

IRF19/5562

PP Number: PP_2015_BANKS_002_00

Local government area: Canterbury-Bankstown

Bankstown Local Environmental Plan 2015 (Amendment No 10)

The planning proposal applies to the following land (**Figure 1**):

Compass Centre site

- 83 North Terrace, Bankstown legally known as Lots 19-20 DP 5541;
- 85 North Terrace, Bankstown legally known as Lot 18B DP 412699;
 - 99 North Terrace, Bankstown legally known as Lots 15-17, 21-24 and 27 DP 5541, Lot 1 DP 207810, and Lot 1 DP 507818; and

Former Central Library site

- 62 The Mall, Bankstown legally known as Lot 9 DP 777510.

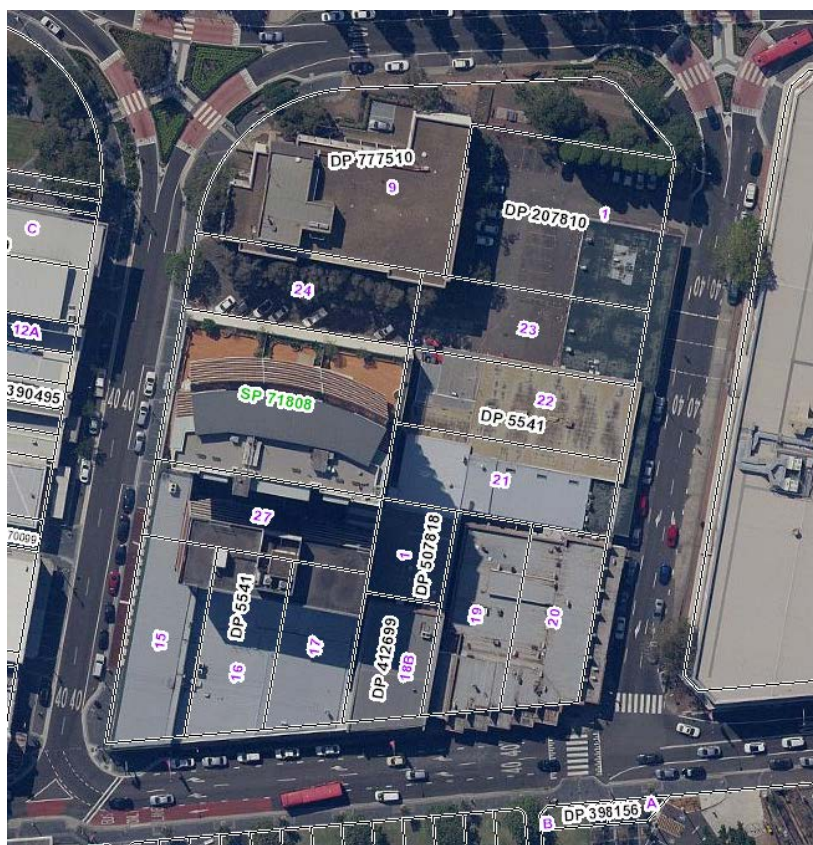


Figure 1: Lot Map (Source: SIX Maps)

The site is occupied by a six-level office tower and a retail arcade consisting of 56 specialty stores. Also located on this site is the former Bankstown Library, a hardstand car park and a landscaped reserve in the north-eastern corner.

The site is bound by The Mall to the north, The Appian Way to the east, North Terrace to the south and Fetherstone Street to the west. Along the western boundary, fronting Fetherstone Street, the site wraps around an existing, 12 storey, mixed use development.

The Bankstown Railway Station is located directly opposite the site to the south, and the Bankstown Square shopping centre is located to the east and within 200 metres (m). Bankstown Library, Canterbury – Bankstown Council offices including the Council chambers, and Paul Keating Park are situated to the north of the site. Bankstown Court House and commercial buildings, two to three storeys in height and of varying ages bound the site to the west (**Figure 2 to Figure 6**).



Figure 2: Aerial view of the subject site, the Compass Centre (Source: Near Maps)

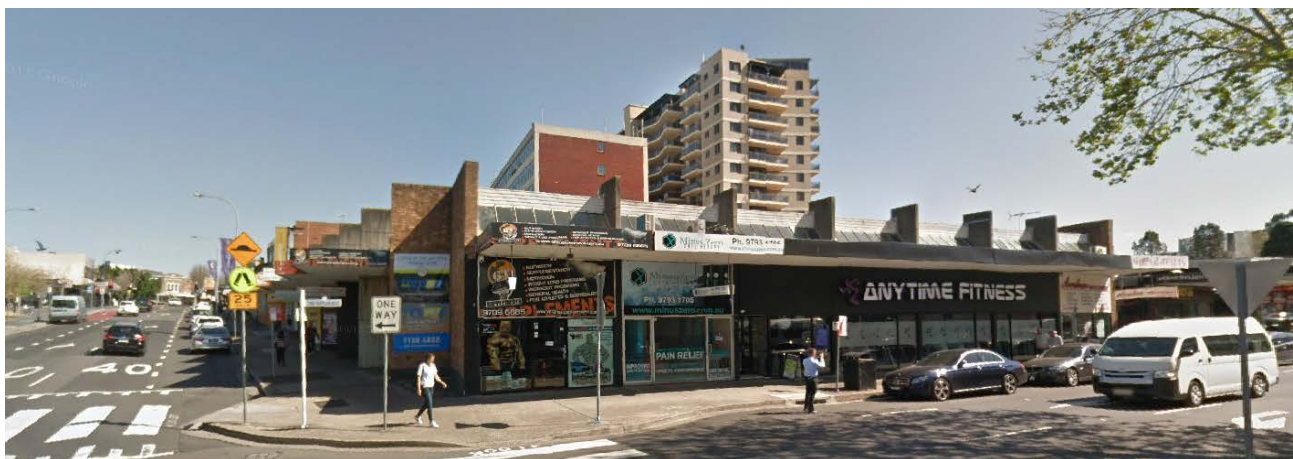


Figure 3: View of the south-east corner of the site on the corner of North Street and The Appian Way looking north west (Source: Google Maps)



Figure 4: View of the south-west corner of the site on the corner of North Street and Fetherstone Street looking north east (Source: Google Maps)

