A Harp Street and to increase the FSR from 0.5:1 to 1:1 at 29 Liney Avenue to accommodate terraced style townhouses. The surrounding FSR in the R3 zone is 0.5:1 and the maximum FSR for residential flat buildings in the R4 zone is 0.9:1. The proposed FSR of 1:1 is not considered to be consistent with surrounding FSR (0.5:1) and is considered to be excessive when compared to the FSR applying to medium density housing such as townhouses and RFBs in higher density zones.

Traffic and Parking

The traffic assessment prepared by the proponent's Ason Group consultants for the initial planning proposal indicated that the subject site, as industrial use, has the potential to generate some 10-12 vehicle movements per hour during the morning peak period. The proposed residential development may generate of up to 12 vehicles per peak hour. The report concludes the traffic generated by the proposed development is commensurate with that generated by the existing use.

The proposed redevelopment includes the site at 29 Liney Avenue which is intended to provide for some improve access to the site. It is proposed to operate one-way (southbound)

Due to the relatively narrow width of the Harp Street driveway (less than 5m), site access to the site is proposed to operate one-way (southbound). Accordingly, access to the site is proposed via Harp Street, with egress via the Liney Avenue driveway. The introduction of a new accessway from

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<p>Liney Avenue will have an impact on the surrounding residential properties, especially the adjoining site at 31 Liney Ave.</p>	
<p><u>Noise</u> Council would need to assess the long term impacts to determine whether residential development and other sensitive land uses are appropriate next to industrial development in relation to noise.</p>	

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

	Complies
<p>Proponent’s Submission: The proposal will have positive social and economic benefits for the broader community. It is considered that the proposal has addressed social and economic impacts and is in the public interest.</p> <p>Council’s Assessment: In considering the economic effects, the proposal does not identify any need or justification to rezone the site to residential uses. In particular, the proposal seeks to depart from the intended outcomes of the Metropolitan Plan, Draft South District Plan and relevant local strategies to protect and support employment lands in the district as outlined in section 2.1 of this attachment.</p>	No

2.10 Is there adequate public infrastructure for the planning proposal?

	Complies
<p>Proponent’s Submission: It is understood that the existing infrastructure at and surrounding the site has the capacity to accommodate development on the site, subject to any necessary expansion and augmentation at the detailed DA stage. A range of established services are available within close proximity of the site, including health, education and emergency services networks.</p> <p>Council’s Assessment: The site is serviced by public transport. It also has other infrastructure services that are generally available within the urban environment such as; reticulated water, drainage sewerage, electricity and telephone. The planning proposal does not generate any apparent need to upgrade or improve public infrastructure.</p> <p>Further investigation is required to determine whether there is adequate public infrastructure for the proposal.</p>	Yes Subject to further investigation.

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

	Complies
<p>Proponent's Submission: No consultation with State or Commonwealth authorities has been carried out to date on the proposal. It is acknowledged that Council will consult with relevant public authorities following the Gateway determination.</p> <p>Council's Assessment: This proposal has not been the subject of consultation with State and Commonwealth public authorities.</p>	<p>N/A</p>

ROSELANDS WARD**2 2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILDCARE CENTRE**

FILE NO: 959/2A D PT2

REPORT BY: PLANNING

WARD: ROSELANDS

D/A No:	DA-8175/1995/A
Applicant:	City of Canterbury-Bankstown Council
Owner:	As above
Zoning:	R3 Medium Density Residential under Canterbury Local Environmental Plan 2012
Application Date:	20 September 2016

Summary:

- An application has been received for modifications to an approved childcare centre.
- The application has been referred to the Independent Hearing and Assessment Panel as the applicant and owner of the site is Canterbury-Bankstown Council.
- The proposal is defined as a childcare centre which is permissible with consent within Zone R3 Medium Density Residential under Canterbury Local Environmental Plan 2012.
- The application has been assessed against the terms of the Environmental Planning and Assessment Act 1979, the Canterbury Local Environmental Plan 2012, the Canterbury Development Control Plan 2012 and other relevant planning controls.
- The proposed variation is to allow parking in front of the building line contrary to Part 5.3.6(i) of Canterbury Development Control Plan 2012.
- In accordance with Part 7 of the Canterbury Development Control Plan 2012, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended that the application be approved and the subject application modified.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILDCARE CENTRE (CONT.)

