

CANTERBURY BANKSTOWN

MINUTES OF THE

INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

**HELD IN THE COUNCIL CHAMBERS
CAMPSIE**

ON 5 DECEMBER 2017

PRESENT: Mr Anthony Hudson (Law) - Chairperson
Mr Michael File (Planning)
Dr Ian Garrard (Environment)
Mr Christopher Wilson (Planning)

STAFF IN

ATTENDANCE: Ms Lia Chinnery (Coordinator Governance)
Mr Mitchell Noble (Manager Spatial Planning, not present for the closed session)
Mr Ian Woodward (Manager Development, not present for the closed session)
Mr George Gouvatsos (Coordinator Planning - East, not present for the closed session)
Ms Mine Kocak (Team Leader Planning - East, not present for the closed session)
Mr Tom Foster (Strategic Planner, not present for the closed session)
Ms Chauntelle Mitchell (Administration Officer – IHAP, 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 IHAP and that the Panel would be considering the reports and the recommendation from the Council staff and the submissions made by objectors and the applicant and/or the applicant's representative(s), determining the development applications and making recommendations for the planning proposals.

DECLARATIONS OF INTEREST

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

DELEGATION

By Minute No. 205, dated 25 October 2016 the Council delegated to the Independent Hearing and Assessment Panel the Council's power to determine certain development applications, to consider all Planning Proposals and make subsequent recommendations as to whether the matter should proceed to Gateway Determination.

DECISION

- 1 **20-21 BOOREA AVENUE, LAKEMBA: PLANNING PROPOSAL TO ADD “RESIDENTIAL CARE FACILITY” AS AN ADDITIONAL PERMITTED USE FOR THE SUBJECT LAND IN THE IN2 LIGHT INDUSTRIAL ZONE UNDER CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 AND TO INCREASE FLOOR SPACE RATIO CONTROLS**

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Written Submission

A written submission was received from Willana Associates for this matter.

Public Addresses

<p>Mr Nicholas Dowman (Planner on behalf of proponent)</p>	<ul style="list-style-type: none">• With regard to strategic merit:<ul style="list-style-type: none">- Advised that 21 Boorea Avenue is the only light industrial precinct accessed from Boorea Avenue and adjoins light industrial uses only to the east; positioned in a predominantly residential street- Proposal retains IN2 Light Industrial zoning – only land use added would be ‘residential care facility’ – provides employment opportunity (approximately 100 jobs) close to residential area which is an objective of the Draft Greater Sydney Plan- Is of the opinion the strategic reasoning in the Council report relies on a perceived inconsistency with the Draft Greater Sydney Region Plan and Revised Draft South District Plan – proposes that the addition of a use rather than a rezoning means that all potential industrial uses under current zoning are protected- With reference to the inclusion in the Council report of the relevance of the Canterbury Economic Development and Employment Strategy, which states that the subject industrial precinct was reviewed and recommended to remain an industrial use, is of the view that the site meets the criteria listed in the Strategy as it adjoins residential land and is isolated from the remainder of the industrial precinct- Stated that the site has additional benefits due to single ownership and close association with Lebanese Muslim Association and the adjoining Lakemba Mosque – providing and amalgamated community precinct with aged care, religious facilities and community services as one hub• With regard to site specific merit:<ul style="list-style-type: none">- Regarding the impact of flooding from Cox’s Creek, is of the view that detailed modelling to demonstrate the appropriateness of the site is warranted given the strategic merit considerations presented- With reference to the section of the Council report stating that the introduction of a residential care facility to the site would result in a conflict due to amenity through an
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	<p>interface with industrial zoned land, is of the view that the site predominantly adjoins non industrial uses and is envisaged to become part of a greater precinct associated with adjoining uses associated with the Lebanese Muslim Association; remaining interface with industrial would be mitigated through effective design and material choice at development application stage</p> <ul style="list-style-type: none"> - With regard to the Council report discussion on increased floor space ratio which would make the proposal out of scale and character with surrounding area, suggests that bulky goods warehousing would have similar heights and cover entire site, whereas a residential care facility would be more reflective of surrounding residential character and would have appropriate setbacks and design solutions not required for industrial use <ul style="list-style-type: none"> • Is of the view that the proposal has both strategic and site specific merit
<p>Mr Ahmad Malas (representing proponent)</p>	<ul style="list-style-type: none"> • The speaker advised as follows: <ul style="list-style-type: none"> - The proposed use will be a culturally specific age care facility for which the two sites have been earmarked for some time - They have received Federal Government funding and support for the proposal - They have approval for a provider licence for 112 beds and that there is no similar use in the area - LMA has provided social services to its community since 1962 - The Mosque has been there since 1977 and is a focal point of the community – aged care residents will easily be able to visit the Mosque - The addition of an aged care facility will be an important piece in the community hub and will add to the health and wellbeing ecosystem being developed for the community and the rich culture the area holds • Is of the view the facility can not be built elsewhere • Believes it would be a detriment to the community if the project does not go ahead • Provided responses to the Panel’s questions in relation to consideration of an alternate location, future plans once facility reaches capacity and if there is any site specific condition in the 112 bed licence granted

Panel Assessment

The Panel considered carefully the submissions made by the applicant and the detailed reports put forward by the proponent.