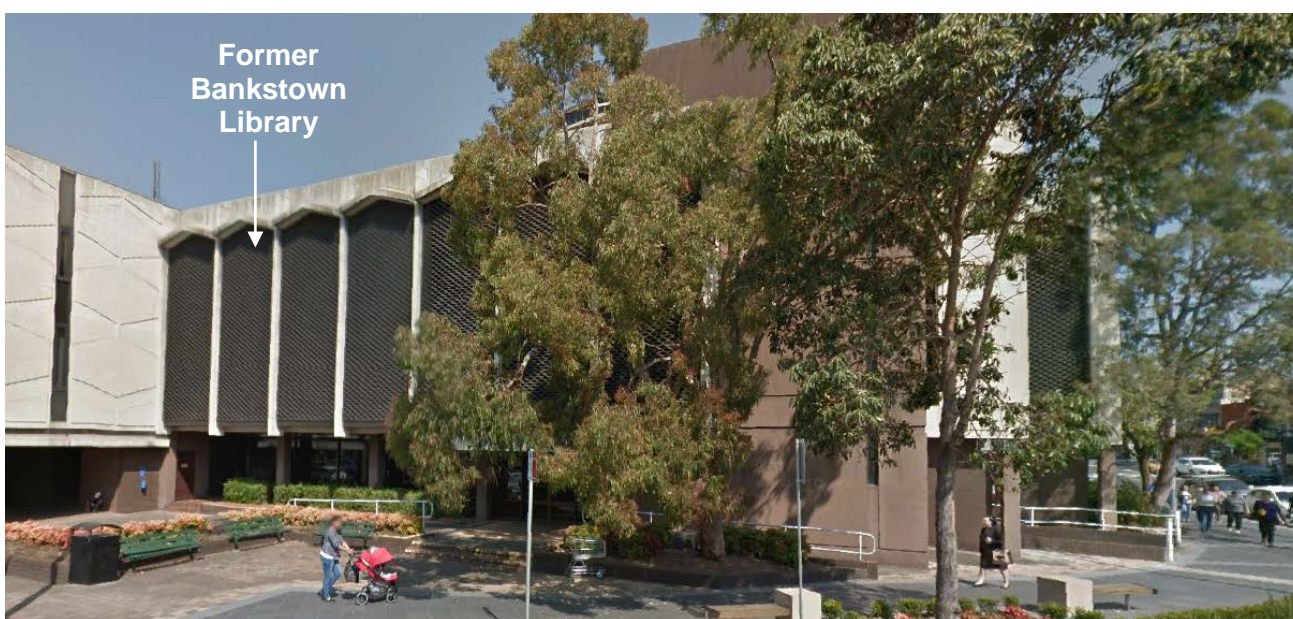


Figure 5: View of the former library building on the north-west corner of the site looking south-east (Source: Google Maps)



Figure 6: View of the north-east corner of the site on the corner of The Mall and The Appian Way looking south showing the landscaped reserve and former library to the right (Source: Google Maps)

3. EXISTING CONTROLS

Zoning

Under the Bankstown Local Environmental Plan (LEP) 2015, the site is zoned B4 Mixed Use (**Figure 7**). The B4 Mixed Use Zone aims to integrate commercial and residential uses in accessible locations. Permissible uses include residential flat buildings, shop top housing and commercial premises.

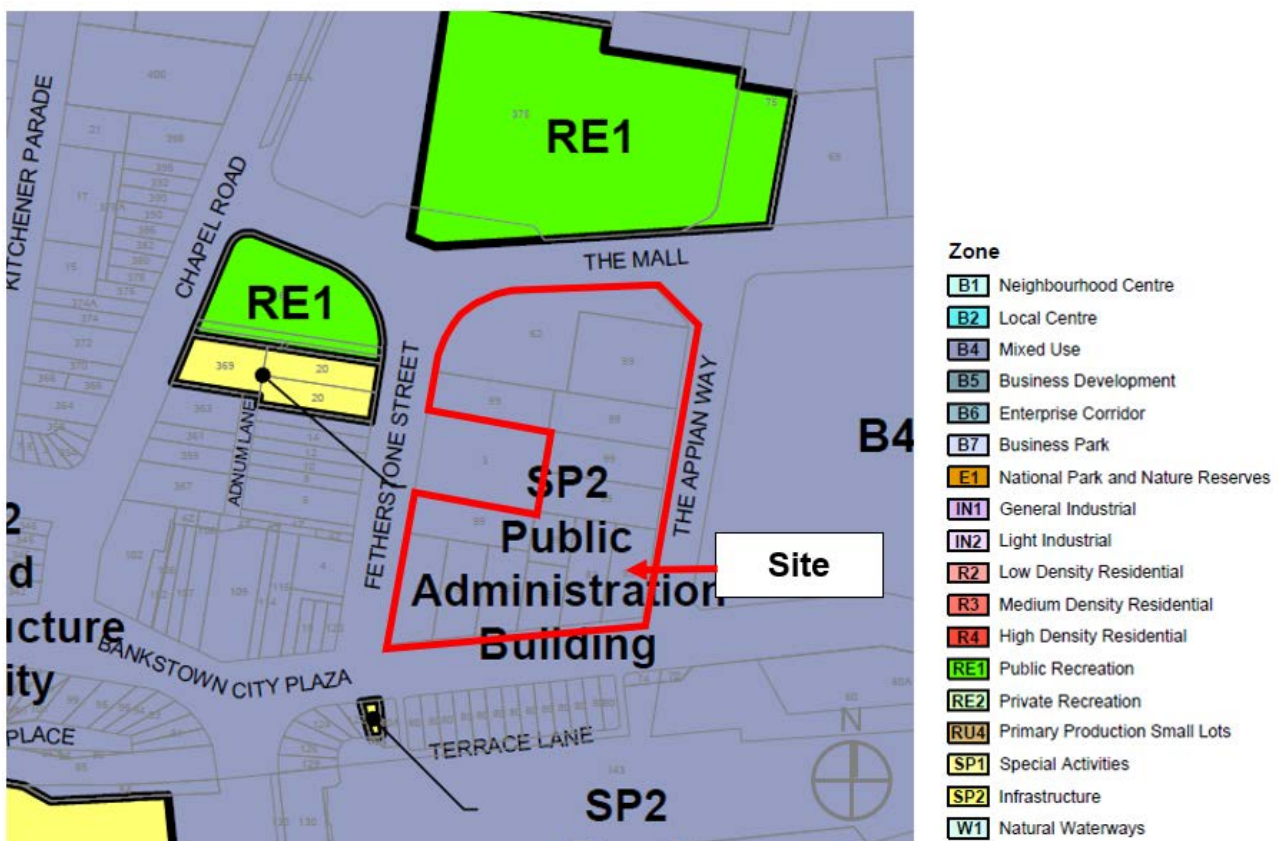


Figure 7: Bankstown LEP 2015 land zoning map (LZN_005)

Height

Under the Bankstown LEP 2015, the current maximum building height is 41m across all lots except Lot 1 DP 207810 and part of Lot 9 DP 777510 where the maximum building height is 53m (**Figure 8**).

