



30 – 46 Auburn Road, Regents Park Planning Proposal

Submissions Report

Submitted to Sydney South Regional Planning Panel

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SUBMISSIONS REPORT

1. INTRODUCTION AND BACKGROUND

The purpose of this report is to provide a summary of the key matters raised by members of the public and Canterbury-Bankstown Council, during the public exhibition of the planning proposal for 30-46 Auburn Road, Regents Park.

This report is prepared for consideration by the South Sydney Regional Panel prior to the planning proposal proceeding to the Department of Planning, Industry and Environment for finalisation.

1.1. The site

The site is zoned R4 High Density Residential and is comprised of two lots with a combined area of 21,170m². The site is located 500m south of the Regents Park Train Station. **Figure 1** outlines the site boundary and depicts the individual lots at the site.

The site is occupied by industries and the Sydney Construction Training School. Immediately east of the site is a low density residential suburb dominated by 1-2 storey houses. To the north of the site is low rise industrial land and to the south and west is the Bankstown railway line. This Bankstown railway intersects with the dedicated 30km long Southern Sydney Freight Line at the point adjoining the southern edge of the site.



Figure 1: Site location (Source: Planning Proposal)

1.2. The planning proposal

The planning proposal seeks to amend the Bankstown Local Environmental Plan 2015 (BLEP 2015) in relation to 30-46 Auburn Road, Regents Park to:

- increase the height of buildings from 13m to 23m, 29m and 41m;
- increase the maximum Floor Space Ratio (FSR) of 0.6:1 to 2:1; and
- introduce a site-specific DCP through an additional provision.

The site-specific Development Control Plan (DCP) would provide additional guidance on:

- built form;
- design principles;
- housing mix;
- public domain improvements;
- environmental impacts (such as overshadowing and solar access);
- acoustic controls;
- privacy controls;
- tree canopy requirements; and
- site circulation and access requirements;

1.3. State Significant Development

The proponent has lodged a State Significant Development application 28 May 2021 for the site (SSD-20724880). The proposed development is described in the scoping report as:

- A build-to-rent scheme incorporating 567 dwellings (approx.), 439m² of non-residential floorspace and 52,925m², with a total gross floor area (2.5:1), inclusive of a bonus 0.5:1 floor space with the application lodged under the Affordable Rental Housing SEPP.
- Five key buildings 6, 8 and 12 storeys in height with basement car parking; and
- 5,700m² of communal open space, including a 3,000m² central open space area.

Secretary's Environmental Assessment requirements were issued on 25 June 2021.

1.4. Rezoning review and assessment of subsequent planning proposal

Following is a summary of the planning proposal's history to date.

- The applicant submitted a Planning Proposal in 2015 to amend the BLEP 2015 to increase the permitted FSR from 0.6:1 to 4:1 and HOB controls from 13m to between 17m and 64m (5 to 20 storeys).
- Council considered the Planning Proposal and resolved at its meeting on 26 July 2016 that it did not support the proposed controls and instead recommended a FSR of 1.75:1 with HOB up to 27 metres (8 storeys). Council submitted a Planning Proposal to the Department of Planning, Industry and Environment (the Department) on 27 July 2016 seeking a Gateway determination on those terms.
- The Department issued a Gateway determination on 23 September 2016 which included conditions requiring; the FSR to be amended to align with the outcomes of a Council review and removal of the

requirement for additional public benefits to achieve the FSR. The determination also required additional assessment of flooding and land contamination impacts.

- Subsequent to the issue of the Gateway determination, the site's development capacity was subject to significant examination by all parties. The Department issued an alteration to the Gateway determination on 26 February 2020, allowing for an FSR of 2:1 and HOB of 19m (6 storeys), 25m (8 storeys) and 38m (12 storeys).
- The applicant was dissatisfied with the altered Gateway determination and on 17 April 2020 requested that it be reviewed.
- The NSW Independent Planning Commission conducted a review and issued its Gateway Determination Advice Report on 18 December 2020, supporting an FSR of 2:1 with building heights of 23m (6 storeys), 29m (8 storeys) and 41m (12 storeys).
- Following this Gateway Determination Advice Report, the Department issued an alteration to the Gateway Determination on 23 December 2020.

