

## **9.1.7                      50 BUSBY STREET PLANNING PROPOSAL**

**File No:                      20.00374**

### **RECOMMENDATION:**

That Council:

- a) forward the Planning Proposal for 50 Busby Street, South Bathurst, inclusive of the amendments to the Planning Proposal as recommended in this report, to the NSW Department of Planning, Housing and Infrastructure requesting a Gateway Determination;
- b) as part of the Gateway Determination request, seek the inclusion of conditions of the Gateway Determination as recommended in this report, including an independent peer review of the submitted Traffic Impact and Noise Impact Assessments prior to public exhibition of the Planning Proposal;
- c) seek a further report on the matter where the Peer Reviews identify any adverse noise or traffic impacts that cannot be appropriately mitigated and either issue remain unresolved;
- d) accept any delegations from the NSW Department of Planning, Housing and Infrastructure relating to this Planning Proposal; and
- e) call a division.

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### **EXECUTIVE SUMMARY:**

The purpose of this report is to provide Council's initial assessment of the Planning Proposal lodged in relation to 50 Busby St, South Bathurst to determine if Council supports progression of the Planning Proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway Determination to enable public exhibition of the planning proposal.

It is noted that a separate planning proposal has been submitted on the adjoining land at 34 Busby St which is the subject of a separate report to Council (see item 9.2.5).

#### ***Summary of the Planning Proposal assessment***

A Planning Proposal has been submitted to Council which seeks to rezone land, increase the height of building limit, update minimum allotment provisions and insert a site-specific additional local provision clause into the Bathurst Regional Local Environmental Plan 2014 (LEP).

The Planning Proposal relates to 50 Busby Street, South Bathurst, Lot 212 DP 1289265, formerly known as the St Catherine's Nursing Home and Aged Care Facilities.

The LEP amendments seek to facilitate the development of the land for residential flat building and townhouse development on the site at a density and height greater than that permissible under Council's current planning provisions. The resulting development is expected to yield approximately 97 dwellings including 34 townhouses and 63 apartments. An additional permitted use (APU) under schedule 1 of the LEP is also sought to support the inclusion of small tenancy food and drink uses which would otherwise be prohibited in the proposed R3 Medium Density Residential zone.

The Planning Proposal will facilitate the delivery of an increased supply of rarer housing typologies into the Bathurst housing market, particularly 1- and 2-bedroom formats. The Planning Proposal will contribute significantly to housing diversity and choice in a location close to community and educational facilities and within reasonable proximity to the CBD. Whether the Planning Proposal is able to deliver affordable dwellings is a matter that is not easily determined given that the noise attenuation that may be required and other amenity and market factors may influence the price point above acceptable affordability levels. Nonetheless it will improve housing diversity and choice.

The Planning Proposal is supported by a Master Plan and a range of other technical documentation attached to this report.

The proposal is generally consistent with Council, State and Regional strategic plans and strategies.

Council's assessment of the Planning Proposal has, however, highlighted the need for Peer Reviews of the submitted Traffic and Noise Impact Assessments to ensure the Planning Proposal is consistent with the objectives of the Bathurst 2036 Housing Strategy and Vision Bathurst 2040 – the Bathurst Region Local Strategic Planning Statement (LSPS). The Peer Reviews are recommended to ensure Council fully understands:

- the potential impacts of noise from the Mount Panorama racing circuit on the proposed development; and
- the ability for the local road network to support traffic generation from the proposed development.

It is recommended that the submitted Noise Impact Assessment and the Traffic Impact Assessment are peer reviewed by an independent external consultant as a condition of DPHI's Gateway Determination, prior to public exhibition.

To ensure design excellence is achieved it is recommended that a new local provision be inserted in the LEP, as part of the Planning proposal, that requires a site-specific DCP to be in place before development consent can be granted. Council should not consider the concept master plan as the final design of the development as this is expected to change in response to design guidelines incorporated into the recommended site-specific DCP. **At this stage, Council is not endorsing the design of the development.**

### ***Proposed Amendments to the LEP***

The table below summarises the LEP amendments proposed by the applicant and those recommended to Council in this report as the finalised Planning Proposal.

