



Planning,  
Industry &  
Environment

IRD20/63706

## Alteration of Gateway determination report – PP\_2016\_CBANK\_001\_01

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Increase building heights and floor space ratio controls  
at 30 - 46 Auburn Road, Regents Park

December 20



Published by NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Attachment A – Gateway determination
Attachment B – Gateway alteration
Attachment C – Independent Planning Commission’s Gateway Review advice
Attachment D – Department’s urban design review – July 2020
Attachment E – Department’s urban design review – November 2020

# 1 Planning Proposal

**Table 2 Planning proposal details**

<b>LGA</b>	City of Canterbury Bankstown
<b>PPA</b>	City of Canterbury Bankstown
<b>NAME</b>	Increase building heights and floor space ratio controls at 30-46 Auburn Road, Regents Park
<b>NUMBER</b>	PP_2020_CBANK_002_00 (supersedes PP_2016_CBANK_001_01)
<b>LEP TO BE AMENDED</b>	Bankstown Local Environmental Plan 2015
<b>ADDRESS</b>	30 - 46 Auburn Road, Regents Park
<b>DESCRIPTION</b>	Lot 1 DP 656032 and Lot 2 DP 433938
<b>RECEIVED</b>	27/07/2016
<b>FILE NO.</b>	IRD20/63706
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.1 Introduction

This alteration of Gateway determination report for 30-46 Auburn Road Regents Park responds to the Gateway Determination Review completed by the Independent Planning Commission (IPC) on 18 December 2020 and provides a revised timeline with milestones for completing the planning proposal.

The planning proposal seeks to increase the prescribed maximum building heights and floor space ratio controls under the Bankstown Local Environmental Plan 2015 to facilitate development of approximately 600 residential dwellings on land at 30-46 Auburn Road Regents Park.

The site is zoned R4 High Density Residential, despite current being used for light industrial purposes. The site is located 500m from Regent Park train station and 600m from Regents Park small village centre. The site adjoins commuter and freight railway lines, industrial development and the surrounding area is generally characterised by low-density residential development.

The planning proposal has a lengthy history. Both strategic and site-specific merit for increased building height and floor space ratio controls has been agreed by Canterbury Bankstown Council, the Sydney West Joint Regional Planning Panel (JRPP), Independent Hearing and Assessment Panel (IHAP), Independent Planning Commission (IPC) and the Department.

The Gateway determination (as altered) already provides for significant uplift on the site, increasing the floor space ratio from 0.6:1 to 2:1 and building height from 13 metres (3 storeys) to 19 metres, 25 metres and 38 metres (6, 8 and 12 storeys).

It is the scale of development, expressed through allowable heights and floor space ratio that has been contended between the proponent, the Department and the Planning Proposal Authority (Canterbury Bankstown Council). The proponent requested a Gateway Review in April 2020, seeking increased FSR of 2.4:1 and increased building heights of 23 metres (6 storeys), 29 metres (8 storeys) and 47 metres (12 storeys). They subsequently amended their request in August 2020 to 25 metres (6 storeys), 31 metres (8 storeys) and 41 metres (12 storeys).

This alteration of Gateway determination supports an increase to the building heights in metres to facilitate the approved number of storeys. It is recommended that the existing FSR of 2:1 be maintained. This is consistent with the Independent Planning Commission's Gateway Review advice, dated 18 December 2020.

The Department acknowledges the significant amount of work remaining to finalise this planning proposal, including post-gateway studies (flood and contamination studies) and public exhibition. It is recommended that this alteration of Gateway determination include a revised timeline with milestones for completing the LEP. This will provide more certainty about the final planning controls for the site, the remaining timeframes and ensure a clear pathway to finalisation for this planning proposal in 2021.

## 1.2 Proposal history

The planning proposal for 30-46 Auburn Road Regents Park has a lengthy history due to extensive consideration in determining the appropriate development controls for the site. A summary is outlined in Table 3 below.

**Table 3 Planning proposal history**

Date	Activity
<b>2015</b>	The proponent submitted a planning proposal request to Bankstown Council, seeking a FSR of 4:1 and building heights of 17m to 64m (5 to 20 storeys).
<b>August 2015</b>	Bankstown Council's urban design consultant, Architectus, recommended a maximum FSR of 1.75:1 with heights of up to 27 metres (8 storeys).
<b>March 2016</b>	Given the disagreement in controls, the proponent requested an independent Pre-Gateway Review. Through this review process, the Sydney West Joint Regional Planning Panel (JRPP) recommended the proposal should proceed with a maximum FSR of 1.75:1.
<b>July 2016</b>	Based on the outcomes of the Pre-Gateway Review, the new City of Canterbury-Bankstown Council (Council) resolved to lodge a planning proposal with a maximum FSR of 1.75:1 and maximum height of 6 storeys for Auburn Road and 8 storeys for the remainder of the site.

Date	Activity
<p><b>September 2016</b></p>	<p>The Department issued a Gateway determination on 23 September 2016 for the planning proposal with conditions (<b>Attachment A</b>).</p> <p>Acknowledging the merit for uplift at the site along with the continued disagreement regarding FSR, the Gateway determination supported the proposal to proceed but required further analysis to be undertaken to confirm the appropriate density control. Specifically, the condition required the planning proposal be amended to reflect the outcome of an FSR review (either 1.75:1 or 2.25:1, or an alternative FSR).</p> <p>Other conditions of the Gateway determination required:</p> <ul style="list-style-type: none"> <li>• removing the requirement for a public benefit offer to justify the maximum floor space ratio</li> <li>• undertaking contamination and flooding investigations</li> <li>• resubmission of the amended planning proposal and additional information to the Department for endorsement before community consultation</li> <li>• consultation with relevant Government agencies prior to community consultation</li> <li>• community consultation</li> <li>• an 18-month timeframe for making the LEP.</li> </ul>
<p><b>December 2016 - May 2017</b></p>	<p>Architectus undertook an urban design review, on behalf of Council, and recommend a FSR of 1.75:1 and building heights of 19m to 25m (6-8 storeys).</p> <p>Concerns continued to be raised by the proponent, who sought an alternative development outcome at the site.</p> <p>Given this, Council engaged Olsson Architects to also conduct a review of the site and previous structure plans provided by Architectus and the proponent. This review concluded a maximum FSR of 1.75:1 and heights up to 6-8 storeys should be supported, consistent with the Architectus review.</p> <p>The proponent disagreed with the findings and requested Council consider an alternative FSR to a maximum of 4:1.</p>
<p><b>July 2017</b></p>	<p>The Independent Hearing and Assessment Panel (IHAP) undertook a further review and recommended a maximum FSR of 1.75:1 for the site.</p> <p>The Panel did note that there may be potential for further additional FSR up to 2.25:1, where the following may be satisfied:</p> <ol style="list-style-type: none"> <li>(a) provision of a masterplan/DCP for guiding layout, envelopes, heights, access arrangements;</li> <li>(b) indicative strata or community title details;</li> <li>(c) opportunities for Affordable Housing provision; and</li> <li>(d) delivery of public benefit through both infrastructure charges and/or works.</li> </ol>
<p><b>February 2018</b></p>	<p>While Council resolved to proceed with a maximum FSR of 1.75:1, the proponent formally sought a revised Gateway determination seeking a maximum FSR of 2.25:1.</p>

