

CITY OF CANTERBURY BANKSTOWN

MINUTES OF THE

CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

HELD ON TUESDAY 30 JUNE 2020

PANEL MEMBERS

PRESENT: Mr Anthony Hudson - Chairperson
Mr Grant Christmas - Expert Member
Mr David Epstein - Expert Member
Ms Inaam Tabbaa - Community Representative

STAFF IN

ATTENDANCE: Ms Maryann Haylock (Local Planning Panel Administration Officer)
Mr Brad McPherson (Manager Governance, not present for the closed session)
Mr Simon Mankoski (Director Planning, not present for the closed session)
Mr Mitchell Noble (Manager Spatial Planning, not present for the closed session)
Ms Robyn Winn (Coordinator Governance, not present for the closed session)
Mr Mauricio Tapia (Coordinator Strategic Planning, not present for the closed session)

THE CHAIRPERSON DECLARED THE MEETING OPEN AT 6.00 PM.

INTRODUCTION

The Chairperson welcomed all those present and explained the functions of the Canterbury Bankstown Local Planning Panel and that the Panel would be considering the single report on the agenda.

At the meeting of the Council on 25 February 2020 because of conflicts of interest issues arising that prevented the council from having a quorum, the Council resolved as follows:

“RESOLVED that given the nature and number of disclosures of interest, and the lack of quorum, Council delegate to the Local Planning Panel its statutory function(s) in considering and voting and determining the Minister’s Gateway Determination with request to the proposed Canterbury Bankstown LEP.”

On 3 March 2020 the Panel resolved to exhibit the draft consolidated LEP.

The Exhibition took place from 10 March 2020 until 22 May 2020.

The single agenda item is the further consideration of the draft LEP having regard to the submissions received.

APOLOGIES

There were no apologies received.

DECLARATIONS OF INTEREST

The Chairperson advised that all Panel Members had submitted written Declarations of Interest returns prior to the meeting.

The Chairperson also asked the Panel if any member needed to declare a conflict of interest in any of the items on the agenda. There were no declarations of interest.

CBLPP Determination

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

THAT the minutes of the Canterbury Bankstown Local Planning Panel Meeting held on **Tuesday 9 June 2020** be confirmed.

DECISION

1 CANTERBURY BANKSTOWN CONSOLIDATED LOCAL ENVIRONMENTAL PLAN

Written Submission

A written submission was received for this matter from:

- David Coleman MP (with late submission addressed and responded to in the report & correspondence Khal Asfour - Mayor)
- Harald Strasser
- Mark Dahdah (Correspondence Tony Burke MP & Mayor)
- Mr Kevin Smith
- Jonathon Wood
- Lyn Allsop-Guest - Letter to Mayor Asfour

Public Addresses

The following people addressed the meeting in relation to this item:

- Sophie Cotsis MP
- Mr Kevin Smith
- Debasis Mukherjee
- Dennis Markou
- Andrew Simpson
- Aaron Gadiel
- Ms Kate Bartlett
- Barbara Coorey
- Natasha Bartley
- Skye Virgin
- Larissa Brennan
- Richard Noonan

Panel Assessment

Ms Inaam Tabbaa was the Community Panel Member present for the deliberation and voting for this matter.

Introduction

The Panel notes two important background matters that are relevant to and drive the proposed LEP.

First the gateway determination included specific conditions which regulated what could be considered under the draft LEP. A summary of the gateway conditions are as follows:-

- the Draft Consolidated LEP can only rezone properties that are included in the Local Area Plans,
- the Draft Consolidated LEP cannot change the permissibility of residential land uses or related development standards,
- the Draft Consolidated LEP cannot include policy changes in relation to the harmonisation of R2 Low Density Residential and R3 Medium Density Residential zones, special character areas, dual occupancy controls and reclassification of drainage reserves, and
- the exhibition of the Draft Consolidated LEP is for a minimum 28 days.