Report:**Background**

Council, at its meeting on 2 November 1995 approved the subject development application (DA-8175/95) for alterations and additions to the dwelling on site and to convert it for use as a childcare centre for 35 children.

This development application seeks to modify the above consent and amend the following conditions:

- (1) The development being carried out substantially in accordance with the plans received by Council on 28 September, 1995 except where amended by conditions of consent.
- (2) Three (3) off-street car spaces being provided in accordance with the submitted plans. The parking area being securely fenced to prevent child access.
- (8) Renewal or provision of side and rear boundary fencing, where required be provided as lapped and capped timber fencing of a minimum 1.8m height.
- (17) Suitable protective barriers are to be erected prior to and maintained during the building operations around the trees listed below. Details of the barriers are to be provided with the landscaping plan and to the satisfaction of the Director of Technical Services. The following trees are to be retained; a peppermint tree (*Eucalyptus Nicholii*) at the front of the property, a paperbark (*Melaleuca Quinquenerua*), a bottlebrush (*Callisman spp.*), a liquidamber (*liquidamber styraciflua*) all at the rear.

Site Details

The subject application site 2A Wilson Avenue, Belmore, legally known as Lot 55 on Deposited Plan DP4387, is located on the south-eastern corner of Wilson Avenue and Thompson Lane. The site is bounded to the rear (south) by Wilson Lane and to west by an existing single storey residential property and St Joseph's Primary School. To the east, beyond Thompson Lane, is a fitness centre and a five storey mixed use development (currently under construction). To the south, beyond Wilson Lane is a car sales lot.

The site has a primary road frontage to Wilson Avenue of 15.2m, a secondary frontage to Thompson Lane of 50.5m and a tertiary road frontage to Wilson Lane of 15.8m. The site has an overall size of 780m². The site has a slight rise from Wilson Avenue.

The site presently contains a single storey childcare centre, Canterbury Children's Cottage, which offers long day care for 35 children. The building is a single storey, brick built building with tile and metal roof. The external play area for the childcare centre is located to the rear of the site.

The site is owned by Canterbury-Bankstown Council, and therefore the application is referred to the Independent Hearing and Assessment Panel for a determination.

2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILCARE CENTRE (CONT.)



Proposal

Council has received an application under Section 96 (1A) of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:

Alterations to the junction of Wilson Lane and Thompson Lane and a subsequent rear boundary alteration

The proposed alterations to the junction are to allow use of Wilson Lane for refuse collection vehicles; at present, narrowness of the lane and the tight corner means that access is restricted along Wilson Lane

The alterations will result in the removal of a triangular area measuring 3m by 5.4m from the rear south-eastern corner of the site, formation of a new kerb and installation of a replacement fence.

The plans state that all trees on site will be retained. However, the formation of the new junction will likely result in the loss of two trees from the rear of the site due to the impact of construction.

Amendments to internal layout of site

The proposed junction alterations will result in the loss of approximately 8.2m² of play space from the childcare centre. As a result, the proposal also involves the replacement of 19.6m² of concrete, currently used as car parking accessed from Wilson Lane, to astro-turf as way of compensation for the loss of the play space.

2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILDCARE CENTRE (CONT.)

Formation of two new replacement car parking spaces

As a result of the removal of a car parking space accessed from Wilson Lane, the application also involves the creation of two new car parking spaces accessed of Wilson Avenue, to the front of the site. The new car parking spaces will result in the partial demolition of the existing brick wall from the front edge of the property, creation of a new footpath crossing, construction of a ramped driveway and formation of two new spaces. The size of the driveway and spaces will total 7.77m by 6m. The formation of the driveway will result in the loss of a single street tree to the front.

Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following Environmental Planning Instruments, Development Control Plans, codes and policies are relevant:

- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

Assessment

Section 96(1A) of the Environmental Planning and Assessment Act, 1979 allows Council to modify development consent if:

- a) *it is satisfied that the proposed modification is of minimal environmental impact,*

The proposed modifications are considered minor in nature and none of the proposed amendments are expected to result in a significant environmental impact.

Whilst the proposal will likely result in the loss of three existing trees, the trees are not significant specimens and conditions placed on a consent can ensure suitable replacement planting.