1.5. Planning Proposal authority

On 3 February 2021, City of Canterbury Bankstown Council wrote to the Department advising it no longer wished to be the Planning Proposal authority. On 3 March 2021, the Department informed Council that the Sydney South Planning Panel had been appointed as the Planning Proposal authority.

1.6. Gateway determination

Below is a compilation of the current Gateway Conditions applying to the proposal.

1. Prior to undertaking community consultation the planning proposal is to be amended to:
 - a. Reflect the outcomes of the urban design review by the Department of Planning Industry and Environment with a maximum FSR of 2:1 for the site and maximum building heights of 23 metres along the site's Auburn Road frontage, 41 metres in the north-western corner of the site and 29 metres across the remainder of the site
 - b. Remove the requirement for the provision of public benefits to achieve the maximum FSR;
 - c. Prior to exhibition, further information is to be submitted to the satisfaction of the delegate of the Minister to justify consistency or inconsistency of the planning proposal with section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land. A Remediation Action Plan (RAP) is to be prepared to demonstrate that the land can be suitable for remediated for the land uses permissible under the R4 High Density Residential zone, and the method and feasibility of remediation
 - d. Include a flood study in which addresses the requirements of section 9.1 Direction 4.3 Flood Prone Land
 - e. Update the planning proposal to address the South District Plan and Council's Local Strategic Planning Statement; and
 - f. Update the planning proposal to address consistency with the relevant State Environmental Planning Policies
 - g. Update the planning proposal to address Council's Housing Strategy and Affordable Housing Strategy

2. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - a. Transport for NSW – Sydney Trains
 - b. Transport for NSW (former Roads and Maritime Services)
 - c. Environmental Protection Authority
 - d. NSW Department of Planning, Industry and Environment – Environment, Energy and Science Group (former Office of Environment and Heritage)
 - e. Australian Rail Track Corporation
 - f. Ausgrid
 - g. Telstra
 - h. Sydney Water

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal

3. The planning proposal is to be amended to reflect conditions 1 and 2 and a copy is to be provided to the Director, Eastern and South Districts for approval prior to community consultation being undertaken.
4. Community consultation is required under sections 56(2) and 57 of the Act as follows:
 - a. The planning proposal must be made publicly available for 28 days; and
 - b. The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of the Department's 'A Guide to Preparing Local Environmental Plans'.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be 12 months from the date of this Alteration of Gateway determination. Council is required to exhibit and report on the proposal in accordance with the specified milestone dates as follows:
 - a. the planning proposal must be exhibited 7 months from the date of this Alteration of Gateway determination
 - b. the planning proposal must be reported to Council for a final recommendation 10 months from the date of this Alteration of Gateway determination
7. Update the planning proposal to include a provision that a site specific development control plan (DCP) is to be prepared to provide more detailed guidance and controls for future development on the site. The DCP is to address future built form and design principles; housing mix; improvements to the public domain; environmental impacts such as overshadowing and solar access and visual and acoustic privacy; tree canopy and site circulation and access.

2. SUMMARY OF SUBMISSIONS

Ten submissions were received from members of the community, Canterbury-Bankstown Council and agencies (Appendix A). All submissions received from members of the community objected to aspects of the planning proposal and were from residents living in close proximity to the site. The key concerns raised within the submissions were:

- Bulk and scale of the development;
- Traffic impacts;
- Waste generation;
- Noise generation; and
- Public infrastructure and contributions;

In accordance with the Gateway determination, the following agencies were consulted:

- Transport for NSW – Sydney Trains;
- Transport for NSW (former Roads and Maritime Services);
- Environmental Protection Authority;
- NSW Department of Planning, Industry and Environment – Environment, Energy and Science Group (former Office of Environment and Heritage);
- Australian Rail Track Corporation;
- Ausgrid;
- Telstra; and
- Sydney Water.