In summary, the Panel agrees with the Council’s recommendation that the proposed zoning change (for additional permitted use) not be supported.

The Panel notes that the proponent owns a number of sites around the proposed rezoning site and the Panel appreciates that the consolidation of the number of uses on the site would be to the advantage of the community and synergise with the Mosque use on the adjoining land.

The Panel was concerned about the intrusion of a residential use into the industrial zone with the potential to create land use conflicts that could potentially diminish the future viability of the adjoining industrial lands.

Against the proponent’s arguments is the strong strategic policies adopted by the Council and the State Government to preserve industrial zoned land especially in this District. This is further reinforced by the recent planning documents issued by the Greater Sydney Commission.

On balance the Panel is of the opinion that these broader strategic matters outweigh the specific locational and socially desirable benefits of the proposal to the proponent.

The Panel notes, as did the applicant, that it is open to the applicant to source other appropriately zoned sites to address the residential care needs of its community in the local area.

IHAP Recommendation

The Panel adopts the recommendation in the Council Staff report that the planning proposal to add “Residential Care Facility” as an additional permitted use for the subject land in the IN2 Light Industrial Zone under Canterbury Local Environmental Plan 2012 and to increase Floor Space Ratio controls not be supported for the reasons outlined in the report.

Vote: 4 – 0 in favour

2 5-9 CROYDON STREET, LAKEMBA: PLANNING PROPOSAL TO CHANGE MAXIMUM PERMISSIBLE BUILDING HEIGHT AND FLOOR SPACE RATIO

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Written Submission

A written submission was received from Stewart Hollenstein and Matthew Pullinger Architect for this matter.

Public Addresses

<p>Ms Barbara Coorey (objector)</p>	<ul style="list-style-type: none"> • Advised that she lives nearby to the site and is not opposed to development at the location • Informed the long history of the site and specifically Council decision in October 2014 to increase the FSR from 1.8:1 to 2.2:1 • Questioned why significant amount of Council resources being devoted to this site – funds and time • Stated she would like to view consultant’s reports • Stated she was unhappy with the Council report and noted Council’s comments that increased floor space ratio could be acceptable if proponents were to offer benefits such as provision of through site pedestrian links • Was of the view that any development would cause isolation of nearby sites, would have an impact on Jubilee Reserve and has no public benefit • Questioned what Council was asking of IHAP and asked that the proposal not proceed with FSR of 2.2:1
<p>Ms Helen Deegan (Planner of behalf)</p>	<ul style="list-style-type: none"> • Acknowledged that on 1 May 2017 IHAP considered the planning proposal and understood that the Panel supported an

of proponent)	<p>FSR of 2:1 but sought further evidence in support of the proposed FSR of 2.2:1 with ADG compliance</p> <ul style="list-style-type: none"> • Noted that GMU concluded that a compliant scheme would need an FSR of 1.8:1 due to constraints imposed by adjoining residential flat building at 11 Croydon Street • Advised that, on behalf of owner, Matthew Pullinger (in association with Stewart Hellenstein Architects) , further reviewed the concept to demonstrate a complying 2.2:1 FSR – this analysis included a broader consideration of the site and potential development outcome including public benefits such as through pedestrian site links connecting Croydon Street and Jubilee Reserve • Advised that Pullinger review was undertaken with consideration of revised Sydenham to Bankstown Urban Renewal Corridor Strategy which supports increased density • Stressed that the review focussed on managing the impacts on any future development on the northern façade of 11 Croydon Street
Matthew Pullinger (Architect on behalf of proponent)	<ul style="list-style-type: none"> • Presented the study for the site which considered the potential renewal of the site in its immediate context and also within the Lakemba town centre more broadly • Advised that the primary objective of the study was to demonstrate the already exhibited development standards proposed for the site as capable of delivering development proposals of high design quality and significant public benefits • Advised that public benefits include new publicly accessible spaces, through-site linkages and improved address and access to existing open space • Presented study in form of illustrations demonstrating improved public access and surveillance, retention of trees and new planting, new public ‘street’ connecting Croydon Road with Lakemba centre by development of long articulated building , siting strategy – low, medium and high rise locations, acceptable building separation, privacy and overshadowing, and capable of satisfying Apartment Design Guide (ADG) aspects such as solar access and cross ventilation • Noted solar impacts of high rise proposals – particularly on one unit at 11 Croydon Street – and potential solutions for this • Also provided comparison studies with earlier proposal commissioned by owners and Council appointed GMU proposal
Ms Karla Castellanos and Mr Will Wang (Council engaged consultants)	<ul style="list-style-type: none"> • Advised that Council requested they assess whether the proposal with FSR of 2.2:1 could meet ADG guidelines and match Council’s aims and goals for the site • Noted that the site is complex with irregular shape • Noted that the proposal includes buildings along northern boundary totalling 75 metres in length and total height of seven storeys; and a seven to ten storey built form is proposed along western and northern boundaries near Jubilee Reserve • Noted decreased setback along Croydon Street compared to existing residential flat buildings along Croydon Street • Is of the view a built form transition to the west is necessary which the proposed seven to ten storeys in this location does not offer