There will be little detrimental impact on neighbouring properties, in terms of additional noise, disturbance or loss of privacy.

The new parking spaces will result in the loss of one on-street parking space to accommodate the driveway. The proposed parking spaces cannot be located adjacent to the Wilson Avenue/Thompson Lane junction as a driveway in that location would be prohibited under Australian Standard AS/NZS 2890.1:2004 – Parking Facilities: Section 2.3.2. The two new spaces will result in a net increase of one parking space available for the childcare centre.

The junction widening alterations will support the ability for refuse collection vehicles to access properties from Wilson Lane, and reduce the potential for traffic congestion and associated issues along Thompson Avenue as a result of waiting.

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Given the above, it is considered that the proposal will have a minimal environmental impact.

- b) *it is satisfied that the development to which the consent as modified relates is substantially the same development,*

The amendments to the layout are minor. The creation of car parking and the rear boundary adjustments, do not result in a significantly different development from that approved under the original consent DA-8175/1995 for a childcare centre. The main use of the site remains a childcare centre and, as a result of the compensatory astro-turfing, the available external play space for children is increased through this proposal resulting in a better outcome for the site.

- c) *it has notified the Section 96 application and has considered any submissions concerning the proposed modification,*

The application was notified in accordance with the requirements of Part 7 of the Canterbury Development Control Plan 2012. No submissions were received.

Given the above, it is considered that the application can be approved as it has minimal environmental impact, relates to substantially the same development and the application was suitably notified with no submissions received.

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**

This site is zoned R3 – Medium Density Residential under Canterbury Local Environmental Plan 2012. The objectives of the zone include “to enable other land uses that provide facilities or services to meet the day to day needs of residents”. It is considered that the modification is in keeping with the objectives of the zone.

The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	The proposal involves the construction of a road and alterations to the existing childcare centre use.	Yes, both are permissible with consent
FSR	0.5:1	The building footprint is 243m ² . The site size is 780m ² . The FSR is 0.31:1	Yes
Building Height	8.5m	No change to the building height is proposed.	Yes, as previously consented

The proposal complies with the standards found in CLEP 2012

2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILDCARE CENTRE (CONT.)

- **Canterbury Development Control Plan 2012 (CDCP 2012)**

The Canterbury Development Control Plan provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The Controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrated that an alternative solution could not result in a more desirable planning and urban design outcome.

Part 5.3.6 of CDCP relates specifically to car parking for childcare centres. Control 5.3.6(i) states that all childcare centres should have one car space per two staff and all car parking should be behind the building line. In this instance, the car parking provision results in a net increase of one space from the existing situation, i.e. a removal of one space accessed from Thompson Lane and the creation of two new spaces to the front of the building. At 4.8m x 5.6m the remaining space at Thompson Lane is technically large enough to hold two cars. However, this measurement does not allow for car door opening and therefore cannot actually be used as two spaces.

The proposal does however place car parking between the front alignment of the building and the street, contrary to the provisions of the Development Control Plan. It is considered that the proposal is still acceptable as there will be a net increase of parking, a net increase in external play area and improvements to road safety at the junction of Wilson Lane and Thompson Lane.

Given that the junction at Wilson Lane and Thompson Lane requires alteration to allow for a better functional use of the land, this results in the loss of some outdoor play space. The applicant has sought to ensure adequate compensation for the loss of the outdoor play space by converting a parking space to an astro-turfed external play area. It is considered the maintenance of external play space is preferable to retention of the parking behind the front building line in this instance.

Part 5.3.8 of CDCP relates to Open Space provision in childcare centres. The proposal will result in a net increase of 11.4m² of external play space provision for the childcare centre. The proposal is considered to be in accordance with the provisions of Part 5.3.8.

Part 5.3.9 of CDCP 2012 states that all boundary fencing must be 1.8m high and is non-climbable in design. The plans show the fence as 1.8m high. A condition can be placed to ensure suitable construction.

Given the above, the proposal is considered to be in general compliance with the provision of the Canterbury Development Control Plan 2012, with the exception of Part 5.3.6(i) which seeks to restrict car parking between the front alignment of the building and the street.