Secondly, on 23 June 2020 the Council adopted its Draft Housing Strategy, Draft Employment Land Strategy and Draft Affordable Housing Strategy (together with draft amendments to the Planning Agreement Policy). These strategies are important elements of the Council's future planning process together with the Local Strategic Planning Statement "Connective City 2036" which has also been adopted by the Council and now endorsed by the Greater Sydney Commission as required by the EPA Act.

Exhibition Process

A number of submissions were made to the Panel that the exhibition process was inadequate and that there should be a delay in the further consideration of the draft LEP.

The Panel does not agree with these submissions and in the Panel's opinion, the Council has ensured as much as possible in the current times, that the draft LEP was available for consideration and submissions by members of the public.

Further, the Mayor specifically wrote to the NSW Minister for Planning and Public Spaces requesting a 12 month extension to the accelerated LEP program to allow further engagement with the community because of covid 19 and the Minister responded with a 4 week extension.

Attachment A to these minutes is an extract from the report to the Panel outlining the exhibition process which has informed this opinion of the Panel.

The Panel notes that draft LEP is also primarily a consolidating LEP of the LEPs that were in force for the prior Canterbury City and Bankstown City Councils.

Following on from the various strategic planning strategies that have been adopted by the Council there will be further strategic planning for initially a draft LEP for the main centres of Bankstown and Campsie followed by first, a draft LEP for Lakemba, Belmore and Canterbury and secondly a draft LEP for Punchbowl, Wiley Park, Earlwood, Belfield, Croydon Park, and other smaller centres across the LGA.

Submissions

There are a number of matters raised in the submissions and in the report which the Panel makes comment on as follows:-

a) *185/217 Tower Street/30A Hinemoa Street Panania*

The Panel agrees with what was exhibited that this area should be zoned B2 to maintain consistency with the properties to the East and the West with four storeys and 2:1 FSR consistent with the surrounding B2 zoned land. Relevant controls for this area of B2 zoning can be picked up in the DCP that is to follow in conjunction with the new LEP. These would, in the Panel's view include controls to protect the transitions between the B2 Zone and the R2 Zone to the south.

b) *42-58 King Georges Road, Wiley Park*

A submission was made that the zoning for this strip be changed from R3 to R4. The Panel does not agree with this suggestion and notes that could be further pursued in the planned Master Planning for Wiley Park in the future.

c) *Estimate of new dwellings*

A submission was made that the estimate of 50,000 new houses was implied from various sources and a figure of 13,250 was referred to as part of the Southern District Plan.

The Southern District Plan referred to 83,000 potential homes for the whole of the district and referenced 70% of that growth being in the Canterbury Bankstown area which gives a figure of approximately 58,000.

In addition, the Council commissioned their own study (Hill PDA) to carry out a demand analysis based on certain assumptions of growth. This study suggested that the minimum housing growth for the area would be 40,000. The planning used for the comprehensive LEP provided a buffer on this figure of approximately 10,000 which reasonably aligns with the 58,000 homes referred to in the Southern District Plan.

These considerations are part of the Council's Housing Strategy which was recently adopted by the Council.

d) Milton Street Ashbury

A request has been made to increase any permissible café/restaurant from a minimum of 100 m² to 200 m². The Panel proposes 150m².

e) A late submission – Marco Avenue Revesby

A submission was made that the height of buildings may be changed. The 26 metre height limit was exhibited for the section of road that adjoins 7A Marco Avenue, Revesby and the request is that this 26 metre height limit be removed from the section of road. The Panel agrees with this submission (noting also that clause 4.4D (3) is to refer to 40 m).

f) ICAC

The Panel heard from two speakers that any decisions from the LEP should be delayed until a report is handed down by ICAC in relation to the former Canterbury City Council.

The Panel understands that this investigation relates to the former Canterbury City Council only and more specifically to approvals along Canterbury Road. In the Panel's opinion this is not relevant to the Panel's determination of a new LEP that plans for the future of the Canterbury Bankstown Local government area.

g) Objective of IN1 and IN2

The NSW Environmental Protection Authority recommended a new Zone objective for the IN1 and IN2 Zones to:-

- Minimise adverse effects of the development on the environment.