Date	Activity							
	<p>In seeking this review, the proponent advised the Department that in response to the additional matters listed by the IHAP to support a maximum FSR of 2.25:1:</p> <ul style="list-style-type: none"> <li>(a) a DCP can be made a requirement, but noted a concept approval with a maximum FSR of 0.6:1 and height of two and three storeys has previously been approved over this site;</li> <li>(b) plans demonstrating future private and publicly accessible communal land have been provided to Council;</li> <li>(c) affordable housing provision of up to 5% (five units) will be provided; and</li> <li>(d) discussions had commenced with Council regarding infrastructure and public domain improvements including: <ul style="list-style-type: none"> <li>• ensuring publicly accessible ‘Central Green’ open space at the site</li> <li>• upgrades to Magney Reserve, which sits to the east of the site, as well as pedestrian and cycle links from the site to the Regents Park village and train station.</li> </ul> </li> </ul>							
<p><b>May 2018 – January 2019</b></p>	<p>The Department engaged McGregor Coxall to undertake an independent Urban Design Review of the site and previous structure plans to identify appropriate maximum controls.</p> <p>McGregor Coxall prepared an indicative scheme with 6 buildings with maximum heights of 12 storeys at the site’s north west corner, 6 storeys fronting Auburn Road and 8 storeys for the remainder of the site.</p> <p>Based on a 75% efficiency rate for setting the maximum FSR, and based on its own intended maximum building heights, McGregor Coxall recommended the following development standards to support the delivery of its scheme.</p> <table border="1" data-bbox="699 1211 991 1682" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">FSR</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><b>McGregor Coxall</b></td> </tr> <tr> <td style="text-align: center;">2:1</td> </tr> <tr> <td style="text-align: center;"><b>McGregor Coxall</b></td> </tr> <tr> <td style="text-align: center;">6 storeys – 23m</td> </tr> <tr> <td style="text-align: center;">8 storeys – 29m</td> </tr> <tr> <td style="text-align: center;">12 storeys – 47m</td> </tr> </tbody> </table>	FSR	<b>McGregor Coxall</b>	2:1	<b>McGregor Coxall</b>	6 storeys – 23m	8 storeys – 29m	12 storeys – 47m
FSR								
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8 storeys – 29m								
12 storeys – 47m								
<p><b>March 2019</b></p>	<p>The proponent and Council were provided opportunity to review and respond to the McGregor Coxall review.</p> <ul style="list-style-type: none"> <li>• Architectus on behalf of Council maintained that a maximum FSR of 1.75:1 with a maximum height of 6 to 8 storeys is appropriate.</li> <li>• Council generally supported the McGregor Coxall scheme, though did not agree to heights above 8 storeys.</li> </ul>							



Date	Activity
	<ul style="list-style-type: none"> <li>• The proponent generally agreed with the McGregor Coxall scheme and, in the opinion of the proponent, refined this further under its own scheme through a floor-by-floor / unit-by-unit analysis and assessment against the ADG. This alternative scheme did include additional height (7, 9 and 13 storeys).</li> <li>• Through this analysis the proponent questioned the efficiency rates and calculations applied by McGregor Coxall for determining its recommended maximum FSR. The proponent indicated an increased maximum FSR should be supported to achieve the scheme and in-turn promote dwelling yield, diversity and ensure the proposed communal / accessible open space on the site can be delivered.</li> <li>• As a minimum, in their response dated 26 March 2019, the proponent indicated the FSR should be 2.6:1. However, the response recommended the Department consider an FSR of 3.45:1 and heights up to 18 storeys, to yield 841 dwellings and allow for the provision of public benefits, including open space, to Council.</li> </ul>
<b>April 2019</b>	<p>The Department was not supportive of additional height, however, facilitated a discussion between the proponent and McGregor Coxall regarding the recommended maximum 2:1 FSR and requested McGregor Coxall to further test the proponent's model in order to address their concerns.</p> <p>McGregor Coxall was requested to review the building efficiency rates used to determine the GFA and subsequent FSR, noting that the proponent sought an efficiency rate of 80+% of gross building area (GBA) to determine the GFA.</p>
<b>October 2019</b>	<p>McGregor Coxall provided an addendum letter to its Urban Design Report supporting a maximum FSR of 2.4:1.</p> <p>This increased FSR was supported by McGregor Coxall after it consulted other architectural practices who in some cases considered greater efficiency rates than those specified under the Apartment Design Code.</p> <p>It is noted that in reaching this FSR, McGregor Coxall based their calculations on a model provided by the proponent, which included an additional storey to all buildings (7, 9 and 13 storeys).</p>
<b>January 2020</b>	<p>Considering the ongoing contentions regarding alternative / incorrect calculations and efficiency rates being applied across the various schemes, the Department's Urban Design Team undertook a peer review of the scheme and calculations by McGregor Coxall.</p> <p>Utilising correct land survey data provided by the proponent, the Urban Design Team tested:</p> <ul style="list-style-type: none"> <li>• the McGregor Coxall January 2019 scheme (i.e. 6, 8 and 12 storeys)</li> <li>• the proponent's proposed scheme (ie.7, 8 and 9 storeys)</li> <li>• the proponent's proposed scheme but utilising the heights supported under the McGregor Coxall scheme (i.e. 6, 8 and 12 storeys)</li> </ul> <p>While minor variations to McGregor Coxall's calculations were identified, the Urban Design Team determined that when applying a 75% efficiency to the GBA under McGregor Coxall's original scheme and the proponent's scheme</p>

