

CITY OF CANTERBURY BANKSTOWN

MINUTES OF THE

INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

**HELD IN THE COUNCIL CHAMBERS
CAMPSIE CUSTOMER SERVICE CENTRE
ON 6 FEBRUARY 2017**

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

STAFF IN

ATTENDANCE: Ms Chauntelle Mitchell (Administration Officer - IHAP)
Mr Brad McPherson (Manager Governance, not present for the closed session)
Mr Ian Woodward (Manager Development, not present for the closed session)
Mr George Gouvatsos (not present for the closed session)
Mr Mitchell Noble (Manager Spatial Planning, not present for the closed session)
Mr Stephen Arnold (Team Leader - Planning, not present for the closed session)
Mr Mauricio Tapia (Team Leader - Strategic Planning, not present for the closed session)
Mr Daniel Bushby (Executive Planner, not present for the closed session)
Mr Peter Wells (Planning Consultant, 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) and determining the development applications.

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 1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL

Site Visit

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

Public Addresses

Mr Tim Blythe (Applicant/Planner) and Mr Tony Maurici (Owner)	<ul style="list-style-type: none">• Owner noted issues of flooding on his land as a result of stormwater.• Is of the view the solution to resolve the flooding issues for his property is to build a detention basin and elevate land above the flood level, believes this will hold the peak flow and reduce flooding upstream and downstream.• Does not believe redeveloping the site for industrial use is appropriate due to capital cost and size. Notes he has had difficulties renting the premises and is of the view the property is not being used as zoned.• Proponent advised understanding of employment lands policy and noted the employment lands study undertaken; is of the view there would still be a projected surplus of employment lands if this site is rezoned. Requests consideration is given to the evidence and circumstances.• Answered questions from the Panel in relation to policy position and objectives - proponent believes due to extenuating circumstances an opportunity should be given to prove their case.
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Panel Assessment

The applicant planner who addressed the Panel noted that this rezoning application would be an “exception to the rule” because it was acknowledged that it was contrary to all the NSW Government and Council policy documents that require this land to remain as industrial land. The owner emphasised the flooding concerns and problems with the site.

While the Panel noted the owner’s concerns about flooding the Panel is of the opinion that the flooding concerns are secondary to the principal issue of whether this land should be rezoned from industrial to residential. The resolution of the flooding issue could be taken up separately with the Council, irrespective of whether the land is industrial or residential. Also the flooding issue could be addressed as part of an industrial upgrade of the site.

The reasons why it is inappropriate to support a rezoning at this time are:

- a) Inconsistent with the State and local policies regarding employment land:
 - Greater Sydney Commission’s Metropolitan Plan (A Plan for Growing Sydney)
 - Draft South District Plan
 - Council’s Employment Land Development Study
 - Council’s North West Local Area Plan
- b) No state or local strategic planning justification for increased residential density at this location.

IHAP Recommendation

The Panel agrees with the Council Staff report recommendation that the application to rezone the site at 1 Bennett Street and 107–109 Orchard Road in Chester Hill from Zone IN2 Light Industrial to Zone R4 High Density Residential not be supported.

Vote: 4 – 0 in favour

2 9-11 WEYLAND STREET, PUNCHBOWL: DEMOLISH EXISTING STRUCTURES, CONSOLIDATION OF BOTH LOTS INTO ONE AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT COMPRISING 42 APARTMENTS, TWO COMMERCIAL TENANCIES, A TWO LEVEL BASEMENT FOR PARKING AND ASSOCIATED LANDSCAPING

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 for this matter.

Public Addresses

<p>Mr Philip Bull (Planner on behalf of the applicant) and Mr Napoleon Perdis (owner)</p>	<ul style="list-style-type: none">• Applicant’s representative confirmed they are generally happy with the conditions. Requests removal of condition 5.1 which deletes the ground floor residential apartment adjacent to commercial unit (001).<ul style="list-style-type: none">– Is of the view there is no planning or zoning justification for removal of the unit, noted the unit allows for housing diversity, accessibility and that it has its own courtyard;– Believes commercial space will not be viable;– Notes the subject site is in a B5 zone; in relation to zone objectives notes the subject site is not on Canterbury Road and is not in a centre;– Notes s94 contribution fee would be revised if residential unit is removed.• Advised design of the proposed development is in keeping with the broader development pattern and helps to facilitate constraints.• Applicant’s representative answered questions from the Panel in relation to overlooking, issues of non-compliance and merit of proposed design.
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Panel Assessment

The Panel does not agree with the recommendation that the application should be approved in its current form.

The Panel is of the opinion that the applicant should be given a further opportunity to consider amendments to the proposal to, in particular, address internal separation distances and height.

In relation to the separation issue, the Panel is of the opinion there should be increased separation distances between the two buildings to enhance the visual and acoustic privacy, and improve light and ventilation. The current non-compliance would result in unacceptable

impacts to the internal amenity of the units. There is a 25% to some 40% non-compliance on some levels with the ADG requirements for separation. The Panel considers that this non-compliance has not been adequately justified and that the separation distance should be increased generally in accordance with the ADG requirements.

In relation to height, the height variation is excessive in the Panel's opinion at approximately 16.6% above the LEP standard. The proposed roof terrace is itself some 2.85 metres above the specified 18 metre height. The primary justification for the clause 4.6 variation relies primarily on the fact that variations have been given in the other approvals along the streets.