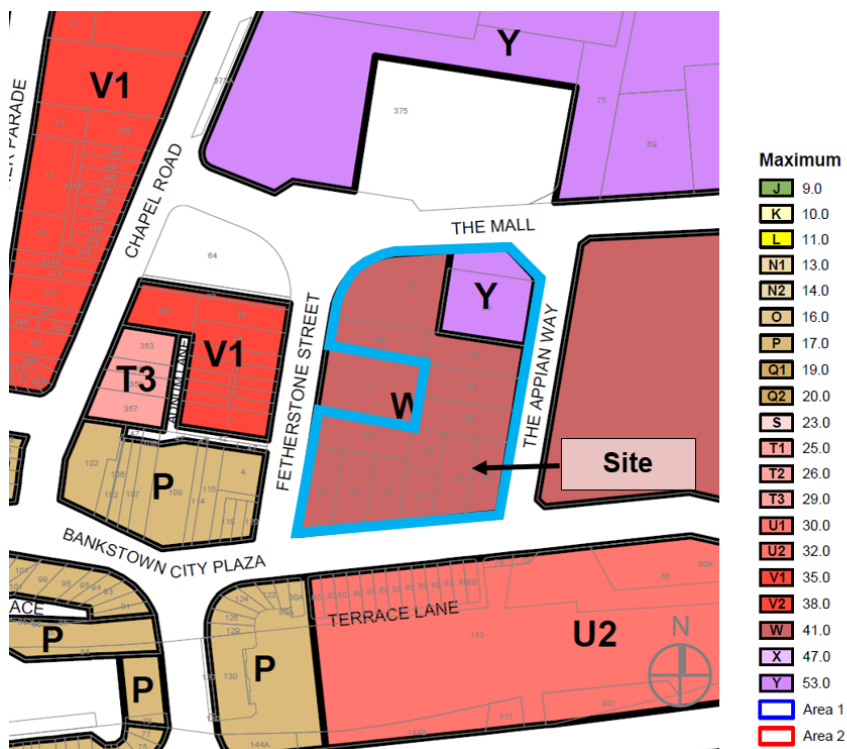


Figure 8: Bankstown LEP 2015 Height of Buildings Map (HOB_005)

Floor Space Ratio

The current floor space ratio for the site is 4.5:1 (**Figure 9**).

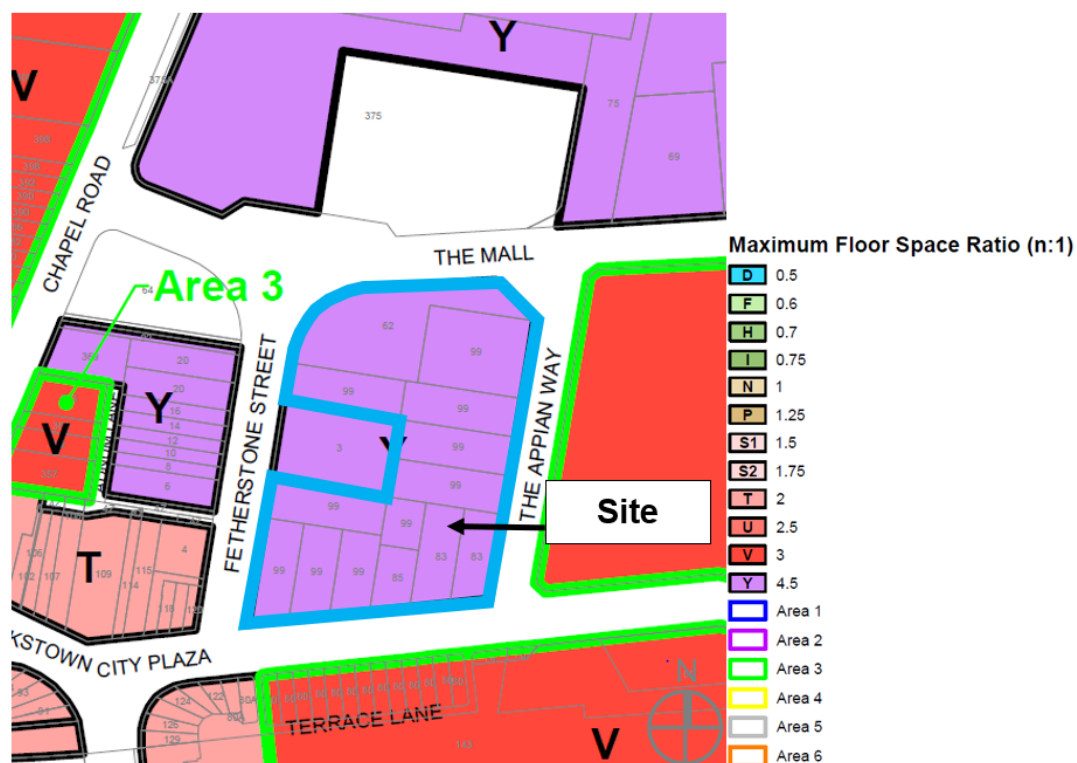


Figure 9: Bankstown LEP Floor Space Ratio Map (FSR_005)

Restrictions on development in Zone B4 Mixed Use

Under Part 6 of the Bankstown LEP 2015, the site is classified as 'Area 3' (**Figure 10**) and operates in conjunction with Clause 6.9 *Restrictions on development in Zone B4 Mixed Use*.

Clause 6.9 seeks to reinforce the status of the Bankstown CBD as a major centre and a place for employment. It also seeks to encourage economic growth by retaining commercial floor space and promoting active street frontages in the core. To achieve this Clause 6.9 requires the ground floor and first floor of buildings to be used for commercial premises or other non-residential purposes.



Figure 10: Bankstown LEP 2015 Special Provisions Map (SPV_005)

Heritage

There are no heritage items on this site, and it is not located within a heritage conservation area. Heritage items in the immediate vicinity are the Bankstown Railway Station building and platform and the former parcel station (item 3 and 4) to the south of the site. The Bankstown Hotel (item 1), shop (item 2) to the west and the Council Chambers building (item 6) to the north (**Figure 11**).