Date	Activity																								
	<p>when utilising the heights supported under McGregor Coxall, the FSR was 2:1 (or less).</p> <p>Further to this, the Urban Design Team indicated that this FSR would enable a proposal of reduced bulk and scale and provide better design flexibility to achieve ADG criteria and better urban design outcomes.</p> <p>In relation to height, the Bankstown LEP 2015 measures these in metres and the McGregor Coxall scheme was, for the most part, considered in storeys through the Department's review.</p> <p>The Department concluded that maximum building heights should be specified under the Gateway determination utilising standards under the LEP. These heights facilitated the McGregor Coxall scheme and ensured the number of storeys permitted at the site did not increase (i.e. above 6, 8 and 12 storeys).</p> <p><b>Comparison of Floor Space Across the Various Schemes</b></p> <table border="1" data-bbox="392 786 1430 1397"> <thead> <tr> <th data-bbox="392 786 667 958"></th> <th data-bbox="673 786 906 958">McGregor Coxall</th> <th data-bbox="912 786 1161 958">Proponent Scheme</th> <th data-bbox="1168 786 1430 958">Proponent Scheme with McGregor Coxall Heights</th> </tr> </thead> <tbody> <tr> <td data-bbox="392 967 667 1057"><b>Gross Building Area (m<sup>2</sup>)</b></td> <td data-bbox="673 967 906 1057">56,182</td> <td data-bbox="912 967 1161 1057">64,061</td> <td data-bbox="1168 967 1430 1057">54,594</td> </tr> <tr> <td data-bbox="392 1066 667 1155"><b>Gross Floor Area (m<sup>2</sup>)</b></td> <td data-bbox="673 1066 906 1155">42,136</td> <td data-bbox="912 1066 1161 1155">48,046</td> <td data-bbox="1168 1066 1430 1155">40,946</td> </tr> <tr> <td data-bbox="392 1164 667 1227"><b>Site Area (m<sup>2</sup>)</b></td> <td data-bbox="673 1164 906 1227">21,170</td> <td data-bbox="912 1164 1161 1227">21,170</td> <td data-bbox="1168 1164 1430 1227">21,170</td> </tr> <tr> <td data-bbox="392 1236 667 1299"><b>Floor space ratio</b></td> <td data-bbox="673 1236 906 1299">1.99:1</td> <td data-bbox="912 1236 1161 1299">2.27:1</td> <td data-bbox="1168 1236 1430 1299">1.93:1</td> </tr> <tr> <td data-bbox="392 1308 667 1397"><b>Central Green Area (m<sup>2</sup>)</b></td> <td data-bbox="673 1308 906 1397">3,676</td> <td data-bbox="912 1308 1161 1397">3,363</td> <td data-bbox="1168 1308 1430 1397">3,363</td> </tr> </tbody> </table>		McGregor Coxall	Proponent Scheme	Proponent Scheme with McGregor Coxall Heights	<b>Gross Building Area (m<sup>2</sup>)</b>	56,182	64,061	54,594	<b>Gross Floor Area (m<sup>2</sup>)</b>	42,136	48,046	40,946	<b>Site Area (m<sup>2</sup>)</b>	21,170	21,170	21,170	<b>Floor space ratio</b>	1.99:1	2.27:1	1.93:1	<b>Central Green Area (m<sup>2</sup>)</b>	3,676	3,363	3,363
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<b>Central Green Area (m<sup>2</sup>)</b>	3,676	3,363	3,363																						
<b>February 2020</b>	<p>An Alteration to the Gateway determination (<b>Attachment B</b>) was issued on 26 February 2020, for:</p> <ul style="list-style-type: none"> <li>• a maximum FSR of 2:1 across the site</li> <li>• maximum building heights of <ul style="list-style-type: none"> <li>○ 19 metres along the site's Auburn Road frontage,</li> <li>○ 38 metres in the site's north-west and</li> <li>○ 25 metres across the remainder of the site.</li> </ul> </li> </ul>																								
<b>17 April 2020</b>	<p>The proponent requested a review of the altered Gateway determination by the Independent Planning Commission (IPC), seeking to increase the floor space ratio to 2.4:1 and building heights to 23 metres (6 storeys), 29 metres (8 storeys) and 47 metres (12 storeys).</p>																								
<b>27 August 2020</b>	<p>The proponent submitted an additional peer review which proposed further alternative heights of 25 metres (6 storeys), 31 metres (8 storeys) and 41 metres (12 storeys), and justified their proposed floor space ratio.</p>																								

Date	Activity
<b>23 September 2020</b>	<p>The proponent submitted further information including a supplementary review, refined architectural plans, a solar access assessment and a ventilation assessment.</p> <p>The amended architectural plans presented another configuration on the site with a FSR of 2.4:1 and responded to amenity issues, raised by Architectus (on behalf of Council).</p> <p>The proponent asserted that a development contained within the proposed building envelopes can meet the Apartment Design Guide (ADG) Objectives and Design Criteria with respect to solar access and cross ventilation.</p> <p>The solar access assessment was conducted on a whole of site basis as opposed to a building by building basis as described in the ADG.</p>
<b>November 2020</b>	<p>The Department's Urban Design Team reviewed the proponent's Studio MRA scheme. The review considered whether the proponent's scheme, with some adjustments, can accommodate ADG standards for good amenity.</p> <p>The review determined that in its current form the proposed scheme (FSR 2.4:1) fails to comply with the solar and daylight access requirements (Section 4A) of the ADG, both at a precinct and building scale:</p> <ul style="list-style-type: none"> <li>• three of the six buildings fail to meet the ADG requirement for the maximum number of dwellings that receive no direct sunlight in mid-winter</li> <li>• two of the six buildings also fail to meet the ADG requirement for the minimum number of dwellings that receive at least 2 hours of direct sunlight in mid-winter.</li> </ul> <p>The Department notes that the ADG design criteria for amenity are typically applied to each building, as opposed to a precinct-based approach.</p> <p>The Department considers that the poor amenity results from:</p> <ul style="list-style-type: none"> <li>• the large proportion of south-facing units which are unable to receive direct sunlight</li> <li>• the layout of the development which results in internal overshadowing between the buildings</li> <li>• the cumulative impacts of bulk and height of the buildings resulting from the proposed FSR (2.4:1).</li> </ul> <p>The Department's Urban Design team considered adjustments to the scheme that might improve solar access such as fewer south facing dwellings and reorientating units. However, changes in building footprints were found to result in adverse impacts on the consolidated green open space, street frontage heights and building separation.</p> <p>The highest FSR that was possible while maintaining ADG standards for solar access and the 'Central Green' was 2.1:1, but this FSR results in encroachment upon setbacks proposed by Council for inclusion in a future site-specific DCP.</p> <p>The Department's Urban Design Team further tested the proponent's scheme against the setbacks proposed by Council.</p> <p>The proponent's scheme encroaches into the setbacks proposed by Council for</p>

Date	Activity
	<p>inclusion in a future site-specific DCP (<b>Figure 9</b>).</p> <p>The Department's Urban Design team considered the impacts of responding to Council's recommended setbacks, together with adequate solar access and retention of green open space, and found that these parameters delivered an FSR of 1.9:1</p>
<p><b>December 2020</b></p>	<p>The Independent Planning Commission (IPC) undertook a Gateway Review (<b>Attachment C</b>). The IPC considered that the overriding objective for the site should be to ensure high levels of amenity are afforded to future residents and that appropriate controls are applied to achieve such outcomes.</p> <p>The IPC recommended:</p> <ul style="list-style-type: none"> <li>• maintaining the approved floor space ratio of 2:1</li> <li>• maintaining the number of storeys, but increasing the building heights in metres to align with the Apartment Design Guide standards to 23 metres (6 storeys), 29 metres (8 storeys) and 41 metres (12 storeys)</li> </ul> <p>The recommended planning controls are consistent the Department's recommendations to the IPC outlined in the Gateway Review Justification Assessment Report.</p> <p>The IPC advice also recommended that further consideration be given to requiring a public benefit offering commensurate with the scale of uplift.</p>

## 1.3 Alteration of Gateway

### 1.3.1 Objectives or intended outcomes

The planning proposal seeks to amend the Bankstown LEP 2015 to increase building heights and floor space ratio for land at 30-46 Auburn Road Regents Park to:

- Enable increased residential development within a reasonable walking distance of Regents Park railway station.
- Deliver certain public improvement works.