Submissions were received from:

- Industry and Environment – Environment, Energy and Science Group;
- Environmental Protection Authority;
- Sydney Water; and
- Transport for NSW.

Canterbury-Bankstown Council's submission raised several concerns including:

- Council does not support the height of the proposed development and maintains that 6-8 storeys is more appropriate for the site;
- Council does not support the 2:1 FSR recommended for the site and considers an FSR of 1.75:1 to be more appropriate;
- Council notes that no planning agreement or Letter of Offer was exhibited alongside the planning proposal to support the proposal; and
- Council requests that the site-specific development controls be advanced and give specific consideration of future applications interaction with potential State Significant Development Applications.

3. APPLICANT'S RESPONSE TO SUBMISSIONS

On the 30 August 2021, the applicant provided a response addressing each of the issues raised within the submissions (Appendix B). The applicant's response to each issue is identified in section 4. In summation, the applicant believes that the issues raised within the submissions have already been addressed throughout the lengthy history of the project or are relevant considerations for any future applicable development applications on the subject site.

4. KEY ISSUES RAISED IN SUBMISSIONS

The following section outlines details of the key issues raised in submissions, the applicant's response and recommendations for the South Sydney Regional Panel.

4.1. Bulk and scale

4.1.1. Matters raised in submissions

A number of submissions raised concerns that the proposed FSR and height was excessive and not consistent with the character of the area. These submissions identified that the planning proposal would result in an undesirable scale of development that is not in keeping with the low rise 1-2 storey residential character of the area. There were also concerns that a number of amenity impacts would result from the increased density, such as overshadowing, congestion of local recreational areas, traffic and impacts on public infrastructure. The submissions from the community called on the planning proposal authority to consider a revision to the heights and FSR outlined within the planning proposal.

Council reiterated its long-held objections that:

- it does not support the proposed 12 storey height and considers a 6-8 height limit more appropriate; and
- it does not support the proposed 2:1 FSR and considers a 1.75:1 FSR more appropriate.

4.1.2. Applicant response

The applicant identifies that height and FSR identified within the planning proposal is reflective of multiple urban design studies and the outcomes of the Planning Proposal Review process undertaken by the NSW Independent Planning Commission. The applicant identified that Council and the community's concerns regarding height and FSR are noted, however no reductions are required as the multiple urban design studies have demonstrated that built form can occur on the site without resulting in any actual or perceived impacts on nearby residences.

The applicant contends the proposed maximum height of building map (Figure 2) is very prescriptive in the exact location of the 41 metre height limit to support the 12 storey building and does not provide the flexibility required when designing the building, including where there may be small variations in the exact location and dimensions of the building.

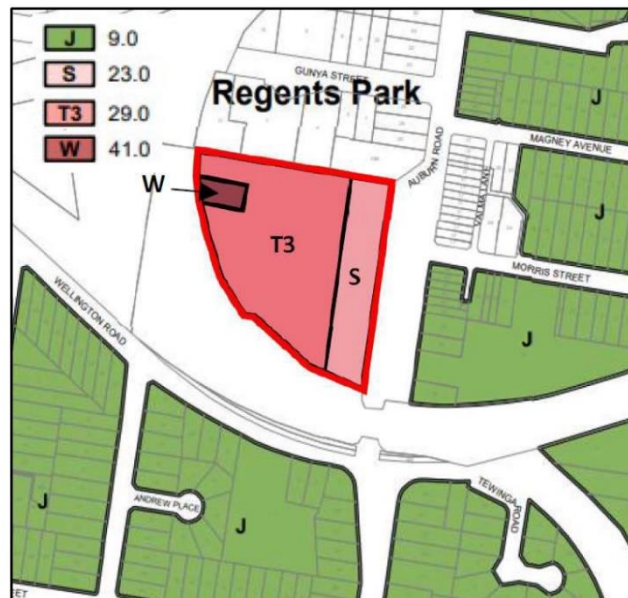


Figure 2: Exhibited height of buildings map (Source: Planning Proposal)