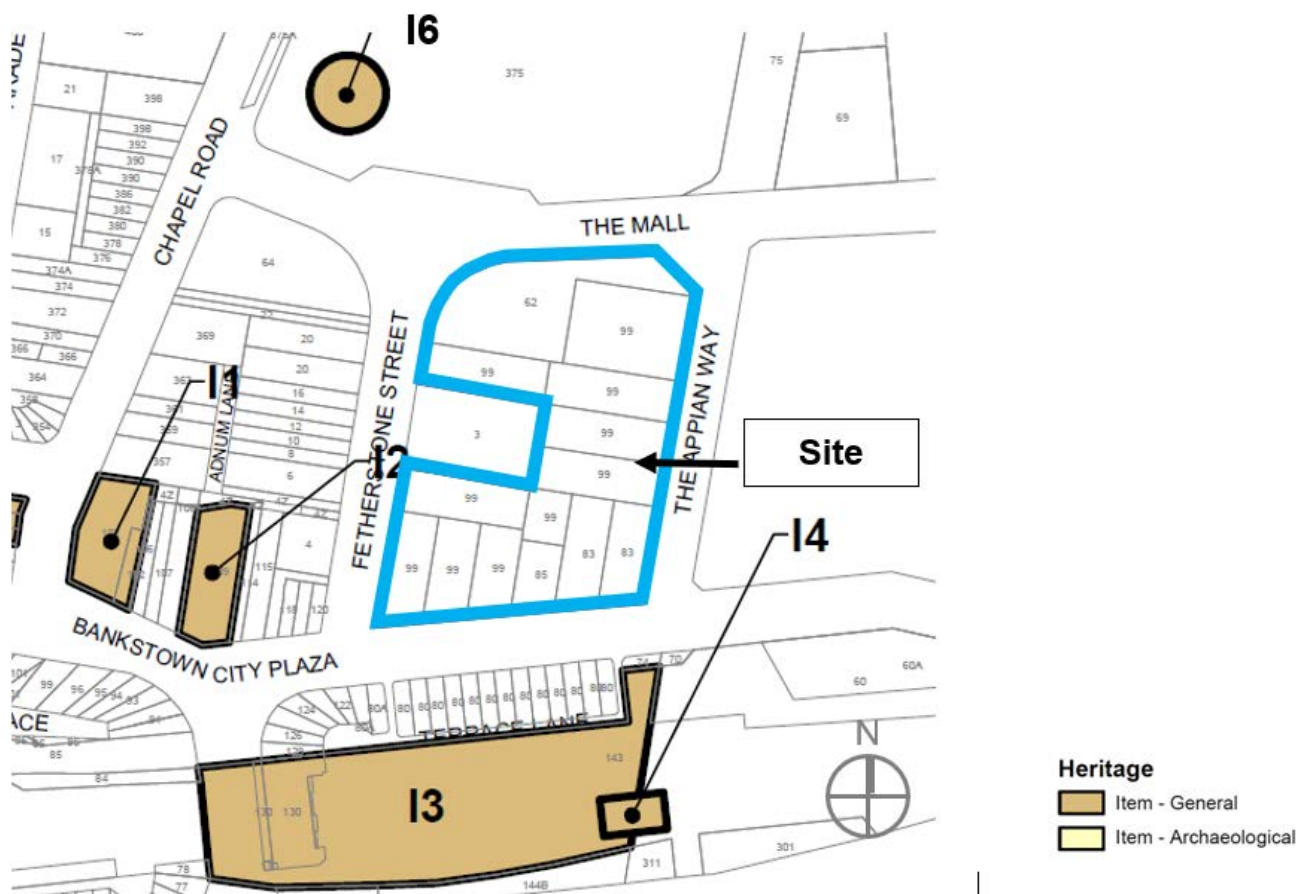


Figure 11: Bankstown LEP 2015 Heritage Map (HER_005)

4. PURPOSE OF PLAN

Purpose

The draft LEP seeks to amend Bankstown LEP 2015 to include a site-specific clause to:

- increase maximum floor space ratio (FSR) from 4.5 to 5.1 across the site;
- increase maximum height of buildings from 41m to 83m for;
 - 83 North Terrace, Bankstown (Lots 19-20 DP 5541);
 - 85 North Terrace, Bankstown (Lot 18B DP 412699);
 - 99 North Terrace, Bankstown (Lots 15-17, 21-24 and 27 DP 5541); and
 - 62 The Mall, Bankstown - former Library site (Part of Lot DP 777510)
- increase maximum height of buildings from 53m to 83m for:
 - 99 North Terrace, Bankstown (Lot 1 DP 207810); and
 - 62 The Mall, Bankstown - former Library site (part of Lot 9 DP 777510).
- allow for residential uses at first floor level contrary to existing clause 6.9 which requires commercial uses on ground and first floor level in this location.

The above increase in development standards would also be subject to the development exhibiting design excellence to the satisfaction of the consent authority.

Planning Agreement

The planning proposal was supported by a planning agreement which was executed on 9 July 2019. The planning agreement guarantees delivery of the following:

- construction of an administration building with an area of 4,350 square metres (sqm) for the purposes of a Council facility;
- Council car parking within the former library site to accommodate 86 car parking spaces;
- dedication of land for footpath and road widening;
- road and footpath widening, and public domain improvement works, such as new paving, street furniture, landscaping, stormwater drainage and road design;
- stormwater improvements;
- easement for public access through a proposed pedestrian arcade;
- easement for public access to forecourts and amenities.

Concept

The planning proposal is intended to facilitate the future redevelopment of the site for a mixed use development.

The concept provided with the planning proposal in the report by GMU (**Figure 12 and Figure 13**) indicates that the proposal would deliver a total gross floor area of approximately 50,610m² including 5,020m² of retail, 2,034m² for commercial uses and 4,426m² for Council administration.