It is noted that the IPC considered that the overriding objective for this site should be to ensure high levels of amenity are afforded to future residents and that appropriate controls are applied to achieve such outcomes.

### 1.3.2 Explanation of provisions

Utilising the work undertaken and further testing by the Department's Urban Design team, and taking into consideration the Gateway Review advice of the IPC, it is recommended that:

- Building heights in metres be increased to align with Apartment Design Guide standards to 23 metres (6 storeys), 29 metres (eight storeys) and 41 metres (12 storeys).
- FSR of 2:1 be maintained.
- A site-specific development control plan (DCP) be prepared to provide more detailed guidance and controls for future development on the site. The DCP is to address future built form and spatial relationships to the adjoining industrial site and railway lines as well as open space, tree canopy and site circulation and access.

The above recommendations are consistent with the recent Independent Planning Commission's Gateway Review advice. A comparison of the recommended controls is outlined in Table 4 below.

**Table 4 Current and proposed controls**

Control	Current planning controls	Council's planning proposal Jul 2016	Previous Gateway determination Sept 2016	Previous Gateway alteration Feb 2020	IPC Gateway Review advice Dec 2020	Alteration of Gateway determination Dec 2020
Zone	R4 High Density Residential	R4 High Density Residential	R4 High Density Residential	R4 High Density Residential	R4 High Density Residential	R4 High Density Residential
Maximum height of the building	13m (3 storeys)	19m & 25m (6 & 8 storeys)	19m & 25m (6 & 8 storeys)	19m, 25m & 38m  (6, 8 & 12 storeys)	23m, 29m & 41m  (6, 8 & 12 storeys)	23m, 29m & 41m  (6, 8 & 12 storeys)
Floor space ratio	0.6:1	1.75:1 (subject to public benefits, or 1.5:1 will apply to the site)	1.75:1 or 2.25 or alternative	2:1	2:1	2:1

It is recommended that the planning proposal to be updated in accordance with the above.

## 1.4 Site description and surrounding area

The site has an area of 21,170m<sup>2</sup> and is located within 500 metres walk to the Regents Park train station which is serviced by the T3 Lidcombe (via Bankstown) and T3 Liverpool (via Strathfield) train lines. The site fronts Auburn Road to the east (approximately 168m), industrial land to the north, freight and commuter rail lines to the south and west (**Figure 1**).

Magney Reserve is located opposite the site, on the eastern side of Auburn Road. The surrounded context includes industrial / employment land to the north and north west, and low-density residential land to the south, south west, east and north east.

The site is an isolated parcel of R4 High Density Residential zoned land. It is currently used as a construction training school and for light industrial purposes.

More broadly, the site sits approximately 3.5 kilometres south-east of the Bankstown CBD, 8km to Parramatta and 17km to Sydney CBD.

Regents Park is split between Canterbury Bankstown Council and Cumberland Council. The site sits within Canterbury Bankstown's local government area whilst Regents Park centre is located in Cumberland local government area.

Regents Park is identified as a small village centre in Canterbury Bankstown Local Strategic Planning Statement, whilst it is identified as a local centre in Cumberland Local Strategic Planning Statement.

Regents Park commercial core is located approximately 600m from the site. It is zoned B2 Local Centre surrounded by R4 High Density Residential and R3 Medium Density Residential with building heights up to 20m (6 storeys) and floor space ratios (FSRs) up to 2:1. The majority of Regents Park is zoned R2 Low Density Residential with building heights of 9m and FSRs of 0.5:1 (**Figure 2**).

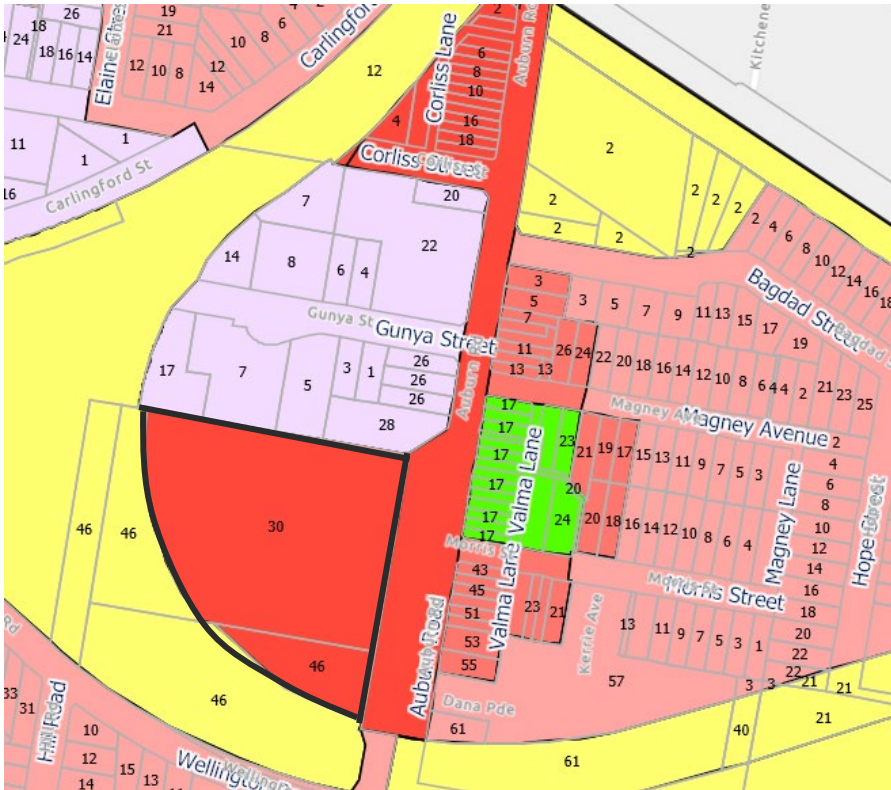
Within the immediate vicinity of the site, Canterbury Council proposes to rezone some land on the eastern side of Auburn Road (opposite the site) under the current Consolidated LEP planning proposal from R2 Low Density Residential to R3 Medium Density Residential and increase building heights to 10m (3 storeys) and FSR to 0.75:1 (**Figure 3**).



