



12 November 2020

Brendan Metcalfe
Acting Director, Eastern and South Districts
Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Renee Coull, Senior Planner

Dear Mr Metcalfe,

RE: PP_2019_CBANK_003_00, Chullora Marketplace Planning Proposal

I refer to the above planning proposal relating to 353-355 Waterloo Road in Greenacre.

Council has reviewed the Gateway conditions required to be satisfied prior to the exhibition of the proposal. Council's response is set out in Attachment A and supplemented by further reports from Council and the proponent where required.

I trust that the information submitted satisfies the requirements of the Gateway and Council can proceed to exhibition.

For any further information or enquiries regarding this matter, please feel free to contact me on 9707 9806.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Amita", with a stylized flourish at the end.

Amita Maharjan
Strategic Planner



Attachment A

Gateway Conditions

1. Conditions 1(a) (i), (ii), and (iii)

In response to the Department's condition relating to section 9.1 Direction 1.1 Business and Industrial zones, the planning proposal is consistent with this direction including the maximum residential FSR proposed.

The Ministerial Direction states as follows, with key sections highlighted:

A planning proposal must:

- (a) give effect to the objectives of this direction,
- (b) retain the areas and locations of existing business and industrial zones,
- (c) not reduce the total **potential** floor space area for employment uses and related public services in business zones,
- (d) not reduce the total potential floor space area for industrial uses in industrial zones, and
- (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.

The subject sites are zoned B2 Local Centre and R2 Low Density Residential zone. By virtue of the proposed rezoning of 353 Waterloo Road, Greenacre from R2 to B2 and increase in FSR from 0.5:1 to 1:1, the planning proposal has increased the amount of potential employment floor space.

With respect to 355 Waterloo Road, Greenacre, there is no change to the overall FSR of 1:1. The planning proposal seeks to add a maximum residential FSR, thereby effectively quarantine FSR for employment uses.

The current controls do not mandate any minimums for commercial FSR, and the zoning permits shop top housing and residential flat buildings. By definition, where residential flat buildings are proposed, there is no requirement for any commercial/employment use. Accordingly, the current controls allow for potential employment floor space between nil up to 1:1.

Therefore, the planning proposal does not reduce the total existing FSR on the subject site and it does not intend to reduce the total *potential floor space area for employment*.

The existing total potential floor space area for employment uses is 56,303m². The proposed total potential floor space area for employment uses is



57,000m², a combined floor space areas of No. 355 and 353 Waterloo Road, Greenacre.

In June 2020, Council endorsed the Canterbury Bankstown Employment Lands Strategy (ELS) 2020 which confirms that the existing retail and commercial GFA (in 2019) of Chullora Marketplace is 20,659m², which equates to approximately 0.35:1 FSR. Notwithstanding, the existing Chullora Marketplace development is not what the Ministerial Direction is seeking to protect. Instead, it is the zoning and potential floor space.

The above commercial FSR is proposed as a minimum, not as a maximum requirement. This safeguards 0.35:1 commercial floor space, but also facilitates commercial floor space from a minimum of 0.35:1 to a maximum of 1:1 FSR. With consideration of the potential maximum FSR, the centre is able to potentially achieve 57,000m² commercial gross floor area. Relevant sections of this planning proposals have been updated including sections 3.1, 4.4; 5.2; Direction 1.1 Business and Industrial Zones and Direction 2.1 Environment Protection Zone to reflect the above matters.

Following consideration of the above, Council continues to support the proposed maximum residential floor space ratio (FSR) since there is currently no restriction on the extent of business or residential floor space area to be provided under the existing FSR of 1:1. Residential flat buildings are currently permissible on the planning proposal site and this planning proposal is therefore more consistent with the objectives of B2 Business Zone in terms of protecting employment opportunities of the site and allowing for a mixed use development than the existing planning controls.

For the above reasons, Gateway condition 1(a)ii does not need a response as Council does not propose any changes to the residential FSR cap.

Further, Council requests that Gateway condition 1(a) be deleted.

2. Condition 1(b)(i) and (ii)

Condition 1(b)(i): This Gateway condition requires information to confirm the location and extent of the endangered ecological communities within Norfolk Reserve at 67-67A Norfolk Road and 11 Watergum Way, Greenacre.