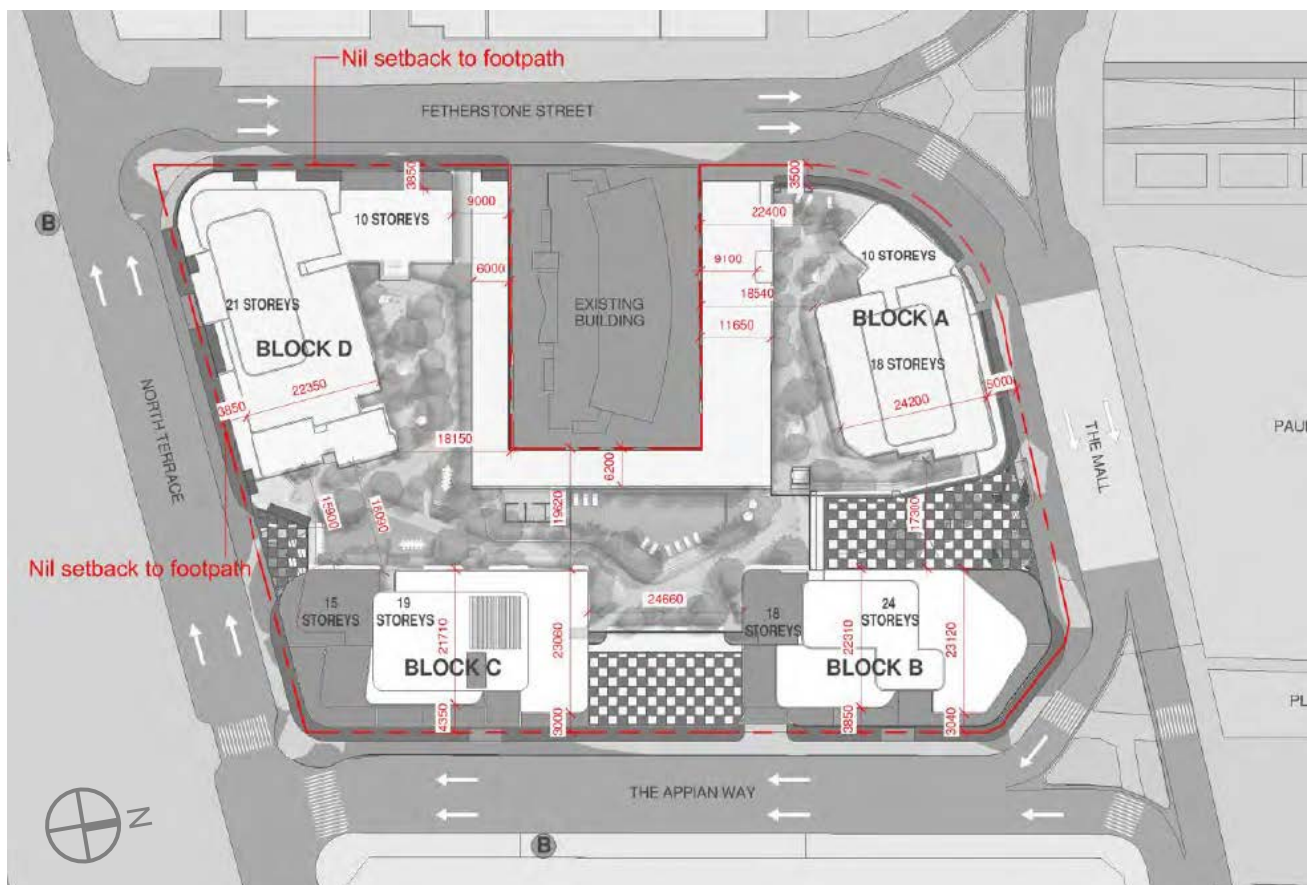


Figure 12: Site plan of the concept submitted with the proposal including dimensions (Source: H3 Architects)

The concept would facilitate four residential flat buildings comprising approximately 471 dwellings with a GFA of approximately 39,130m². Parking is to be provided for 794 cars including residential, Council and retail and commercial spaces. Communal open space of approximately 4,012m² is proposed totalling 39.6% of the site area.



Figure 13: View of the proposed concept looking south from Paul Keating Park (same view as in Figure 9) (Source: H3 Architects)

5. BACKGROUND

In November 2015, Jacquel Australia Pty Ltd, acting on behalf of the landowner, notified Council of its interest to acquire the former Library building at 62 The Mall, Bankstown, directly adjacent to the Compass Centre at 83-99 North Terrace, Bankstown. The preparation of a planning proposal to amend the development standards across the site and a voluntary planning agreement with Council was also requested based on the option of acquiring the former library site.

The landowner submitted a proposed scheme which combined the properties at 83-99 North Terrace and 62 The Mall, Bankstown into a single development site. The proposed scheme comprises a mixed-use development with commercial and residential floor space. The landowner also offered to dedicate 4,350m² of the development on the site for a public administration building with parking. This agreement involved the floor space (not greater than 0.5:1) transferring to the rest of the site, resulting in a 5:1 FSR.

Council carried out a feasibility assessment and planning outcomes for the former library site. Council determined that the development and car parking on the site was limited and the best option was to enter into a Voluntary Planning Agreement and amalgamate the site with the Compass Centre site. Council also noted that there would be financial benefits if

they relocated their current office space to the new development and leased their current space in the Civic Tower.

In 2017, a planning proposal was exhibited concurrently with the planning agreement and development application. Submissions from the public and State and Commonwealth agencies raised as key issues such as prescribed airspace, amenity and traffic.

In July 2017, at the Ordinary Meeting, Council reviewed the submissions and resolved to amend and re-exhibit the planning proposal and this was endorsed by the Department on 8 August 2017. Submissions from the public and State and Commonwealth agencies again raised prescribed airspace, amenity and traffic as key issues.

The encroachment into the prescribed airspace was refused due to delays in the governmental process and from not receiving all the relevant information.

The Department of Infrastructure, Regional Development and Cities on 28 September 2018 approved the encroachment into the prescribed airspace to a maximum height of 105.3m AHD for building B, 96.4m AHD for building D, 91.5m AHD for building A and 90.5m AHD for building C. This advice was provided after consideration of the opinions of the applicant, the Civil Aviation Safety Authority (CASA), Airservices Australia and Bankstown Airport Ltd.

The approved height is consistent with the planning proposal permitting a building of approximately 24 storeys for building B.

In the Council's Ordinary Meeting held on 16 October 2018, Council resolved to adopt the planning proposal and planning agreement and seek amendment to the Bankstown LEP 2015.

6. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Bankstown state electorate. Tania Mihailuk MP is the State Member.

The site falls within the Blaxland federal electorate. Jason Clare MP is the Federal Member.

In November 2016, Tania Mihailuk wrote to the then Minister for Planning, Rob Stokes MP, seeking to have the application for the alteration to the Gateway refused. It was Ms Mihailuk's opinion that the proposal was not adequately supported by infrastructure to justify an increase in the building height.

In his response to Ms Mihailuk, the Minister stated that as a delegate of the Greater Sydney Commission, the Department will be responsible for making the decision and her comments will be taken into consideration.

On 18 October 2018, Ms Mihailuk placed a question on the Legislative Assembly Question and Answer Paper, concerning the planning proposal adopted on 16 October 2018 and Council's ownership of the land in question.

The then Minister for Planning, Anthony Roberts MP, responded by informing Ms Mihailuk that Council owned the land at 62 The Mall, Bankstown. His advice was that Council, at their Ordinary Meeting 22 September 2015, resolved to prepare a probity plan for the subject site to ensure the planning and commercial matters were independent of one another. An independent probity advisor assisted Council during this process.

On 26 October 2018, Council advised the Department that integrity issues had been addressed in a probity plan.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

7. GATEWAY DETERMINATION

On 22 January 2016, a Gateway determination (**Attachment B**) was issued allowing the proposal to proceed subject to conditions.

The planning proposal was updated prior to exhibition and consultation was undertaken in accordance with the conditions.

8. GATEWAY ALTERATIONS

The Gateway determination was altered (**Attachment C**) as follows:

- 9 December 2016 to (**Attachment C**):
 - change the description of the planning proposal;
 - extend the timeframe for completion to 29 October 2017; and to
 - insert new conditions to:
 - amend the development standards to a maximum height of 83m and a maximum floor space ratio of 5:1;
 - prior to community consultation, remove reference to a site specific exemption from model clause 1.8A – Savings provision relating to development applications which was intended to facilitate a combined rezoning and development application process as the Department considered it was unnecessary;
- 7 November 2017 to extend the timeframe for completion to 29 June 2018; and
- 21 September 2018 to extend the timeframe for completion to 2 August 2019.

9. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 5 April 2017 to 12 May 2017. The planning proposal was exhibited concurrently with the draft planning agreement, and a development application for the site.

Council received 28 submissions comprising 23 from the public and five from agencies.

The proposal was re-exhibited from 12 September 2017 to 13 October 2017 following minor changes to the proposal outlined in section 12 of this report. A further 16 submissions were received including 10 from the public and 6 from agencies.

All public submissions are discussed in **Section 10** and agency submissions in **Section 11** of this report.

10. PUBLIC SUBMISSIONS

Table 1 below provides a summary of the public submissions received.