**Figure 1 Subject site (source: McGregor Coxall Urban Design Report, January 2019)**



**Figure 2 Current zoning map (no changes proposed)**



**Figure 3 Proposed zoning map under Consolidated LEP planning proposal showing Council's intent to amend planning controls on land opposite the site**

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Height of Building and Floor Space Ratio maps. Condition 1 requires that the planning proposal be updated prior to public exhibition to reflect changes to the proposed development standards specified in this alteration of Gateway determination.



Figure 4 Current height of building map



Figure 5 Proposed height of building map (requires updating)





**Figure 6 Current floor space ratio map**



**Figure 7 Proposed floor space ratio map (requires updating)**

## 2 Need for the planning proposal

The planning proposal (July 2016) states that it was the result of the Joint Regional Planning Panel's March 2016 pre-gateway review and recommendation for the development of the site. The Panel acknowledged the site's inclusion in the exhibited North Central Local Area Plan, the outcomes of detailed urban design and traffic analysis and the need for improvement works to establish links to Regents Park village.

The amended Gateway determination (February 2020) was the result of additional studies and ongoing discussions with Council and the proponent.

This alteration of Gateway determination responds to the Independent Planning Commission's Gateway review advice (December 2020). The alteration of Gateway determination is the best

means for achieving the intended outcome because it will provide further certainty of the development potential of the site and outline a clear pathway to finalisation that the Department will monitor closely.

The planning proposal is the appropriate means to increase the building height and floor space ratio controls on the site. This will facilitate high density residential development on the site.

Although the proposal does not specifically state that it has strategic or site-specific merit, it will:

- Provide for new housing (approximately 600 units) in Regents Park close to existing public transport, open space and infrastructure.
- Provide for new housing and public benefits (to be resolved with Council) that strengthen Regents Park centre (local centre within Cumberland LGA and small village centre within Canterbury Bankstown LGA).
- Contribute towards new housing close to centres and public transport, inline with Canterbury Bankstown's Local Strategic Planning Statement and Local Housing Strategy.
- Provide for development outcomes on this large opportunity site that result from extensive urban design reviews, including a Gateway Review by the Independent Planning Commission.
- Enable future development that achieves good amenity and is compatible with the surrounding context.

## 3 Strategic assessment

### 3.1 District Plan

The site is within the South District and the Greater Sydney Commission released the South District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

Council's planning proposal does not address the South District Plan and the previous Gateway alteration included condition 1(e) requiring the planning proposal to be updated to address consistency with the South District Plan prior to exhibition. It is recommended that this condition be retained.

The Department provided an assessment of the planning proposal against the South District Plan in undertaking the Gateway alteration in February 2020. The assessment concluded that the proposal is consistent with the plan.

An assessment of the planning proposal against consistency with the District Plan is provided below.

- The proposal is consistent with planning priority S4 as it will foster a healthy, creative, culturally rich and socially connected community with a connection to Regents Park small village centre.
- The proposal is consistent with planning priority S5 as it contributes to housing diversity close to transport.
- The proposal is consistent with planning priority S6 as it will create a new precinct with connections to Regents Park small village centre.

The planning proposal will give effect to the District Plan by increasing housing supply and choice close to Regents Park centre and train station.

## 3.2 Local

### 3.2.1 Canterbury Bankstown Local Strategic Planning Statement

Canterbury Bankstown Council's Local Strategic Planning Statement (LSPS) came into effect in March 2020, following an assurance process with the Greater Sydney Commission.

Council's planning proposal does not address the LSPS. The previous Gateway alteration included condition 1(e) requiring the planning proposal to be updated prior to exhibition to address the LSPS. It is recommended that this condition be retained in the new Gateway determination.

An assessment against consistency with the Canterbury Bankstown LSPS is provided below.

- The site is located approximately 500m from Regents Park train station and 600m from Regents Park small village centre
- The site is unique as it is a large site located in the R4 High Density Residential zone
- The LSPS does not set parameters for height or density based on centre hierarchies but supports housing in high amenity locations near open space or public transport
- The LSPS sets a housing target of 50,000 new dwellings to 2036, with 80% located within walking distance of mass transit / train stations.
- The LSPS includes an action to implement current land use strategies into Council's new planning framework. This includes the North Central Local Area Plan which guides growth in Regents Park

The planning proposal will give effect to the LSPS by strengthening the function of Regents Park small village centre by enabling future redevelopment of land within a reasonable walking distance of the train station.

### 3.2.2 Cumberland Local Strategic Planning Statement

Whilst the site is located within Canterbury Bankstown LGA, the Regents Park commercial centre is located within Cumberland LGA.

Cumberland Council's Local Strategic Planning Statement (LSPS) also came into effect in March 2020, following an assurance process with the Greater Sydney Commission.

An assessment against consistency with the Cumberland LSPS is provided below.

- Regents Park is identified as a 'local centre' and meets the criteria for 30 minute access to a strategic centre with access to public transport services. It is supported by retail and other local services.
- Expansion / redevelopment of Regents Park Library and Community Centre is identified as a long term (11+ year) project.
- Duck river corridor runs north-south connecting Parramatta to Regents Park through to Bankstown. The corridor is identified as a Green Grid priority with opportunity for continuous walking and cycling links.

Whilst population growth for Regents Park is identified as around 425 people, the site itself sits within Canterbury Bankstown LGA.

The planning proposal will give effect to the LSPS by stimulating activity in Regents Park centre.

### 3.2.3 Housing Strategy

Canterbury Bankstown Council's Housing Strategy was endorsed by Council in June 2020.

Council's planning proposal does not address the Housing Strategy. It is recommended that the new Gateway determination include a condition to ensure consistency with Council's Housing Strategy.

An assessment against consistency with the Housing Strategy is provided below.

- Regents Park is identified as a 'small village centre'. Small village centres are described as being surrounded by low density housing (R2 Low Density Residential) and small scale infill development.
- The Housing Strategy does not set parameters for height or density, but indicates that new housing in small village centres could include low rise medium density dwellings such as terraces and that housing should add to diversity of choice in a built form that is compatible with local character.
- The Housing Strategy sets a housing target of 50,000 new dwellings to 2036, of which, 2,600 are to be located in small village centres. There are 11 small village centres in the LGA. Specific targets for each small village centre have not been specified.
- The Housing Strategy supports 80% of housing growth across the LGA to be located within walking distance of centres and places of high amenity.