The extent of endangered ecological community in Norfolk Reserve has been mapped by the Office of Environment and Heritage (the Native Vegetation of the Sydney Metropolitan Area - Version 3.1, OEH 2016) as PCT 725 - *Broad-leaved Ironbark - Melaleuca decora shrubby open forest on clay soils of the Cumberland Plain, Sydney Basin Bioregion*. This PCT forms part of the Cooks River/Castlereagh Ironbark Forest (CRCIF) community. This community is listed as an endangered ecological community under the *Biodiversity Conservation Act 2016*.



The extent of this community is shown on Figure 3 in Section 6.2 of the amended planning proposal.

Condition 1(b)(ii): Shadow diagrams to demonstrate the worst-case overshadowing impacts on Norfolk Reserve during mid-winter based on the proposed planning controls, as amended by this Gateway determination.

In early September 2020, Council contacted with the Department of Environment, Energy and Science (EES) Group on the matters relating to the endangered ecological community within the Norfolk Reserve, in accordance with the recommendations of the Department's assessment report. As part of the above consultation Council provided the Department's EES Group with additional information from the proponent, including shadow diagrams which include a 12-metre wide setback from the eastern boundary of the subject site.

Council also contacted the Department of Planning, Industry and Environment (the Department) and requested an alteration to condition 4 of the Gateway determination which required consulting with the government agencies prior to the public exhibition.

On 22 September 2020, an alteration to condition 4 of the Gateway determination to this planning proposal was issued confirming consultation with government agencies is to occur as part of the exhibition of the planning proposal. In consideration to the above, the proponent has not been advised of the recent recommendations received from the Department of EES Group since a consultation is to occur with the EES Group as part of the exhibition of this planning proposal.

The alterations to the Gateway determination makes the following reference:

Please be advised that Condition 1(d) of the Gateway determination specifically requires preparation of shadow diagrams to demonstrate the worst-case impact on Norfolk Reserve based on the proposed planning controls. As the proposed setback is a DCP control and is not a statutory development standard described in the planning proposal, Council should prepare a separate set of shadow diagrams to illustrate the worst case impact without the assumed setback. A copy should be forwarded to EES for its reference.

In relation to the above, Council notes that *Condition 1(d) of the Gateway determination* relates to shadow diagrams for demonstrating overshadowing impacts on the adjoining dwellings along Norfolk Road and Waterloo Road.



Council's response on the potential overshadowing impact on the Norfolk Reserve:

After the Department issued the Gateway conditions, Council received additional information from the proponent to respond to the gateway conditions which is enclosed in Attachment C. The information shows shadow diagrams prepared for hourly time periods from 9.00am - 3pm on 21 June (mid-winter).

It is acknowledged that the Department's letter of 22 September 2020 states that the DCP is not a statutory development standard and that amended plans should be prepared to assume no setback.

Whilst the DCP is not a development standard, it is still a mandatory consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Any variation to the DCP would still require to satisfy Objective O3 of the draft DCP, being:

O3 To provide landscape buffer and to minimise overshadowing to sensitive ecological communities in Norfolk Reserve.

Accordingly, Council has submitted overshadowing diagrams in line with the DCP, noting that the Department has required the DCP be submitted for review.

The shadow diagram considers a 12-metre wide setback from the eastern boundary of the subject site and fills the building envelope under the proposed controls to illustrate the 'worst case' shadow cast by the development.

According to the shadow diagrams, the following is noted:

- No shadow cast on the Reserve from 9.00am - 1pm;
- At 1.30pm (approx.) the first shadow falls upon the Reserve;
- At 2pm, a narrow band of shadow falls upon the Reserve's western edge but the majority of it is unshaded; and
- At 3pm, the western band of shadow has increased in width but the majority of the Reserve remains unshaded.

The building envelopes represent the maximum extent of space (therefore representing the worst case scenario) within which a development may occur but that should not necessarily be filled. Council's FSR and setback controls, work together to deliver articulated buildings which are lesser in bulk than the building envelope shown in the proponents diagrams, and as such which will generate less shadow impact than that shown in the diagrams.

Further, Council is preparing a site specific DCP for this planning proposal site (attached) which will be exhibited concurrently with the planning proposal. The DCP supplements the intent of this planning proposal by providing additional



controls, objectives and key design principles to manage likely impacts of the planning proposal on the neighbouring properties including the Norfolk Reserve.