The applicant states that additional heights would allow built form to be more appropriately dispersed across the site leading to significant improvements in solar access and amenity for the apartments and central communal open space. The applicant seeks a post exhibition alteration to amend the height of building map to get the right outcome for buildings within the 41 metre (12 storey) height, while remaining consistent with the wording of the Gateway determination that requires the 41 metre height limit to be located within the north-west corner (see Figure 3).

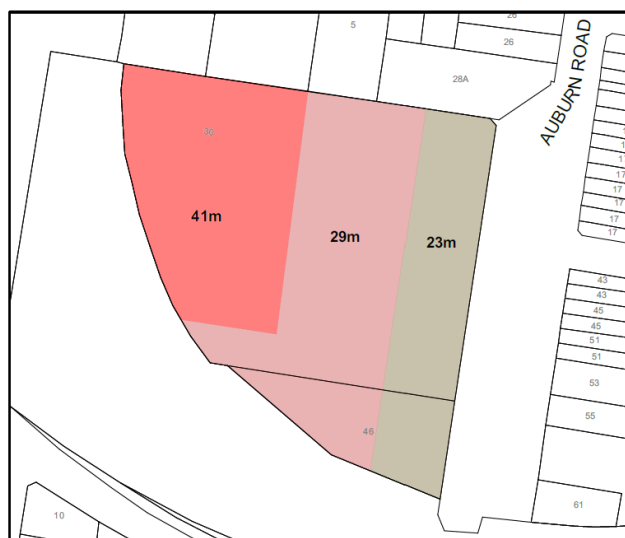


Figure 3: Applicant's proposed height of building map

4.1.3. Recommendation

Bulk and scale have been contentious issues throughout the life of this project. As identified within the Planning Proposal (Figure 4), bulk and scale has been rigorously tested through multiple design reviews by multiple parties, culminating in a gateway review by the IPC. The IPC supported an FSR of 2:1 and building heights of 23m (6 storeys), 29m (8 storeys) and 41m (12 storeys) for the site.

Proponent's Original Planning Proposal Request (2015)	Council's Planning Proposal (2016)	Department's Gateway Determination (2016)	McGregor Coxall Advice to the Department (2019)	McGregor Coxall Addendum Advice to (2019)
Floor Space Ratio				
4:1	1.75:1	<i>Subject to investigation</i>	2:1	2.4:1
Height				
17 metres (5 storeys) 64 metres (20 storeys)	19 metres (6 storeys) 25 metres (8 storeys)	<i>Subject to investigation</i>	23 metres (6 storeys) 29 metres (8 storeys) 47 metres (12 storeys)	N/A
Department's Altered Gateway Determination (February 2020)	Proponent's Request at Lodgement of Gateway Review (April 2020)	Proponent's Amended Request (August 2020)	Council Response (June 2020)	Department's Recommendation (November 2020)
Floor Space Ratio				
2:1	2.4:1	2.4:1	1.75:1	2:1
Height				
19 metres (6 storeys) 25 metres (8 storeys) 38 metres (12 storeys)	23 metres (6 storeys) 29 metres (8 storeys) 47 metres (12 storeys)	25 metres (6 storeys) 31 metres (8 storeys) 41 metres (12 storeys)	22 metres (6 storeys) 28 metres (8 storeys) 41 metres (12 storeys) <i>(although 12 storeys is not supported)</i>	23 metres (6 storeys) 29 metres (8 storeys) 41 metres (12 storeys)

Figure 4: Height & FSR history (Source: NSW Independent Planning Commission review report)