<b>Planning control</b>	<b>Existing development controls</b>	<b>Proposed development controls</b>
<b>Zoning</b>	R1 General Residential	R3 Medium Density Residential
<b>Minimum Subdivision Lot Size</b>	550m <sup>2</sup>	1300m <sup>2</sup>
<b>Minimum Subdivision Lot Size – Dual Occupancy, manor houses, multi dwelling housing and residential flat buildings</b>	850m <sup>2</sup>	Remove site from dual occupancy map (because dual occupancies are prohibited in the R3 zone)
<b>Height of Buildings (HOB)</b>	9m	16m (for apartments) 12m (for townhouses)
<b>Additional Permitted Use – Schedule 1</b>	N/A	Food and Drink Premises restricted to a floor area of 150m <sup>2</sup> for each individual tenancy on the site and to a total maximum floor area of 300m <sup>2</sup> .
<b>Additional Local Clause – ensure that development on land occurs in accordance with a site-specific development control plan</b>	N/A	Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the range of matters required to achieve design excellence has been prepared for the land.
<b>Amendments to the relevant mapping layers</b>	<ul style="list-style-type: none"> <li>• Land Zoning Map</li> <li>• Height of Buildings Map</li> <li>• Lot Size Map</li> <li>• Additional Permitted Uses Map</li> <li>• Minimum Lot Size – Dual Occupancy Map</li> </ul>	

### **Recommended Gateway conditions**

It is recommended that, at a minimum, the following conditions are imposed by DPHI as conditions of their Gateway Determination:

- 1) Draft LEP maps are to be provided in a manner consistent with the Department's *Standard Technical Requirements for Spatial Datasets and Maps* guidelines accurately identifying those parts of the site to which different Height of Buildings are proposed.
- 2) The Noise Impact Assessment for 50 Busby Street is to be peer reviewed by a Council appointed external consultant in conjunction with the Acoustic Impact Assessment for 34 Busby Street, prior to public exhibition.
- 3) The Traffic Impact Assessment for 50 Busby Street is to be peer reviewed by a Council appointed external consultant in conjunction with the Traffic and Parking Assessment for 34 Busby Street, prior to public exhibition.

- 4) An amended Visual Impact Assessment is to be provided, prior to public exhibition. The assessment is to consider the full extent of the proposed building envelopes at their full height using the LEP definition of Height of Buildings. The visual impact is to consider the full height building envelopes proposed for the development, the cumulative impacts of those building envelopes, and the cumulative impact of building envelopes proposed on the adjoining development site at 50 Busby Street.

The assessment must be in to-scale representations and should show the relationship of the proposal to the ground plane, adjacent buildings, streets and open spaces.

The visual analysis must provide 360° views to and from the site, to at least 100m from the site's boundaries, and should include an analysis of, at a minimum, the following viewpoints:

- a. From the street frontage at Busby Street
- b. From the front, side and rear of 270 Havannah Street
- c. From the front and rear of 270A Havannah Street
- d. To the site as viewed from 31 Prospect Street
- e. To the site as viewed from 33 Prospect Street
- f. To the site as viewed from 38 Prospect Street
- g. From Spencer Street
- h. From Ben Chifley House (state heritage item)
- i. From St Stanislaus College (local heritage item)
- j. From the viewing platform at Mount Panorama Wahluu
- k. From the approach into Bathurst on Sydney Road (eastern side of the bridge)
- l. Between the site and 34 Busby Street (i.e. within the sites)

The analysis should present conclusions as to how the building envelope configurations may need to be modified by way of appropriate DCP provisions (e.g. upper floor setbacks, boundary setbacks), to mitigate impacts on view corridors, streetscapes, and the site's setting within the Bathurst Heritage Conservation Area.

The Visual Impact Assessment should be in the form of a 3D computer model. That model can be inserted into the Bathurst Digital Twin if the extent of the digital twin can include the subject site and its immediate surrounds.

Preparation of the Visual Impact Assessment in conjunction with the proposed development on the adjoining site at 34 Busby Street is encouraged.