For this reason, appropriate setback controls and objectives have been recommended by Council's independent urban design review to protect the reserve through a combination of height, FSR and setback controls.

The site specific DCP will amend the proponent's recommended setback of 12-metre to a 15-meter buffer (an internal road and a landscape buffer) between the site and Norfolk Reserve (along the eastern boundary) to further minimise the indicated overshadowing impacts to the reserve.

The site specific DCP and the relevant design considerations applying to this planning proposal is supported by an urban design peer review which indicates the potential overshadowing implications to the reserve is acceptable.

In consideration to the above matters and the attached documentation, Council is of an opinion that the shadow diagrams presented by the proponent provides sufficient information to assess potential overshadowing (to Norfolk Reserve) which will be minimised further with an increased setback along the eastern boundary (as recommended by Council's site specific DCP) which is further supported by an urban design peer review.

On the basis of the above analysis, the Director-General or their delegate can therefore be satisfied with Council's current approach. A further update to this section will be provided following a consultation with the Department's EES Group as part of the exhibition of the planning proposal.

3. Condition 1(c)

Part 2 – Explanation of Provisions and associated mapping, of the planning proposal has been amended to demonstrate the proposed reduction of the maximum building height along the southern part of the site from the proposed 11 metres to 9 metres.

4. Condition 1(d)

Shadow diagrams to demonstrate the worst-case overshadowing impacts on the adjoining dwellings along Norfolk Road and Waterloo Road during mid-winter based on the proposed planning controls, as amended by this Gateway determination.



Council's response on the potential overshadowing impacts on the adjoining dwellings along Norfolk Road and Waterloo Road:

Consistent with Council's response on Condition 1(b)(ii) above, Council is satisfied with the methodology adopted by the proponent on assessing the 'worst case' overshadowing impacts on the adjoining dwellings along Norfolk Road and Waterloo Road.

The shadows diagrams from the proponent (see Attachment C) show that the shadow impact is confined to the northern end of the adjoining properties. The properties containing single houses are minimally affected, with the shadows partially affecting the northern end of their rear yards but not their dwelling. The diagrams indicate that the properties will receive greater than 6 hours sunlight to their yards and northern elevations in mid-winter.

The shadow diagrams indicate that the northern elevations of the multi-dwelling house at 95-97 Norfolk Road, will receive four hours of sunlight between 10am-2pm and that the courtyards of the northern dwellings will receive 3 hours sunlight to 50% of their area between 11am-2pm.

According to the Bankstown Development Control Plan 2015 at least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice and a minimum 50% of the private open space of a dwelling on an adjoining allotment must receive at least 3 hours of sunlight between 9.00am and 5.00pm.

Council notes that the shadow diagrams presented by the proponent considers filling the building envelope to demonstrate the 'worst case' overshadowing impacts. The demonstrated overshadowing impact is further reduced following considerations to the recommended setback controls and other design requirements to deliver an articulated built space which is lesser in bulk than the building envelope represented on the proponent's shadow diagram.

In considerations to the above matters and the attached documentation, Council is of an opinion that the shadow diagrams presented by the proponent provides sufficient information to assess potential overshadowing impact on the adjoining dwellings along Norfolk Road and Waterloo Road and that the Director-General or their delegate can therefore be satisfied with Council's current approach on addressing this matter.

5. Condition 1(e)

The draft amendment to the Bankstown Development Control Plan 2015 with site-specific provisions relating to this planning proposal is included in **Attachment D**.



6. Condition 1(f) (i) and (ii)

Relevant traffic information to facilitate consultation with Transport for NSW (TfNSW) is enclosed in **Attachment C– Response from the proponent on Gateway condition, May 2020**. This section will see further updates following a consultation with the TfNSW as part of the exhibition of this planning proposal.

7. Condition 1(g)

The planning proposal is updated with an indicative Lot Size Map showing the removal of No. 353 Waterloo Road, Greenacre from the map in Part 4 of this planning proposal.

8. Condition 1(h)

This planning proposal is updated with a flood risk map in Section 6.7 of this planning proposal to show the location and extent of affected areas within the site.

9. Condition 1(i)

This planning proposal has been amended with an updated project timeline.