The Panel is of the opinion that this is an objective that is too broad to effectively assist in a proper consideration of proposed development in an industrial zone, especially as there is already an objective to minimise any adverse effect of industry on other land uses.

h) Mapping of Environmentally sensitive areas

A submission was made questioning why environmentally sensitive areas were not specifically zoned to protect those areas. The Panel has been informed that many of the environmentally sensitive areas are contained within various zones. Rather than trying to amend multiple sites under different zonings, the scheme of the LEP is to map environmentally sensitive areas under the Terrestrial Biodiversity Map that is required for Clause 6.5 of the LEP. This clause then operates to ensure that specific development proposals take into account various biodiversity and ecological impacts. This also works with the Riparian Land and Watercourses map in those locations where environmentally sensitive land is part of a watercourse or part of riparian land.

i) Design Excellence

A submission was made that there was no provision made for design excellence. The Panel notes that there are new proposed provisions for Design Excellence at certain sites. Also Design quality (clause 6.14) and Design Excellence (clause 6.18) provisions are included.

The Panel also notes that the Council will be introducing a Design Review Panel after this comprehensive LEP has been finalised and comes into operation.

j) Council Owned Properties in Commercial Centres

The LEP proposes to change a number of sites in commercial centres from SP to B2 zoned land. All the sites are owned by the Council. The reason for this change is to enable the Council to improve the land and provide different infrastructures and services. The SP zoning is a restrictive zoning to the specific identified uses on the map and a rezoning to B2 allows the Council flexibility to provide different services.

The Panel has been informed it is not the Council's intention to sell any sites or to make any changes to the public spaces. These sites include; fountains, libraries, open space. These sites will also be included as part of the Master Planning for the local centres.

k) 479 and 507 Henry Lawson Drive, Milperra

Two submissions were made about this site. A legal submission and a merit submission. This site is currently zoned RE1 Public Recreation and the proposed controls that were exhibited was to continue with this zoning. Currently the site has been developed for a garden centre as an additional permitted use under the LEP and the draft LEP proposes to permit a veterinary hospital as an additional permitted use to compliment the garden centre.

The submissions made were that the zoning be changed to IN2 (or to B6 Enterprise Corridor).

In relation to the legal issue, the submission was that the RE1 Public recreation zone meant that the Council was required to acquire the land because it had been set aside as public reserve or recreation area. This submission was founded primarily on section 3.15 of the EPA Act which refers to reserving "land for use exclusively for a purpose referred to in section 3.14(1)(c)....".

The Panel is of the view that this section is not activated in this case. The RE1 zoning together with other permitted uses means that the land has not been identified and reserved "exclusively for a purpose referred to in section 3.14(1)(c)...."and the land was not and is not proposed to be identified for acquisition on the land acquisition map.

In relation to the merit submission, the Panel agrees with what is stated in the report about the site as follows:-

- State and local policies do not identify the site as an existing or planned industrial precinct, and do not identify Henry Lawson Drive as an existing or planned enterprise corridor. In this regard, Council's recently completed Employment Land Strategy does not identify nor recommend this site as required for employment uses.
- The site is surrounded by environmentally sensitive land and is within a high flood risk area and bushfire risk area. Intensified development on the site is unlikely to be supported due to its constrained nature.

- The site remains contaminated and is subject to a Remediation Action Plan. According to the assessment of Bankstown LEP 2015 (Amendment No. 7), the Accredited Site Auditor provided an Interim Audit Advice that confirmed the site is suitable for a garden centre provided the building design is consistent with the proposal contemplated in the Remediation Action Plan.

l) 53 De Witt Street, Bankstown

A request was made that this site be rezoned to IN2. In this round of changes, the Council was prevented from rezoning land outside Local Area Plans which this site is. Bankstown will be undergoing a Master Plan process and this issue can be considered as part of this process.

m) Clause 1.9 (1A) of Draft LEP

It is proposed that SEPP 65 be applied to boarding houses. The draft clause also refers to serviced apartments. While the Panel agrees with this position, if it is to apply to these additional uses the current proposed wording of this clause will need revision by parliamentary counsel because in the Panel's view the current wording is unclear as to how the SEPP would operate because of the way that the SEPP is activated through the definition section of this SEPP.