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Other Considerations

- **The likely impacts of the development**
The proposal, given the comments above, will not impact on the natural or built environments. Nor will there be significant impacts on the social and economic conditions of the locality.
- **The suitability of the site for the development**
The site is considered to be suitable for the proposed development. The site accords with the provisions of CDCP 2012 with the exception of Part 5.3.6(i) in that parking is located to the front of the property. However, the overall benefits of the proposal, in terms of road safety along Wilson Lane and Thompson Lane and increased provision of play space outweigh any loss of visual amenity as a result of parking to the front of the property. In addition, the neighbouring property has a driveway with parking in front of the building line, and the front parking spaces will not result in an incongruous element in the streetscape.
- **The Public Interest**
The public interest is defined by the policies of the Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. There is general compliance with the proposal in terms of CLEP 2012 and CDCP 2012 and therefore the proposal is in accord with the public interest.

Having regard to the matters discussed above, the proposed modification is considered to be satisfactory and worthy of support.

Referrals

- **Building Surveyor**
The Council's Building Surveyor raised no objection to the proposed modifications.
- **Manager Children's Service**
The Council's Manager of Children's Services raised no objection to the proposed modifications.
- **Development Engineer**
The Council's Development Engineer raised no objection to the proposed modifications.
- **Landscape Architect**
The Council's Landscape Architect raised concerns regarding the proximity of the proposed works to the trees to the rear of the site. The landscape architect requested an arborists report for the retention of the trees.

It is noted from the plans that the proposed development will be within two metres of the tree trunk. This will likely result in the death or a significantly shortened lifespan of the trees through impacts on the root system. Whilst the concerns of the

2A WILSON AVENUE, BELMORE: SECTION 96 (1A) MODIFICATION OF LANEWAY AND CONSTRUCTION OF INTERNAL CROSSING, PARKING AND EXTENSION OF PLAYGROUND AREA FOR A CHILCARE CENTRE (CONT.)

landscape architect are noted, in this instance it is not considered appropriate to request the retention of the trees or refuse the application on the grounds of the removal of trees. A condition can be placed on the consent which requires replacement planting of a suitable size and species to compensate for the loss of trees, which can be done in consultation with the Council's Landscape Architect.

Conclusion

The proposed modification is substantially the same development that was originally considered and approved by Council. The proposed modification is considered acceptable having regard to the provision of Sections 79C and 96 of the Environmental Planning and Assessment Act, 1979. Approval of the application under Section 96 is recommended.

RECOMMENDATION:

THAT Development Consent DA-8175/1995 be **MODIFIED** as follows:

1. Amend Condition 1 to read:

"The development being carried out in accordance with the plans, specifications and details, as follows, except where amended by the conditions specified in this Notice.

Plan Details	Drawn By	Dated	Received by Council
Side Access Construction Layout Plan	Canterbury-Bankstown Council	13.9.2016	27 January 2017
Street Kerb Design Construction Layout Plan	Canterbury-Bankstown Council	13.9.2016	27 January 2017
Front Access Construction Layout Plan	Canterbury-Bankstown Council	13.9.2016	27 January 2017
Site Plan	Canterbury-Bankstown Council	13.9.2016	15 February 2017

2. Amend Condition 2 to read:

"All off-street car spaces being provided in accordance with the submitted plans. The parking area being securely fenced to prevent child access."

3. Amend Condition 8 to read:

"Install and maintain all side and rear boundary fencing, to a minimum height of 1.8m above natural ground level. All fencing constructed shall be of a non-climbable design."

4. Amend Condition 17 to read:

"The three trees, two at the rear and one street tree as highlighted on the Site Plan, may be removed for the proposed construction. Prior to works beginning on site, details of three suitable replacement trees, two to be placed to the rear of the building and one in the street planting strip must be agreed in writing with the Council's Landscape Architect. All trees must be of minimum 75L container size. Should any replacement tree planting perish or fail to thrive within 18 months of the date of planting, dead, diseased or failing planting must be replaced. Prior to the issue of a completion certificate all replacement planting must have been

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undertaken.”

WE ALSO ADVISE:

5. An application for subdivision will be required to amend the lot configuration, in order to provide adequate manoeuvrability at the junction of Thompson Lane and Wilson Lane.
6. 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.
7. If you are not satisfied with this determination, you may:
 - 7.1 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
 - 7.2 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).