Key characteristics of the site and planning proposal considered in determining the suitability of the proposed height and FSR include:

- The site has strategic merit for increased densification being able to provide additional housing near to public transport and amenities, consistent with the Greater Sydney Regional and Planning Priority 5 of the South District Plan;
- The site is large in area and already zoned R4 for high density residential development;
- The site's land locked nature and the neighbouring uses being industrial mitigates many of the potential impacts;
- Heights have been staged to create a transition from the adjoining lower density residential areas and minimise impacts upon them; and
- The proposed controls will permit future development on the site to achieve high levels of amenity.

The increases in height and FSR will change the nature of development on the site and introduce higher density development in an area characterised by low density development. The community and Council's concerns regarding height and FSR are acknowledged but do not raise any new issues or provide knowledge that changes our opinion on the capacity of the site. It is not recommended that any post exhibition change to reduce the height and FSR be made.

The applicant's revised position is a significant deviation from the exhibited height of building map and would change the arrangement of buildings. The applicant's height has not been tested as outlined with the current proposal. It would allow for a built form on the site that the community and Council were not informed of during the public exhibition.

The heights within the exhibited planning proposal are reflective of the outcomes expressed within the NSW Independent Planning Commission's review and the applicant has had considerable opportunity to raise any concerns prior to exhibition. A significant post-exhibition alteration, which this would be, is not equitable to the community and if supported, should require re-exhibition.

It is recommended that the applicant's position not be supported as it would result in a significant deviation from what was exhibited and is not substantiated by evidence. If the applicant were to pursue any development of the site within the controls outlined in the planning proposal, any exceedances should be dealt with through the relevant planning mechanism, that being a 4.6 application and assessed on their merits, or another planning proposal.

4.2. Traffic Impacts

4.2.1. Matters raised in submissions

Several submissions from the general public raised concerns over the traffic impacts generated from the proposal. The submissions raised concerns that the traffic generated from the Planning Proposal would overburden a network already at capacity. The submissions would rather see a paired back development that was more consistent with the surrounding area, resulting in less traffic generation.

4.2.2. Applicant position

The applicant's response identified that numerous reports and studies have been undertaken in relation to traffic

generation and the network capacity. These studies included SIDRA modelling for a range of development scenarios. The applicant's traffic modelling demonstrated that the road network and key intersections would all continue to operate with a density well in excess of what is being sought within the Planning Proposal. The applicant noted that any future development applications for the site will also need to include a traffic impact assessment evaluating and assessing the potential traffic impacts of a proposed built form.

4.2.3. Recommendation

The community's concerns regarding the traffic impacts generated from the Planning Proposal are acknowledged given the number of units and likely population increase associated with the proposal. The traffic study provided by the applicant concludes that the traffic generated from the Planning Proposal is capable of being managed under existing network conditions. The major blockage limiting traffic movements identified within the traffic study was a bridge near Regents Park train station to the north of the Planning Proposal, however this intersection has since been upgraded by the neighbouring Council, alleviating the issue. In addition, the Planning Proposal is highly serviced by Public Transport, which will reduce the car dependencies of residents.

It is considered that the traffic impacts from the Planning Proposal are capable of being managed, and that further consideration of these impacts will be undertaken during the preparation of a Traffic Impact Assessment accompanying any future development applications.

4.3. Waste Generation

4.3.1. Matters raised in submissions

A submission raised a concern that the Planning Proposal will result in an unmanageable level of waste generated from future development of the site.

4.3.2. Recommendation

The impact of waste generation is not generally a relevant consideration when assessing a Planning Proposal applicable to a single residential zoned site. Future development applications for the site will need to be consider the relevant waste management provisions within the Canterbury Bankstown DCP.