The planning proposal is broadly consistent with the Housing Strategy given it will deliver new housing within walking distance of Regents Park centre. Whilst the proposed built form is inconsistent with the typology for small village centres described in the Housing Strategy, it reflects the existing R4 High Density Residential zoning and will contribute to housing diversity with good access to mass transit. The site-specific planning controls for this large site respond to the site attributes and surrounding context. The controls are the result of extensive urban design reviews and a Gateway Review by the Independent Planning Commission.

### 3.2.4 Affordable Housing Strategy

Canterbury Bankstown Council's Affordable Housing Strategy was endorsed by Council in June 2020.

Council's planning proposal does not address the Affordable Housing Strategy. It is recommended that the new Gateway determination include a condition to ensure consistency with Council's Affordable Housing Strategy.

An assessment against consistency with the Affordable Housing Strategy is provided below.

- The Affordable Housing Strategy seeks to increase the supply of affordable housing and located it near established centres to provide access to transport, jobs and services.
- The Affordable Housing Strategy commits to amending Council's Planning Agreement Policy to include a 5% affordable housing contribution for proposals resulting in uplift of more than 1,000sqm residential floorspace, unless otherwise agreed by Council.

The proposal will result in over 40,000sqm GFA for residential uses. Consistency with the Affordable Housing Strategy is a matter to be addressed in the updated planning proposal.

### 3.2.5 North Central Local Area Plan

Council's North Central Local Area Plan was released in September 2016, after the original Gateway determination.

The LSPS includes an action to integrate current land use strategies into Council's new planning framework.

Council's planning proposal is inconsistent with the recommended FSR (1.75:1) and building heights (6 and 8 storeys) specified for the site in the Local Area Plan.

Notwithstanding this, the Department provided an assessment against the North Central Local Area Plan in the Gateway alteration assessment report (February 2020). The assessment concluded that the proposed development scheme prepared by McGreggor Coxall (January 2019)

is compatible with the Regents Park Urban Neighbourhood Precinct – Structure Plan in the Local Area Plan. The scheme provided for an FSR of 2:1 and building heights of 6, 8 and 12 storeys.

The proposed amendments to the planning controls under this alteration of Gateway determination remain compatible with the structure plan for the following reasons:

- The proposal contributes to housing growth in the Regents Park Urban Neighbourhood Precinct. The growth will support Regents Park small village centre.
- The proposal provides opportunity to enhance connections to the surrounding areas and Auburn Road which is identified as the primary spine connecting to Regents Park small village centre.
- The proposal provides opportunity to enhance tree canopy coverage and realise the vision for Magney Reserve as a focal point for the community.
- The site attributes provide for the site to accommodate higher density development that the existing residential areas to the east of the site.

The Local Area Plan identifies a number of design considerations (e.g. site setbacks) which informed the urban design reviews and proposed development standards. The Local Area Plan also identified public benefits required to ensure the site is connected to and positively contributes to enhancing the areas around the site. These matters have previously been identified by Council's and subsequent reviews, including the review by the Independent Planning Commission. It is therefore recommended new conditions be added requiring preparation of a site-specific development control plan to ensure that the future development of the site is adequately serviced, connected and provides good levels of amenity to residents.

### 3.3 Local planning panel (LPP) recommendation

The planning proposal was not referred to the local planning panel because the planning proposal was prepared prior to 1 June 2018 and therefore it was not required to be reported to the Local Planning Panel.

### 3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with Section 9.1 Ministerial Directions has been previously assessed through the original Gateway assessment report (September 2016). An updated assessment is provided below:

#### 2.6 Remediation of Contaminated Land

This Direction aims to reduce risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

This Direction was introduced in April 2020, following the original Gateway determination which required that a contamination study be carried out in accordance with the contaminated land planning guidelines to meet requirements under SEPP 55 – Remediation of Land under condition 1(c).

Given the change in the policy framework, it is recommended that this condition be amended to address consistency with this 9.1 Ministerial Direction (rather than SEPP 55).

The Gateway determination requires consultation with the Environmental Protection Authority. It is recommended that this condition be retained.

### 3.1 Residential Zones

This Direction aims to encourage a variety and choice of housing types, make efficient use of existing infrastructure and appropriate access to infrastructure to minimise impacts on the environment.

The proposal is consistent with this Direction as it will broaden housing choice in an area that is accessible to existing infrastructure and services.

Clause 5 of the Direction requires a planning proposal to contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

The previous Gateway assessment concluded that the Joint Regional Planning Panel and the North Central Local Area Panel identify the need to public improvement works to better link the site to Regents Park centre. This work includes embellishment of Magney Reserve, footpaths on Auburn Road, pedestrian crossing, traffic calming, street tree planting and a north-south cycle link on Auburn Road.

It is recommended that a site specific DCP and be prepared to ensure that any future development will be adequately serviced and compatible with the surrounding residential area.

### 3.4 Integrating Land Use and Transport

This Direction seeks to ensure development is appropriately located to improve access and transport choice and reduce car dependency.

The site is located within close proximity to existing public transport services. The site is located approximately 500m from Regents Park train station and 600m from Regents Park centre (located in Cumberland LGA). Magney Reserve is the nearest open space, located opposite the site.

The planning proposal is consistent with this Direction as it will allow for R4 High Density Residential zoned land to be redeveloped for residential development in close proximity to existing infrastructure, open space and local services, in the established suburb of Regents Park.

### 4.3 Flood Prone Land

This Direction applies to planning proposals for flood prone land. The planning proposal indicates the proposal is inconsistent with this Direction as it permits increased development on land within a flood planning area. Bankstown LEP 2015 does not define flood planning areas in the LGA but Council has indicated that the Duck River Floodplain Risk Management Plan applies.

The previous Gateway determination condition 1(d) required a flood study to address the requirements of this Direction. It is recommended that this condition be retained in the new Gateway determination.

It is further recommended that a new condition be added to require consultation with the NSW Department of Planning, Industry and Environment – Environment, Energy and Science Group (former Office of Environment and Heritage).

### 5.10 Implementation of Regional Plan

This Direction aims to give effect to regional plans. This Direction came into effect on 14 April 2016 and the Region Plan came into effect in March 2018.

The planning proposal is consistent with this Direction through increased housing supply and diversity in a location serviced by public transport and with access to open space, services and facilities.

## 3.5 State environmental planning policies (SEPPs)

The planning proposal's consistency with SEPPs has been previously assessed in the original Gateway assessment report (September 2016). The Gateway alteration (February 2020) included condition 1(f) requiring that the planning proposal be updated to address consistency with the relevant SEPPs given the alterations to the proposal's scope and given the time that has lapsed since the proposal was last assessed against relevant SEPPs. It is recommended that this condition be retained.

The consistency of the planning proposal with the relevant State Environmental Planning Policies (SEPPs) is outlined in the following.