CBLPP Determination

The Panel adopts the Planning Proposal as provided in Attachment A to the Panel's agenda report with the following changes:

1.

- a) Part 2 Section 2A – Delete the proposed zone objectives to Zones IN1 and IN2 which reads:
To minimise adverse effects of the development on the environment.
- b) Part 2 Section 2A – Amend the height reference in the explanatory note to Clause 4.4D from 38 metres to 40 metres.
- c) Part 2 Section 2A – CBLEP item 27 of schedule 1 the maximum gross floor area changed from 100sq m to 150sq m.
- d) Part 2 Section 2A – permit resource recovery facilities in the IN2 zone.
- e) Part 2 Section 2B – Amend the Height of Buildings Map by removing the proposed 26 metre building height from the section of road that adjoins 7A Marco Avenue, Revesby.
- f) Part 2 Section 2B – The Planning Proposal proposed to rezone 185-217 Tower Street and 30A Hinemoa Street, Panania to Zone B2 with controls as exhibited of four storeys and 2:1 FSR.

2.

The Planning Proposal be now submitted to the Department of Planning to make the Consolidated Local Environmental Plan (LEP).

3.

In submitting the proposed LEP to the Department a request be made that the Department / Parliamentary Counsel give further consideration to the wording of proposed Clause 1.9(1A) to ensure that the final wording achieves the desired outcome of the SEPP applying to the specified uses.

Vote: 4 – 0 in favour

The meeting closed at 7.04pm.

Attachment A

EXHIBITION

Council exhibited the Draft Consolidated LEP and supporting strategies from 10 March to 22 May 2020. The exhibition process included:

- Notification letters to all property owners in the local government area
- Notification letters to government authorities and neighbouring councils
- Notification letters to Members of Parliament
- A hotline for the community to call Council staff directly and discuss the draft documents
- Online meetings via teleconference
- Notices in local newspapers that circulate within the area (Inner West Times, Torch and Vietnamese, Chinese and Arabic papers)
- Displays on Council's website and Customer Service Centres (Bankstown and Campsie Branches)
- Information at the planning kiosks at the Bankstown, Riverwood and Campsie Libraries
- Translated information in Arabic, Greek, Simplified Chinese and Vietnamese
- Advertisements on SBS radio in Arabic, Greek, Mandarin and Vietnamese
- Promotion via social media.

Impact of COVID 19 and extension to the exhibition period

Council initially proposed to exhibit the Draft Consolidated LEP for a seven week period until 24 April 2020, and to hold a drop-in session in each ward to provide the community with the opportunity to speak with Council staff directly. However, the onset of the COVID 19 pandemic and social distancing restrictions resulted in the cancellation of the drop-in sessions. In its place, the community were given the ability to hold online discussions with Council staff and where circumstances allowed including safe distancing, in person meetings, with free transport provided.

The NSW Government amended State planning legislation to only require exhibition material to be made available on Council's website given that physical access to Council's Customer Service Centres and libraries was unavailable and that local newspapers ceased hard copy printing and moved to online editions only. Changes were made to the *Environmental Planning and Assessment Act 1979* stating that any document that is required to be made available for public inspection at a physical location is instead to be made available on the NSW Planning Portal or any other website approved by the Planning Secretary. This extended to local Council websites.

The Mayor wrote to the NSW Minister for Planning and Public Spaces to seek a twelve month extension to the Accelerated Local Environmental Plan Program to enable Council to engage with the community beyond the COVID 19 pandemic. The Department of Planning, Industry and Environment granted Council a four week extension to the Program.

As a result, Council extended the exhibition period a further four weeks to 22 May 2020 (eleven weeks total duration), and informed the community via Council's website, social media and local newspapers (online).