4.4. Noise Impacts

4.4.1. Matters raised in submissions

EPA's submission raised concern regarding the potential to develop the site given the likely noise impacts from the nearby rail and industrial sites. EPA were concerned that the placement of sensitive receivers at the site could inhibit future expansion of the nearby industrial buildings or inhibit the train line's ability to run at the desired capacity. The EPA requested any future development applications on the site comply with the applicable noise criteria.

4.4.2. Recommendation

Prior to the exhibition of the Planning Proposal an acoustics study was procured by the Department to ensure future development could comply with the existing and future noise environment.

The acoustics study, prepared by EMM Consulting, undertook a desktop review of likely noise impacts if development enabled by the Planning Proposal was to proceed. The study concluded a minimal level of noise mitigation would be required for buildings located on the western side of the site. The level of mitigation is unlikely to be considered onerous by a developer, and as such, it is reasonable and feasible to achieve internal noise criteria.

Future development of the site can comply with the relevant noise criteria through the appropriate noise mitigation measures.

4.5. Public Infrastructure and Affordable Housing

4.5.1. Matters raised in submissions

Council raised concern that there is no planning agreement or Letter of Offer exhibited alongside the planning proposal to support the proposed site intensification. In their opinion, this meant that there was no certainty that the necessary public infrastructure and affordable housing to support the planning proposal will be delivered.

Council was also concerned that the applicant has not demonstrated an alternate mechanism to provide affordable housing in accordance with the Canterbury Bankstown Affordable Housing Strategy (Affordable Housing Strategy). In their opinion, the applicant's intention to deliver build to rent accommodation on the site is not an appropriate alternative to affordable housing.

4.5.2. Applicant position

The applicant states that there are significant local benefits in the delivery of upgraded local infrastructure and new and embellished local spaces that the future scheme can support. Within the applicant's response to submission, the applicant prepared a public benefits letter outlining the delivery of public infrastructure and how these costs can be deduced from future s7.11 contributions.

The applicant's response included a public benefits letter detailing a voluntary planning agreement for the site capturing a cycle link, footpaths, a Street Tree Plan, upgrades and embellishments to Magney Reserve, Defects/Liability period, a minimum 3,000m² new open space area (including embellishments and easements and a positive covenant).

The applicant's submission included an economic analysis considering the delivery of Council's affordable housing position. The applicant states that the dedication of 5% affordable housing to Council in perpetuity on the site would render the Planning Proposal and development of the site unviable.

4.5.3. Recommendation

There are two matters for consideration, those being:

- The adequacy of local infrastructure to support this development, and works funded under s.7.11 contributions in accordance with the Bankstown Contributions Plan 2019; and
- The need for affordable housing, as identified in the Canterbury-Bankstown Affordable Housing Strategy.

The provision of affordable rental housing is a desirable social outcome, however a requirement to deliver it must be balanced against the potential to disincentivise development by adversely affecting feasibility. The following options

are available for affordable housing to be delivered as part of the planning proposal:

- The primary mechanism for the collection of affordable housing contributions is the SEPP 70 framework;
- The collection of an affordable housing contribution through a voluntary planning agreement, satisfying the requirements of *Environmental Planning and Assessment (Planning Agreements) Direction 2019*; and
- The inclusion of an incentive provision in a SEPP or LEP requiring the provision of affordable housing on a development site.

Council requests the Planning Proposal deliver a contribution of affordable housing consistent with its Affordable Housing Strategy. Council prepared the Affordable Housing Strategy in conjunction with the Canterbury Bankstown Local Housing Strategy. Key actions identified in the strategy include:

- Action 2.1: Include provisions in the LEP to allow Council to require affordable housing contributions.
- Action 2.2: Prepare an affordable housing contributions scheme for sites/precincts where affordable housing will be required.
- Action 2.3: Amend the planning agreement policy and require a 5% affordable housing contribution be applied to planning proposals that led to an uplift of greater than 1,000m². Council may agree to a lower rate subject to feasibility testing and/or where other types of public benefits were warranted.