### 3.5.1 State Environmental Planning Policy (Infrastructure 2007)

The site adjoins the Southern Freight Line. Consistency with the SEPP is a matter to be addressed in the updated planning proposal.

The Gateway determination requires consultation with Transport for NSW – Sydney Trains and Australia Rail Track Corporation. It is recommended that the Gateway determination be amended to change consultation with 'Roads and Maritime Services' to 'Transport for NSW (former Roads and Maritime Services)'.

### 3.5.2 State Environmental Planning Policy No. 55 – Remediation of Land

On 17 April 2020, the Minister approved the removal of clause 6 (contamination and remediation to be considered in zoning or rezoning proposal) of SEPP 55 and transferred the requirements to Ministerial Direction 2.6 which is addressed above.

### 3.5.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The Department is satisfied that future development on the site is capable of appropriately responding to SEPP 65. Extensive urban design reviews were completed as part of the previous Gateway determination, Gateway alteration and Gateway Review.

The Department considers that the Gateway determination should remain unchanged with respect to FSR, though there is scope to alter the maximum building height controls to reflect the Apartment Design Guide (ADG).

#### ***Floor Space Ratio – efficiency rates***

Floor Space Ratio (FSR) is the relationship of the total gross floor area (GFA) of a building relative to the total site area it is built on. The definition of GFA of a building under the Standard Instrument –Local Environmental Plan and Bankstown LEP 2015 is highlighted below.

**Gross Floor Area is:**

*the sum of the internal floor area of each floor of a building including —*

- *mezzanines*
- *habitable rooms in a basement or an attic*
- *shop, auditorium, cinema, in a basement or attic*

*but excluding —*

- *common vertical circulation, such as lifts and stairs*
- *basement storage, vehicle access, loading or garbage areas*
- *service rooms (i.e. plant, lift towers, mechanical or ducting)*
- *car parking*
- *loading or unloading areas*
- *terraces and balconies, and*
- *voids.*

The Apartment Design Guide (ADG) is the NSW Government's best practice guideline for informing land use planning decisions regarding apartment development. The Guide advocates for site specific building envelopes to be tested when considering potential development uplift / increased development standards.

The Guide indicates that in order to calculate FSR, the GFA of a residential building typically fills 70-75% of the intended / deemed suitable maximum building envelope for a site (pg. 32), while commercial development typically fills 80-85% of this intended envelope (pg. 33). This is because important building components that do not count as GFA but contribute to building design, use, articulation and circulation also need to be accommodated onsite but within a supportable building envelope.

The proponent challenged the 70-75% efficiency rates which have been applied through this planning proposal process and under the Gateway determination (as altered) to determine the maximum FSR of 2:1. The proponent sought to apply a building efficiency rate of 80% (or higher) in calculating the FSR.

The Department however considers the FSR standard should be applied based on the directions under the Government endorsed and industry standard, being the ADG. In making this decision, the Department sought advice from its Urban Design team as well as the Office of the Government Architect NSW (**Attachment D**).

The Independent Planning Commission (IPC) also found that there was insufficient justification to deviate from the ADG. The Commission recommends a building efficiency rate of 70-75% is used to calculate FSR.

**ADG amenity**

Since the previous Gateway alteration, the proponent submitted detailed design plans together with solar access and ventilation assessments to demonstrate the ability of the site accommodate an ADG compliant scheme at an FSR of 2.4:1.

ADG compliance is not the Department's primary concern as this is a matter for the development application. However, the Department reviewed the FSR and building heights with regard to amenity and found that the proponent's proposed FSR of 2.4:1 fails to comply with the minimum numerical requirements of the ADG relating to solar and daylight access (both at a precinct and building scale). Whilst solar access may be improved through fewer south facing units, it would result in other adverse outcomes, such as loss of the consolidated green space.

The Department considered whether it would be possible for the proposed scheme to comply with the ADG with some variations and determined that under the proponent's proposed heights and



FSR, the site is unlikely to achieve good amenity. The building envelopes in the proponent's scheme encroach into setback areas on all frontages and would limit opportunities to provide suitable amenity, landscaping and relationship to streetscape / adjoining development.

The Department also considered Council's recommended setbacks (outlined in their Local Area Plan), together with adequate solar access and retention of green space and estimated that the site could deliver an FSR of 1.9:1 using Council's setbacks.

The Department therefore considers that a density of up to 2:1 is appropriate in this location (**Attachment E**).

This recommended FSR facilitates suitable communal open space and an acceptable level of amenity consistent with the ADG. Further, a scheme similar to that proposed by McGregor Coxall could be accommodated, delivering the objectives of the masterplan, without a need to increase building footprints, reduce building separation, or compromise on both indoor and outdoor communal spaces.

Given the site constraints and detailed work undertaken in determining final development standards for this site, it is recommended that a site-specific development control plan (DCP) be prepared to ensure design outcomes on the site.

Site-specific DCPs are required to be consistent with the ADG under Clause 6A of the SEPP.

### **Building height**

The definition of 'building height' under the Standard Instrument – Local Environmental Plan and Bankstown LEP 2015 is provided below.

**Building Height is:**

*the vertical distance from ground level (existing) to the highest point of the building including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues, and the like.*

Building height, under the Bankstown LEP 2015 is measured in metres.

The ADG specifies that building heights should be set considering the desired number of storeys and comprising the following metrics:

- 0.4m per floor structure
- 3.3m ceiling height for ground floor residential / commercial
- 2.7m ceiling height for above ground residential
- 1m for rooftop articulation
- up to 2m for topographic changes
- consider flooding / fill requirements.

When applied to the original McGregor Coxall scheme, this equates to the following:

- 6 storeys / 22.2m
- 8 storeys / 28.4m
- 12 storeys / 40.8m

These figures can then be rounded to the closest building height unit currently applied through the Bankstown LEP 2015 building height table:

- 6 storeys / 23m
- 8 storeys / 29m
- 12 storeys / 41m

These heights result in a minor increase to heights in metres contained in the alteration of Gateway determination (February 2020).

The Department considers that amending the Gateway determination to align the maximum building heights with the ADG formula is reasonable to ensure the number of storeys identified under the McGregor Coxall scheme can be achieved.

The Department's recommendation aligns with the most recent request from the proponent for a 41m building height for the 12 storey building. However, the Department considers that supporting height in metres proposed by the proponent for the 6 and 8 storey buildings (25 and 31 metres, respectively), is inconsistent with the ADG and could allow for additional storeys being accommodated on the site above what has been supported through this planning proposal process.

The Department does not agree with the proponent's contentions that the increased height is needed to provide sufficient flexibility to accommodate the site topography and allow for the inclusion of roof top communal open spaces, avoid Clause 4.6 variation processes and meet the objectives of the proposal. The ADG formula for calculating height provides for topographical variations and roof top communal open space is a detailed design element that is not guaranteed to be provided as part of any future development.