Table 1: Public Submissions

Public Submission	Council's Response	Department's Assessment
<p>Inadequate strategic basis for the proposed building envelope and the former library site should be retained for public purposes.</p> <p>The Section 94A Contributions Plan does not identify the administration building and car parking as needed.</p>	<p>The proposal is consistent with the Greater Sydney Regional Plan and South District Plan which identifies the Bankstown CBD as a strategic centre with a commercial, health and education precinct.</p> <p>The proposal is consistent with the Bankstown CBD Local Area Plan which identifies the precinct as the key location for Council's administrative services.</p> <p>The proposal would deliver public benefit in the redevelopment of the Civic Precinct and must demonstrate a high standard of design.</p>	<p>The Department considers Council's response to be adequate.</p> <p>The proposal is consistent with the strategic centre delineation for the Bankstown CBD under the South District Plan. It is also consistent with Council's Local Strategic Planning Statement (LSPS) 'Connective City 2036'.</p>
<p>Airspace protection</p>	<p>Approval has been received from the Commonwealth Department of Infrastructure and Regional Development for encroachment into the prescribed airspace to a maximum height of 105.3m AHD.</p>	<p>Satisfactory.</p>
<p>Impacts on the road network</p>	<p>Transport for NSW has not raised any objection to the proposal.</p>	<p>Satisfactory.</p> <p>The Department notes the excellent public transport links near the development site and supports the creation of jobs and housing in such locations.</p> <p>The Department is satisfied that detailed assessment of traffic impacts associated with the development will be undertaken with the Development Application.</p>
<p>Community benefits such as a catchment wide flooding solution should be included in the planning agreement.</p>	<p>Council's Section 94A Development Contributions Plans includes a works schedule for drainage upgrades in the Bankstown CBD. On this basis, the planning agreement is satisfactory.</p>	<p>Satisfactory.</p>

Public Submission	Council's Response	Department's Assessment
Objections to the Development Application.	These will be addressed as part of the development assessment process.	Satisfactory.
Amenity impacts such as overshadowing, wind impacts, visual impacts and privacy loss. Given the size of the proposal, there is scope to consider greater variation of height and building location to ensure a better solar access outcome.	These issues are relevant to the development application and will be considered as part of the development assessment process. For probity reasons, an external planning consultancy is independently assessing the development application.	The proposed 83m maximum building height is proposed to apply to the entire site rather than providing bespoke height controls, therefore it is considered that building height can be modulated during the detailed design and development application stage to reduce overshadowing impacts.
Clarification of vegetation loss is required, and more trees should be planted as part of the development.	The associated planning agreement requires public improvement works of a high landscape design standard.	The Department acknowledges that landscape works are included in the planning agreement. It is noted that the proposed uplift is also subject to the development demonstrating design excellence includes integration of landscape design.

11. ADVICE FROM PUBLIC AUTHORITIES

Council consulted with the following agencies in accordance with the Gateway Determination:

- Transport for NSW (TfNSW);
- TfNSW – Sydney Roads (the former Roads and Maritime Services);
- TfNSW – Sydney Metro;
- Sydney Water;
- Ausgrid;
- Bankstown Airport;
- Civil Aviation Safety Authority;
- Airservices Australia; and
- Commonwealth Department of Infrastructure, Transport, Regional Development and Communications (DITRDC).

A summary of agency submissions, Council's consideration and the Department's Assessment is provided below.

11.1. Transport and Infrastructure

Transport for NSW (TfNSW)

On 25 May 2017, TfNSW stated that the traffic impact assessment was insufficient for a development of this scale as it only provided an assessment of minor, non-signalised intersections surrounding the site.

TfNSW noted that future traffic growth within the Bankstown precinct will increase delays to bus services and expressed a need for:

- residential parking provided in accordance with SEPP 65 guidelines due to high public transport accessibility;
- the provision of bicycle parking and end of trip facilities; and
- the implementation of a site-specific Sustainable Travel Plan to reduce car-based travel and encourage public transport usage and active transport.

On 20 September 2017, TfNSW advised that they had reviewed the proposed changes to the planning proposal and stated that they have not further comment.

On 12 December 2017, TfNSW responded to a request from Council to comment on additional information provided by the proponent. They advised that Council should consider a site-specific development control to ensure parking rates are consistent with SEPP 65 Guidelines.

Council Response:

No change to the planning proposal is required as the site is in close proximity to public transport and the onsite parking requirements are adequate as prescribed by Council and RMS's Guide to Traffic Generating Developments.

Department's Response:

The Department is satisfied that the subject site is appropriately located to maximise use of public transport services and minimise impacts arising from the increased density on the surrounding road network. Issues raised by TfNSW in requesting the implementation of a Sustainable Travel Plan and the provision of bicycle parking and end of trip facilities can be considered as part of the development application.

Transport for NSW (Sydney Metro)

In the first exhibition, TfNSW (Sydney Metro) and TfNSW in a joint submission raised concerns with the development application and the consequent impact on solar access particularly with the entrance to the new metro station.

Following the second exhibition, TfNSW (Sydney Metro) advised that their concerns in relation to overshadowing also related to the consideration of the planning proposal. Noting that the proposed height control of 83m would apply across the whole site, detailed shadow diagrams were requested to determine the full impact of the proposal across the whole day. TfNSW (Sydney Metro) also identified that there may be an opportunity for a reduction in height of the south eastern tower to minimise overshadowing on the station precinct.

Council's Response:

Council stated that they will consider these issues at the development application stage.

Department's Assessment:

The Department is aware that the proposed concept submitted with the planning proposal, if constructed, would result in potential overshadowing of the Bankstown Rail Station and the future Sydney Metro entrance.

The proposed increase in height and density is consistent with the South District Plan which envisions Bankstown as a strategic centre. Further, the Department supports increased density in close proximity to transport hubs to minimise use of private vehicles and support public transport use. As the height limit is proposed to apply to the entire site, it is considered that overshadowing impacts of transport infrastructure can be dealt with at the detailed design stage as part of the development application.

Transport for NSW (Sydney Roads)

TfNSW (Sydney Roads) raised no objection to the planning proposal given the sites proximity to existing public transport services and with the Bankstown Town Centre. TfNSW (Sydney Roads) also stated that it would be beneficial to provide a broader assessment of the impacts on the local road network, particularly the signalised intersections at Stacey Street and Rickard Road, Stacey Street and Wattle Street and Stacey Street and Stanley Street as part of the development application for the site.

Council's Response:

Council advised that additional traffic information was sent to TfNSW (Sydney Roads) to satisfy the matters raised.

Department's Response:

The Department is satisfied that the location of the site within the Bankstown city centre and in close proximity to the Bankstown train station will encourage the use of public transport and minimise impacts on the local road network. Detailed assessment of the traffic impacts can be reasonably considered at the development application stage.

Sydney Water

Sydney Water stated that an integrated water servicing strategy for the Inner South had commenced focusing on servicing requirements for the Bankstown to Sydenham rail corridor. This was expected to be finalised by November 2017.

No known extension and upgrades have been identified with this project and further planning may be required.

Council Response:

Council states that Section 94A Development Contributions Plan contains proposed drainage system upgrade for the Bankstown CBD and no changes are required to the planning proposal.