Preparation of the Affordable Housing Strategy was informed by the Draft Affordable Housing Strategy Background Report which examined the impact of the contribution on the feasibility of development types across different locations. Key findings of the report included:

- “The contribution rates may not be viable in all scenarios due to factors such as land purchase price, construction cost escalation and market absorption of the end products. It is likely that larger projects seeking higher uplifts have a greater capacity of absorbing an affordable housing contribution levy.
- Our results revealed that areas with a strong residential market such as Bankstown and Canterbury show that development is not adversely affected if an affordable housing contribution provision is introduced. However, secondary markets such as Chester Hill show a sensitivity towards the affordable housing levy. We would recommend either a lower affordable housing contribution or permit a site by site open-book assessment in areas considered to be secondary residential locations.
- Our sensitivity analysis showed that as the residential unit market recovers to previous peak values, more favourable development margins are achievable, increasing a project’s possibility of absorbing the contribution rate levy in the developer margin.”

The Department granted approval to the Canterbury Bankstown Local Housing Strategy (which recognised Council’s pursuit to deliver affordable housing) on 25 June 2021, subject to conditions including:

5. “As committed in the LHS, Council is to prepare an Affordable Housing Contribution Scheme (AHCS) that commits Council to examining the feasibility of levying affordable housing contributions for any new planning proposals that will result in development uplift or an increase in land value. It is noted that Council has commenced this work and Council is required to finalise this AHCS by the end of 2021. Council should inform the Department if there is to be any change and impacts in affordable housing targets.”

Council does not have an Affordable Housing Contribution Scheme (AHCS) and as such is unable to levy affordable housing contributions under the framework of State Environmental Planning Policy 70 - Affordable Housing (Revised

Schemes).

Section 7.32 of the *Environmental Planning and Assessment Act 1979* identifies the provision of affordable housing as being an action for a public purpose and as such can be the subject of a voluntary planning agreement. Ministerial Direction *Environmental Planning and Assessment (Planning Agreements) Direction 2019* specifies matters that must be considered in any planning agreement. The direction requires that Council before entering into a planning agreement in connection with the provision of affordable housing, must prepare and publish, or otherwise make publicly available, a policy setting out the circumstances to which they may seek to negotiate a planning agreement where the consent authority for development in a local government area is authorised to impose an affordable housing condition for the dedication of land or money for affordable housing.

Council's policy framework for Affordable Housing Contributions is understood to be its Affordable Housing Strategy and draft Planning Agreement policy. The Affordable Housing Strategy identifies the draft Planning Agreement policy as the delivery mechanism to inform developers of Council's intentions in relation to affordable housing dedication. It is uncertain whether this framework meets the requirements of the Ministerial Direction, given the draft status of the Planning Agreement policy.

The Department's Planning Circular PS21-001 identifies that value capture should not be the primary purpose of a planning agreement and that benefits offered under a planning agreement do not make unacceptable development acceptable. Council's approach to Affordable Housing Contributions, being the capture of a portion of the residential floor space increase, has the characteristics of value capture. If this is the case, the approach in the Affordable Housing Strategy would be inconsistent with the Planning Circular and Council would not have a policy setting as required by *Environmental Planning and Assessment (Planning Agreements) Direction 2019*.

If the Panel wishes to pursue an Affordable Housing Contribution through a Planning Agreement it is recommended that the validity of the current policy framework is confirmed.

The remaining option to require affordable housing on site is through the introduction of a site-specific incentive provision. A site-specific provision has not been exhibited as part of the planning proposal exhibition, however if the South Sydney Regional Panel considers that Council's intention to require affordable housing on site has been demonstrated throughout the process, a post-exhibition request can be made to the Department for the final instrument to include a site-specific incentive provision requiring affordable housing on-site to be managed by a Community Housing Provider. This type of provision is ordinarily provided as an FSR bonus, such as in SEPP (Affordable Rental Housing) or SEPP Seniors Vertical Villages. Any such incentive provision should ensure the viability of the development is not impacted by the inclusion of affordable housing and consider an appropriate volume of affordable housing.