	<ul style="list-style-type: none"> • Believes the five to seven storeys with 4 metre setback proposed along the northern boundary will generate a large amount of overshadowing to 11 Croydon Street and that a four/part five storey building with 9 metre setback in this location is acceptable • Is of the view that a three to four storey streetwall along Croydon Street is an appropriate height • In their opinion the proposed FSR of 2.2:1 is not achievable when taking into account the amenity of neighbouring buildings, desired future character and streetscape which meets the requirements of SEPP 65 and the ADG • Is of the view the proposal has significant overlooking issues between proposed units and that solar access is questionable – believes the proposed southwest facing units can not achieve more than two hours of solar access in mid-winter • Believes the extended density to meet FSR of 2.2:1 would result in bulky excessive built form • Offered alternatives in their own study
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Panel Assessment

This planning proposal was previously considered by the IHAP at its meeting on 1 May 2017. The Panel’s recommendation at that meeting was as follows:

“The Panel considers that, in the absence of the Council being satisfied that an FSR of 2.2:1 would provide a built outcome for the site that fully complies with the ADG requirements, the draft LEP should not be made at this stage until such time as the Council is in receipt of documentation to demonstrate this.”

At the same time the Panel also indicated that it may be possible that a floor space ratio of 2:1 be accommodated on the site subject to further review.

Since that meeting the proponent’s consultants have provided further analysis on a proposed FSR of 2.2:1. This analysis was then peer reviewed by Council’s consultants GMU with the specific brief to consider how an FSR of 2.2:1 could be accommodated on the site consistent with the ADG.

GMU reviewed the proponent’s proposal and also put forward a different proposal with different building envelopes and heights.

The GMU report and presentation suggested that, based on the specific schemes that had been considered by both the proponent’s consultants and GMU, an ADG compliant scheme with a maximum FSR of 1.79:1 (and the Panel understood from the presentation up to 1.82:1) was achievable. A particular concern of GMU was the heights of the buildings towards the middle of the site and the overshadowing impact of that height on the western side of No. 11 Croydon Street.

The Panel acknowledges that this is a large site well serviced by transport being very close to a main rail line. At the same time the site does have constraints by the existing development, its shape and open space surrounding the site, notably Jubilee Reserve.

The Panel also notes that the most recently exhibited version of the Sydenham to Bankstown Urban Renewal Corridor Strategy (June 2017) identifies the subject site as capable of

accommodating high rise and/or mixed use which in the Panel's opinion provides further support for increased FSR.

The Panel is of the opinion that there is potential for more than 1.82:1 but does not agree that the FSR should extend to 2.2:1. In the Panel's opinion an FSR of 2:1 could be accommodated on the site. The Panel notes that the difference between 1.82:1 and 2:1 could be resolved through the normal development application processes which would provide the fine grain analysis against the ADG and other planning controls applying to the site at the time.

The purpose of this matter coming to the Panel was to provide direction for this planning proposal which has already been through the gateway process and public exhibition.

With a proposed FSR of 2:1 the Panel notes that there would need to be further work carried out on proposed maximum building heights for the site and the Panel is not prescribing any building heights for the proposed FSR of 2:1.

The Council will need to seek further advice from the proponent's urban design consultants and the Council's urban design consultants to prepare the appropriate building height map details for the 2:1 FSR.

IHAP Recommendation

- a) That the maximum floor space ratio for the site be set at 2:1,
- b) The Council's strategic planners to determine appropriate amendments to the proposed building height map to accommodate the floor space ratio of 2:1 after consultation with the applicants.