The Panel considers that this non-compliance has not been adequately justified in terms of Clause 4.6 (3)(a) and (b) which requires the relevant standard to be unreasonable or unnecessary in the circumstances and/or requires sufficient environmental planning grounds to justify the contravention. Subsequently the height should be reduced to a more acceptable variance and consideration given to relocating the rooftop community space.

The proposal also demonstrated a number of other lesser non-compliances including:

- Lack of direct sunlight in mid-winter to the communal space at ground level
- Car parking provisions
- Lack of deep soil planting
- Size and thus functionality/viability of the front commercial area

In the case of the final point, the Panel agrees with the Council's recommendation that the small commercial area at the front of the building should be increased and the rear unit deleted. The three metre wide commercial area, in the Panel's opinion, is not viable and needs to be increased to provide for appropriate commercial viability for street activation.

The Panel defers further consideration of this matter, until the applicant provides amended plans and additional information, or indicates that it requires the Panel to determine the matter on the basis of the documents that have already been provided.

In summary, the Panel is of the opinion that these matters could support a refusal of the application. However, the Panel believes the applicant should be given an opportunity to address the issues raised. The Panel looks forward to receiving the amended details in a timely matter.

IHAP Decision

THAT Development Application DA-632/2015 be **DEFERRED** to allow the applicant to provide additional information.

Vote: 4 – 0 in favour

- 3 1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

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 for this matter.

Public Addresses

Mr Mathew Hynes (objector)	<ul style="list-style-type: none">• Advised he is a registered Surveyor. Is of the view the development does not meet the aims of the Housing for Seniors or People with a Disability SEPP 2004.<ul style="list-style-type: none">– Does not agree that the site is within 400 metres from the bus stop, only a very small portion. Believes dwellings that front Jones Avenue are more than 400 metres to the bus stop. Advised that the bus stop which accesses services and shops rather than Bankstown is a further 30 metres away.– Is of the view a section of the footpath used to access the bus stop does not meet the grade requirements as it is 1:6.• Believes the Surveyor who signed the Statement of Environmental Effects is not a registered member of the Board of Surveyors.• Is of the view the development is out of character with the area and the proposal is an overdevelopment.• Questions how access through the site can be provided for residents as the site is steep.• When he purchased his property, was of the understanding these lots would be residential.
Mr Angelo Amodeo (objector)	<ul style="list-style-type: none">• His property is directly opposite the proposed development.• Was advised by Landcom that the four allotments that comprise the development site were residential lots.• Is concerned the proposed development will result in increased traffic, from residents and ambulances.• Notes the site is steep, believes it will be difficult for seniors to move up and down the site.• Believes train and bus services are not in close proximity.
Mr Kareem Farache (objector)	<ul style="list-style-type: none">• His property is directly opposite the proposed development. He purchased his property when the estate was first released, was advised 1-7 Rowe Drive were for individual homes.• Advised he is not against development.• Has safety concerns with regard to traffic from the proposed development.
Mr Tony McBurney (Architect representing applicant)	<ul style="list-style-type: none">• Happy with report and conditions.• Original Part 3A Concept plan included Seniors Housing in the estate, to date this has not been met.• Believes the proposed dwellings are very similar to that of four individual houses. In the proposed design they sought to develop an architectural form as a series of individual houses with a range of building types.• Is of the view the SEPP distance to transport requirement is not worded to refer to the whole site of the proposed development, only a boundary.• Answered questions raised by the Panel in relation to lot consolidation, access to lifts, number of occupants, traffic and parking.

Panel Assessment

One of the objectors raised the issue of whether the site met the requirement of 400 metres to public transport under the SEPP. The Panel is of the opinion that once one part of the site is within 400 metres this provides compliance with the SEPP, noting that there will be a consolidation of all the allotments.

The Council Officers have confirmed that on two occasions the applicant has provided sufficient evidence to demonstrate the 400 metre distance from the site to the bus stop.

The Panel notes also there was a concern raised about access to the upper street level and then onto the bus stop. The plans provide for accessible access throughout the site via the use of a lift.

Another concern raised was at the time of purchase of allotments in this new estate, advice was provided that there would only be single residential dwellings erected on the site. The Panel understands that seniors living has always been permissible on this site and envisaged within the broader concept plan.

The Panel notes from the traffic impact assessment referred to in the Council report that there are approximately eight vehicle trips during the commuter peak hours, which constitute a minimal impact. Traffic impact is considered acceptable because of the modest increase in number of vehicles entering and leaving the site, further, the design meets all the relevant standards for entry and exit, parking bays, dimensions, ramp grades etc.

IHAP Decision

THAT Development Application DA-1540/2015 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. Amend condition 9, by deleting the words "Sydney Water must issue" in the last paragraph and replace with the words "the applicant must obtain from Sydney Water".
2. Insert a new condition 22A as follows:
"22A The existing allotments must be consolidated. Evidence of the registration of the consolidation with the office of Land and Property Information must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate."
3. Insert a new condition 58 as follows:
"58. The works in Bruncker Road referred to in condition 4 of this development consent must be completed to the satisfaction of Council prior to the issue of any Occupation Certificate (including an interim Occupation Certificate)."

Vote: 4 – 0 in favour

The meeting closed at 8.25 p.m.