The Department supports an amendment to the Gateway determination, to reflect maximum building heights calculated in accordance with the ADG, being 23 metres (6 storeys), 29 metres (8 storeys) and 41 metres (12 storeys).

The recommendations in this alteration of Gateway determination for building heights are consistent with the IPC Gateway Review advice (**Attachment C**).

## 4 Site-specific assessment

Site-specific merit for increased building height and floor space ratio controls to facilitate greater residential density has been previously assessed and supported.

The large site in the R4 High Density Residential zone provides opportunity for development to achieve good design outcomes.

However, the site is constrained by the adjoining freight and passenger rail line, the railway overpass and the adjoining industrial land to the north which has potential to compromise amenity, and furthermore, the area is generally characterised by low density residential development.

Whilst the site is only 500m from Regents Park train station and 600m from the small village centre, there are poor pedestrian and bicycle connections along Auburn Road.

The existing Gateway (as altered) already provides for significant uplift on the site compared to the current planning controls:

- Increased FSR from 0.6:1 to 2:1
- Increased building heights from the 13 metres (3 storeys) to 19 metres (6 storeys), 25 metres (8 storeys) and 38 metres (12 storeys).

The controls under the Gateway (as altered) provide for:

- 6 storey frontage to Auburn Road, with 8 storey buildings at the rear of the site and one 12 storey building in the north west corner of the site
- built forms that are capable of achieving solar access and natural ventilation
- suitable separation between buildings to allow for privacy and views
- setbacks that respond to Council's draft setback controls contained in the Local Area Plan
- provision of suitable central common space with amenity.

The proponent sought to increase the FSR to 2.4:1 in their request for a Gateway Review.

The Department maintains that the FSR of 2:1 would allow for a development of a bulk and scale that responds to its surroundings and provides an appropriate level of amenity for future residents. It is considered that an FSR of 2:1 within the accepted heights of 6, 8 and 12 storeys would allow for flexibility in the future design to provide suitable setbacks to the street, industrial uses and rail infrastructure.

The Department does not consider any additional storeys as being appropriate in this location based on the available evidence. The Department considers that as the site is located on the periphery of Regents Park small village centre, and is adjacent to low scale residential and industrial uses, any further increase to the number of storeys cannot be justified in the context.

Alteration to the height in metres as outlined under section 3.5.3 is considered appropriate and will not result in any increased density above what has already been assessed and approved. Therefore, this alteration of Gateway determination is not likely to have any additional social, environmental and economic impacts.

## 5 Consultation

Council proposes a community consultation period of 28 days. The exhibition period proposed is considered appropriate, and is included as a condition of the Gateway determination.

Council nominated the public agencies to be consulted about the planning proposal. The Gateway determination requires that the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW – Sydney Trains
- Roads and Maritime Services
- Environmental Protection Authority
- Australian Rail Track Corporation
- Ausgrid
- Telstra
- Sydney Water
- Cumberland Council

It is recommended that the condition be amended to include Transport for NSW (former Roads and Maritime Services) and NSW Department of Planning, Industry and Environment – Environment, Energy and Science Group (former Office of Environment and Heritage).

## 6 Timeframe

The NSW Government is committed to reforming the planning system to be more streamlined and simplified in order to help unlock productivity by creating jobs and supporting on-going economic recovery. The reforms include delivering improved processes for assessing and finalising planning proposals more efficiently. This is intended to provide greater clarity to local government, the community and more certainty to proponents, and investors.

Part of the reforms seek to reduce timeframes to rezone land down to generally one year and no more than two years from start to completion. This has been shown to be achievable in many cases where proposals are aligned to a strong strategic planning framework.

The initial part of this work includes helping to resolve and make final decisions on long standing or legacy planning proposals where these have had a Gateway determination for four or more years. This planning proposal has been identified as one of these long-standing planning proposals.

Delays to this planning proposal primarily relate to extensive negotiations regarding the suitability of the proposed development controls for the site.

The Department acknowledges that there remains a significant amount of work to finalise this planning proposal, including post-gateway studies (flood and contamination studies) and public exhibition. It is not possible to complete the planning proposal by 26 February 2021 (the date specified in the existing altered Gateway determination).

The Department wrote to Canterbury Bankstown Council on 23 October 2020 indicating intent to make decisions on long-standing or legacy proposals which have had Gateway determination for four or more years by 31 December 2020 in accordance with the NSW Government's reforms to the planning system.

At the time of the Department's letter, it was intended to issue a new Gateway determination for this planning proposal following completion of the IPC Gateway Review. This approach was supported by the proponent and no objection was raised by Council. The IPC also supported this approach.

However, under this approach there would be further delays due to resubmission requirements and reporting to Council. Following further consideration, the Department has determined that altering the existing Gateway determination is the best approach to provide certainty about the remaining timeframes for completing the LEP.

It is recommended that an extension of time to complete the local environmental plan be granted for 12 months from the date of the alteration of Gateway determination, with milestones for reporting to Council, exhibition and final recommendation within 10 months.

This will ensure that the Department can monitor progress and finalisation of the planning proposal without any further delays.

## 7 Local plan-making authority

Council is not authorised to be the local plan-making authority for this proposal under the existing Gateway determination.

## 8 Assessment Summary

This alteration of Gateway determination is supported to proceed with conditions for the following reasons:

- A Gateway alteration is the best means to allow for this long-standing planning proposal to be finalised in accordance with NSW Government planning reforms
- The provision of a revised timeline with milestones will ensure that the Department can monitor progress and finalisation of the planning proposal without any further delays
- Response to the IPC Gateway Review advice will clarify and confirm final planning controls for the site and enable the planning proposal authority to progress the planning proposal
- The increased building heights in metres is supported to facilitate the number of storeys envisioned for the site under the existing Gateway (as altered). The increase will not increase the density of the development and will not result in any additional impacts.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Directions 2.6 Remediation of Contaminated Land is unresolved and will require justification.

It is recommended the delegate of the Minister determine that an alteration of Gateway determination should proceed subject to the following conditions:

1. Delete condition 1(a) and replace with:

a new condition 1(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”

2. Delete condition 1(c) and replace with:

a new condition 1(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 the land can be suitable remediated for the land uses permissible under the R4 High Density Residential zone, and the method and feasibility of remediation”

3. Add condition 1(g) with:

a new condition 1(g) “update the planning proposal to address Council’s Housing Strategy and Affordable Housing Strategy”

4. Delete condition 2 and replace with:

a new condition 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:

- 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
- 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”

5. Delete condition 6 and replace with:

a new condition 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”

6. Add condition 7 with:

a new condition 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”



22/12/2020

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