Vote: 4 – 0 in favour

3 26 TRAFALGAR STREET, BELMORE: CONSTRUCTION OF A NEW CHURCH HALL AND ASSOCIATED USE

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

<p>Barbara Coorey (on behalf of objector)</p>	<ul style="list-style-type: none"> • Advised she represented a resident of Trafalgar Street • Stated the resident's concerns related to the recent demolition on site and the current state of the site; the use of the site and the number of children and activities; and no signage on site • Noted that this is a narrow street • Questioned how the no weddings/funerals/events on site will be managed and enforced • Stated that no Plan of Management has as yet been lodged and that it requires a contact name and phone number for complaints • Concerned about construction out of hours • Requested that the Church members make themselves known to neighbours
<p>Robert Laycock (applicant) and Stephen Weir (representative)</p>	<ul style="list-style-type: none"> • Noted that illegal dumping had occurred onsite and this issue is being dealt with • Understands that a Plan of Management needs to be submitted

from the Church)	<p>and that they must comply with conditions</p> <ul style="list-style-type: none"> • Responded to questions from the Panel in relation to occupation of site when no Church operations being undertaken; security of the site and vehicles onsite; any possible increase in patronage and how this will be managed; the reason for moving from Petersham • Was of the view the neighbours would not be negatively impacted by the Church operations • Clarified that the site would not be used for weddings, funerals or special events and that the inclusion of these uses in the original DA documentation was an error
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Panel Assessment

The Panel agrees with the report and the recommendation.

The Panel note the advice of the applicant that the premises would not be used for operations at the times outside the operational times referred to in proposed condition 6.

In these times the site would be secured and unattended by any persons.

The Panel noted the concerns of the objector (who spoke on behalf of the other people in the street who were unable to attend) about the current state of the site and concerns about how the site would be managed when developed.

The applicant indicated that there had been illegal dumping on the site and that they would immediately attend to repairing the fence and addressing any concerns of the Council and the residents in this regard.

In terms of the future management of the site, there is a proposed Plan of Management which must be prepared by the applicant and approved by the Council prior to the issuing of a Construction Certificate. Included in that will be, as suggested by the objector, a requirement for a contact phone number after hours.

The Panel was concerned about the unusually small number of people proposed to be on the site and the potential for growth. The applicant indicated that they are required to comply with the conditions, and in the event of any desire or increase in any number of persons who would attend the services, a modification application would be submitted to address any impact from proposed growth of the Church.

IHAP Determination

THAT Development Application DA-125/2017 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. Amend condition 6 Table by changing the heading of the fourth column from 'Usual Attendance' to 'Maximum Number'
2. Amend condition 14 to read as follows:
 - "14. Plan of Management
 - a) A Plan of Management is to be prepared and lodged with Council prior to the issue of a Construction Certificate outlining how the facility will operate in keeping with the conditions of this consent. In particular, the plan is to address operating hours and attendance, prior and post worship/activity procedures, car parking/traffic management, noise and sound control, security and monitoring, complaints handling procedures including the establishment of a Complaints Hotline and the name of an

after hours contact number which shall be set up by the proponent so that comments and complaints can be received. All complaints shall be recorded (including the name and contact details of the complainant and the reason for the complaint) and the complaint shall be investigated and the resolution of the complaint recorded in the register. The Complaints Register is to be available to the Council on request.

- b) The approved use is to be operated in accordance with the approved Plan of Management
 - c) The Plan shall be reviewed by the applicant on an annual basis and at any time there is a significant change in the impact (as reflected through resident complaints) to ensure impacts are mitigated. No changes shall be made to the Plan without the prior approval of Council.”
3. Amend condition 21 to read as follows:
“21. All Noise Control Recommendations listed in section 6, identified in the Environmental Noise Report produced by Day Design Pty Ltd dated 10 April 2017, reference No. 6199-1.1R dated 10 August 2017 are to be implemented and complied with for the life of the consent. Details of the recommendations are to be shown on the approved Plan of Management and on the Construction Certificate plans prior to the issue of a Construction Certificate. A compliance certificate is to be issued by a suitably qualified Acoustic Engineer prior to the issue of an Occupation Certificate to confirm that all noise control recommendations have been installed and implemented.”
4. Delete current condition 22 and replace with:
“22 The operator/owner of the premises must engage a suitably qualified consultant to undertake acoustic monitoring from the most affected premises/boundary line following the operation of the Church (at six and twelve months) during operation at a time at or near full capacity. The monitoring is to determine whether the Church is meeting the established adopted noise goals, and, if not, what additional reasonable and feasible mitigation measures must be adopted to ensure compliance. Any works recommended by the acoustic consultant shall be borne by the operator/owner, the findings submitted to Canterbury Bankstown Council for review and carried out within a period set by Council.”

Vote: 4 – 0 in favour

The meeting closed at 8:50 p.m.