Council's Affordable Housing Strategy recognises a need to increase affordable housing within the Canterbury Bankstown Local Government Area. As Council does not yet have the appropriate mechanism in place to deliver affordable housing, it is recommended that the South Sydney Regional Panel support the inclusion of a site-specific incentive provision. The provision should seek to deliver the following principles:

- Allow the maximum proposed FSR to be achieved if a portion of the development is affordable housing;
- Not allow development in excess of the Height and FSR maps as part of this Planning Proposal; and
- Not render the development unviable.

The applicant's letter of offer (dated 27 August 2021) which seeks to deliver a range of infrastructure through a works in kind agreement that offsets financial obligations under the Bankstown Contributions Plan 2019. Council's views on the letter of offer are unknown at this time. Negotiations on the proposed offer can occur subsequent to the making of any LEP, as the existence of the plan ensures appropriate contributions can be levied. Therefore, Section 7.11 of the LEP will continue to operate and contributions will be collected in accordance with the requirements.

4.6. Contamination

4.6.1. Matters raised in submissions

EPA's submission raised concerns regarding possible contamination of the site. The EPA was concerned that original contamination investigations that occurred when the site was rezoned in 2005 were on a significantly smaller scale residential development compared to the current proposal. The EPA requested that the Planning Proposal be accompanied by a contemporary Contaminated Sites Assessment to help determine the potential risk of land being contaminated as a result of past activities.

4.6.2. Applicant position

The applicant identified that EPA's submission was dated 21 December 2017. In addition, the applicant previously provided to this submission, however since those comments were issued, the process has advanced and additional work has been undertaken. The applicant states that the additional work completes the contamination assessment and investigation for the land in order to make the land suitable for the proposed use. The applicant contends that the additional work addresses EPA's 2017 requirements.

4.6.3. Recommendation

The applicant has significantly advanced the understanding of contamination impacts relevant to the Planning Proposal since the EPA's submission in 2017. A review of the contamination impacts was undertaken as part of the revisions to the Planning Proposal in 2021. This review concluded that through appropriate remediation measures, the impacts of contamination were capable of being managed and that the Planning Proposal was consistent with section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land.

4.7. Site Specific DCP

4.7.1. Matters raised in submissions

Council raised concerns regarding the advancement of the site specific DCP. Council is concerned that the applicant is seeking to progress a State Significant Development Application in lieu of the site specific DCP being prepared. Council request further consideration be given to ensuring that the Gateway Determination requirements (condition 7) is not by passed by the applicant's State Significant Development Application intentions.

4.7.2. Recommendation

Given the applicant's progression of a State Significant development application for the site, Council's concerns are warranted. There is a risk that development applications are progressed without the necessary consideration of the relevant site specific development control plan principles. It is recommended that when the Department introduces the site specific DCP provision within the Canterbury Bankstown LEP, it be drafted to ensure that the site specific

DCP be completed prior to, and considered by, any development applications applicable to the site.

5. CONCLUSION

In conclusion, the issues raised by the community, agencies and Council have largely been addressed throughout the evolution of the planning proposal over time. The background information provided by the applicant and available from the IPC's review demonstrates that the primary concern raised by the community, that being height, bulk and scale, is acceptable on the site and can be somewhat mitigated through appropriate design. The only two outstanding matters are regarding contributions and the site specific DCP.

It is recommended that the South Sydney Regional Panel, support the planning proposal proceeding to finalisation and request that the Department final instrument include:

1. Adopt a site-specific incentive provision that encourages the delivery of affordable housing on site, if it can be demonstrated that the planning controls are financially viable
2. The site-specific provision for the preparation of a site specific DCP ensures no development applications are approved for the site prior to DCP defining the necessary issues to be addressed by future development.