Sydney Water's comment was noted by Council and the issues raised in this submission will be dealt with in the development application process.

Department Assessment:

The Department is satisfied that these matters can be dealt with at the development application stage.

Ausgrid

Ausgrid consented to the development subject to conditions including:

- the need for connection compatibility to be in line with Ausgrid's standards;
- the impact on street lighting;

- impact on substations;
- impact on underground cables; and
- recommendation that a nominated consultant or contractor provide a preliminary enquiry to Ausgrid.

Council Response:

Council stated that this will be dealt with in the development application process.

Department's Assessment:

The Department concurs that the conditions provided by Ausgrid are relevant to the development application and should be considered as part of that process.

11.2. Airspace

At the time of Gateway determination, insufficient information was available to determine consistency with Section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields. In order to satisfy the direction, Council also consulted with the following:

Bankstown Airport (BAL)

BAL stated that as the proposal is deemed a Controlled Activity, the development will require assessment by both Airservices Australia and the Civil Aviation Safety Authority (CASA) prior to the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications making a determination. BAL will also require notification of the Controlled activity process including crane operation as they will be in operation for longer than three months.

Commonwealth Department of Infrastructure, Transport, Regional Development and Communications (DIRTDC)

In an email of 20 April 2017, DIRTDC noted the building was a permanent penetration into the Inner Horizontal Surface of Bankstown Airport's Obstacle Limitation Surface (OLS) by 54.3m and the cranes were a temporary penetration of 72.1m.

DIRTDC stated that approval will be subject to consultation with Bankstown Airport (BAL) and advice from the Civil Aviation Authority (CASA) and Airservices Australia and noted that Council had already begun consultation with BAL on the proposed development.

DIRTDC noted that the proposed maximum building heights and crane heights will not infringe the PANS-OPS for Bankstown or any protected airspace for Sydney Airport.

On 28 September 2018, DIRTDC provided a further response stating that controlled activity approval is given provided that the buildings do not exceed those in **Table 2** below:

Table 2: Controlled Activity Approval

Activity	Maximum Height (AHD)	Penetration of prescribed airspace
Building B	105.3m	54.3m
Building D	96.4m	45.4m
Building A	91.5m	40.5m
Building C	90.5m	39.5m

Heights are inclusive of and not limited to all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings and exhaust flues;

Further conditions included:

- the buildings are to be obstacle lit and must be positioned on the:
 - south-west and north-east corners of building B on top of the plant room (RL 105.3m); and
 - west-north-west and east-south-east corners of building D on top of the plant room (RL 96.4m)
- obstacle lighting must have remote lighting arrangements to alert Bankstown Airport of outages;
- a commitment must be provided from the building owner for the ongoing provision, monitoring and maintenance of any obstacle lighting as required by CASA;
- advice must be given to Airservices Australia 3 business days prior to the controlled activity commencing;
- separate approval is required for any construction equipment, such as cranes, prior to any commitment to construct;
- any plume rises associated with the buildings must be limited to 6.1m per second at the lowest PAN-OPS surface, 108.2m AHD;
- on completion of the construction of the buildings, the proponent must provide Bankstown Airport Ltd with a written report from a certified surveyor on the finished heights of each building; and
- the proponent and Bankstown Airport must confirm with aerodrome operators that changes due to the building will not adversely impact on the operations at the airport.

Airservices Australia

In an email of 9 October 2017, Airservices commented that the maximum building height of 105.3 metres AHD will not affect circling altitude and instrument approach or departure procedure at Bankstown Airport. The submission commented on the maximum crane height of 123.1m AHD will affect Category A/B Circling procedure at Bankstown Airport. The maximum height for crane operations is 108.2m AHD and a Notice to Airmen (NOTAM) will be required for the period when the crane operations are at a maximum 123.1m AHD.

Airservices had no objection to the proposal if the crane operations are to be for less than three months and approval is granted by the Department of Infrastructure and Regional Development.

Civil Aviation Safety Authority (CASA)

In a response dated 12 October 2017, no objection was raised to the proposal provided that:

- a commitment from the building owner to the ongoing provision, monitoring and maintenance of any obstacle lighting required by CASA;
- flight procedures for Bankstown Airport are reviewed and modified in consultation with Airservices Australia;
- that the proposal does not affect any future development or upgrades planned by the aerodrome's operational management;

- prior to construction the development and crane activity should be reviewed to protect the obstacle limitation surfaces (OLS) and Procedures for Navigation Services – Aircraft Operations;
- consideration is given to final heights and bird attractions of landscaping provisions that may cause risk to aviation activities;
- the building and construction cranes are marked to comply with CASR 139 and associated MOS;
- any non-aeronautical lighting will not cause confusion or glare to pilots;
- details of potential exhaust plumes emanating from the development are forwarded to CASA; and
- the emission of airborne particles are controlled during construction that could impair visual conditions.

It was noted by CASA that the aeronautical study did not consider any nearby helicopter landing sites, particularly those associated with hospitals.

Council Response:

Council advised that the DIRTDC granted controlled activity approval for the building to encroach into the prescribed airspace to a maximum height of 105.3m AHD which is consistent with the proposed maximum building height.

The issues raised in relation to the height of future construction equipment and antennas will be dealt with in the development application process.

Department's Assessment:

Based on the controlled activity approval given by the DIRTDC, the Department is satisfied that the encroachment into the prescribed airspace is acceptable. The detailed conditions and crane requirements can be dealt with at the development application stage where further consultation with aviation authorities is required.

12. POST-EXHIBITION CHANGES

Following the first exhibition of the planning proposal, consideration of submissions received and the development of a draft planning agreement, at the Ordinary Meeting of 25 July 2017, Council resolved to re-exhibit the planning proposal with the following amendments:

- delete the reference to clause 4.4A of Bankstown LEP 2015 as a criterion to achieve the increased development controls as the planning agreement incorporates requirements for environmental performance;
- delete the reference to a peer review of a previous scheme to clearly indicate Council's focus on the Gateway assessment to determine whether the envelope is appropriate; and
- update the planning proposal to demonstrate consistency with exhibited State policies and strategies.

No further post exhibition changes were made after the second exhibition.

13.ASSESSMENT

13.1. Section 9.1 Directions

The proposal is consistent with the following relevant Section 9.1 Ministerial Directions:

1.1 Business and Industrial Zones

The purpose of this direction is to encourage employment growth in suitable locations, protect employment land, and support the viability of identified centres.

The proposal will retain the existing B4 Mixed Use zoning, provide commercial floor space and increase employment opportunities consistent with this direction.

2.6 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

Although an intensification of land is proposed, the existing B4 Mixed Use Zoning is to be retained and therefore no additional or new land uses will apply to the site. As such, consideration of a preliminary investigation is not required at this stage and contamination will be further considered as part of the development application under the provisions of SEPP 55 – Remediation of Land.

3.4 Integrating Land Use and Transport

The purpose of this direction is to improve access to housing, jobs and services while reducing dependence on private vehicles.

The proposal allows for an intensification of land within a mixed use zone, which will improve access to housing, jobs and services within close proximity to existing bus and train services and the planned Sydney Metro. This will encourage active transport and reduce the dependence on private car usage. As such the proposal is consistent with this direction.

3.5 Development near Licences Aerodromes

Direction 3.5 seeks to ensure the effective and safe operation of airports and ensure operations are not compromised.

As discussed above, at the time of the Gateway determination, insufficient information was available to demonstrate consistency with this direction. Consequently, the Gateway determination required consultation with aviation agencies.

In accordance with the Gateway determination, consultation with the relevant Commonwealth and aviation agencies was carried out consistent with this direction, and a controlled activity approval was granted to encroach into the prescribed airspace to a maximum height of 105.3m AHD which aligns with the proposed maximum height limit of 83m above existing ground level. This encroachment is inclusive of rooftop structures, aerials and antennas.

Given that a controlled activity approval was issued by the DIRTDC, the proposal is now considered consistent with Direction 3.5.

6.3 Site-Specific Provisions

Direction 6.3 discourages site specific planning controls.

The planning proposal is inconsistent with this direction as it proposes to add a site-specific provision to the Bankstown LEP 2015. The inconsistency is considered to be minor as it applies a single height and floor space ratio across the entire site and does not reference

drawings that show details of the development proposal. Further, the intensification of the land use in this location is consistent with the strategic direction for the Bankstown centre that is in the implementation process. This inconsistency was considered as part of the Gateway determination and found to be acceptable. As such, no further approval is required.

13.2. State environmental planning policies

This proposal is consistent with the following relevant State environmental planning policies (SEPP):

SEPP 65 - Design Quality of Residential Apartment Development

As the proposed increase in development standards is to facilitate a mixed use development, consideration of SEPP 65 is required.

Overall, the concept design shown in the GMU Urban Design Report provides a proposal that would result in:

- increased residential density that is accessible to well-connected existing and proposed transport infrastructure;
- built forms that can achieve good levels of solar access and natural ventilation;
- a suitable separation between buildings to allow for privacy and views; and
- the delivery of a precinct based and integrated development outcomes for the site.

The detailed design of the proposed buildings will be assessed during the DA stage where compliance with SEPP 65 will need to be demonstrated. Further, Council have entered into a planning agreement to ensure environmental performance of the development, and a site specific design excellence control is also proposed. On this basis, the Department is satisfied that proposal appropriately responds to SEPP 65.

13.3. South District Plan

In March 2018 the Greater Sydney Commission (GSC) released the South District Plan. The District Plan operates as a bridge between regional and district planning as it allows for the implementation of the Greater Sydney Region Plan: *A Metropolis of Three Cities* at the District level. The South District Plan encompasses the Canterbury-Bankstown Local Government Area.

The South District Plan identifies Bankstown as a strategic centre and a health and education precinct.

The following priorities have been identified as relevant to the planning proposal:

Planning Priority S1 Planning for a city supported by infrastructure

Aligning land use and infrastructure planning will maximise the use of existing infrastructure. This proposal will deliver new housing, employment uses and investment into an area that is well serviced by infrastructure including public transport.

Planning priority S4 Fostering healthy, creative, culturally rich and socially connected communities

The planning proposal is consistent with this planning priority as it includes a site-specific requirement for design excellence. The future development must demonstrate a high standard of architectural, urban and landscape design to achieve the addition height and FSR. Further, the planning proposal is also subject to a planning agreement which includes commitments to public domain improvements and environmental performance.

Planning Priority S5 providing housing supply, choice and affordability, with access to jobs, services and public transport

This planning priority seeks to plan for new housing in the right places to meet demand for different housing types, tenure, price points, preferred locations and design. This housing supply must be coordinated with local infrastructure to create liveable, walkable and cycle-friendly neighbourhoods with direct, safe and universally designed pedestrian and cycling connections to shops, services and public transport.

This proposal will facilitate delivery of a mixed use development which is envisaged to include a variety of dwellings close to a transport corridor with high accessibility. The site is also close to existing and proposed retail and commercial activities, and as such, it is consistent with this planning priority.

Planning Priority S9 Growing investment, business opportunities and jobs in strategic centres

This proposal is consistent with this planning priority as it facilitates increased development potential within the Bankstown CBD, which is a strategic centre, and within close proximity to the proposed Sydney Metro (South Western Line) Link. The delivery of commercial office space at this strategic location will contribute to the job target and meet the service needs of the community.

Planning Priority S12 Delivering integrated land use and transport planning and a 30-minute city.

This planning proposal will increase development potential for both residential and commercial uses which due to the location of the site within the Bankstown strategic centre, would provide access to local employment opportunities, retail, commercial and public spaces facilitating the 30-minute city. The site is close to Bankstown Train Station and the proposed Sydney Metro with links to other metropolitan and strategic centres including the CBD and Sydney Airport.

13.4. Connective City 2036 – Local Strategic Planning Statement (LSPS)

Under Council's LSPS, Bankstown forms part of the Chapel Road Precinct, a primary precinct for growth within the LGA. The precinct connects Chullora to Bankstown, and as a strategic centre, identifies the Bankstown CBD as an opportunity for taller, high density commercial and residential towers.

The proposed increase in density on this subject site, and the inclusion of a design excellence clause is consistent with the objectives and the actions of Council's LSPS as it relates to the Bankstown CBD.

14. MAPPING

No changes to the existing mapping is required.

15. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* on 11 November 2019, 22 January 2020 and 30 March 2020 (**Attachment D**). Council provided comments on the first draft of the draft instrument on 26 November 2019 requesting a design excellence clause. Council provided more information on the design excellence clause on 23 April 2020. Council's response to the second draft LEP was received on 6 May 2020 requesting one minor change and providing support for the LEP be made subject to the incorporation of that change (**Attachment E**).

16. PARLIAMENTARY COUNSEL OPINION

On 11 May 2020, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

17. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act.

The Department has considered submissions received during exhibition period and advice from public authorities and submissions from the public.

It is recommended that the draft LEP be supported as the proposal is:

- is generally consistent with the South District Plan, Council's LSPS, relevant section 9.1 Ministerial Directions and state environmental planning policies, and any inconsistency is justified and acceptable;
- delivers increased opportunity for housing and employment uses in a well-connected, accessible location;
- provides integration of land use and transport as it is adjacent to Bankstown Railway Station and the future Sydney Metro station and will encourage active modes of travel; and
- delivers a better built form that will achieve design excellence and contributes to the urban context and the business environment of the Bankstown CBD;
- delivers benefits in the public interest to the Bankstown Central Business District; and
- increases employment opportunities in a strategic centre.

This plan finalisation report confirms that the planning proposal is consistent with the Gateway determination and matters raised during consultation have been adequately addressed.

Brendan Metcalfe

Acting Director,

Eastern and South Districts

Contact Officer: Teresa Gizzi

Senior Planning Officer, Eastern and South Districts

Phone: 8275 1124