- 5) An updated overshadowing analysis is to be submitted, prior to public exhibition. The assessment is to consider the full extent of the proposed building envelopes at their potential full height (not the proposed building designs) on all adjoining and adjacent properties. The shadow diagrams are to be presented for each hourly interval for the winter solstice.

The analysis should present conclusions as to how the building height envelope configurations may need to be modified by way of appropriate DCP provisions (e.g. upper floor setbacks, boundary setbacks) to achieve compliance with or exceed compliance with Council's current DCP requirements. The analysis should also consider internal implications of overshadowing with the development site.



- 6) The servicing strategy is to be updated to quantify the loading to the water and sewer networks, inclusive of fire protection needs, to enable Council to model implications of the potential full development on its network.

It is recommended that Council withdraws its support for the Planning Proposal if the necessary conditions listed above are not included in DPHI's Gateway Determination.

Further, it is recommended that this matter be referred to Council for **reconsideration** if the outcomes of the peer reviews for the Traffic Impact Assessment and Noise Impact Assessment are such that any adverse impacts are not able to be appropriately mitigated. Council must be assured that existing and future activities at the Mount Panorama Racing Circuit are not jeopardised by increased living densities in proximity to the Mount Panorama 50dBA noise contour. Council must also be satisfied that the local road network can support the traffic generated from the future development. The Planning Proposal should not proceed if either of these issues remain unresolved.

## **REPORT:**

### **1.0 Introduction**

A Planning Proposal has been submitted to Council which seeks to amend the Bathurst Regional Local Environmental Plan 2014 (LEP) to:

- rezone land,
- increase the height of building limit,
- update minimum allotment provisions, and
- insert an additional permitted use (APU) in schedule 1.

The purpose of this report is to:

1. provide Council's initial assessment of the Planning Proposal to determine if Council supports progression of the Planning Proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway Determination to enable public exhibition of the planning proposal.
2. Identify any additional information requirements that might be required prior to the public exhibition stage.

Should Council support the Planning Proposal at this time it is only to the extent that it supports its progression to the next stage (public exhibition). A report will be presented to Council after public exhibition to determine if Council supports the making of the LEP amendment and any alterations it seeks to include in the final amendment.

The format of this report and the questions it responds to correlates with those matters set out in the Department of Planning's Local Environmental Plan Making Guideline dated August 2023 and generally follows the format of the Planning Proposal as lodged by the proponent.

### **1.1 The Proposal**

The Planning Proposal has been prepared independently from Council by Allera Planning and submitted by the applicant, Kirana Bathurst Pty Ltd.

The proposal relates to 50 Busby Street, South Bathurst, Lot 212 DP 1289265, formerly known as the St Catherine's Nursing Home and Aged Care Facilities. The buildings on the site have been vacant since 2017.



**Figure 1** – Aerial image of site

The Planning Proposal in full can be viewed in **Attachment 1** and its supporting appendices (**Attachments 2 to 13**).

The Planning Proposal seeks a range of amendments to the Bathurst Regional Local Environmental Plan 2014 (LEP) to facilitate the redevelopment of the site for the purposes of a residential flat building and townhouse development at a density beyond that currently permissibly under the LEP. The resulting development is proposed to achieve approximately 97 dwellings including 34 townhouses and 63 apartments.

An additional permitted use (APU) under schedule 1 of the LEP is also sought to support the inclusion of small tenancy food and drink uses which would otherwise be prohibited in the proposed R3 Medium Density Residential zone.

The Planning Proposal seeks the following LEP amendments:

<b>Planning control</b>	<b>Existing development controls</b>	<b>Proposed development controls</b>
<b>Zoning</b>	R1 General Residential	R3 Medium Density Residential
<b>Minimum Subdivision Lot Size</b>	550m <sup>2</sup>	1300m <sup>2</sup>
<b>Minimum Subdivision Lot Size – Dual Occupancy, manor houses, multi dwelling housing and residential flat buildings</b>	850m <sup>2</sup>	Remove site from dual occupancy map (because dual occupancies are prohibited in the R3 zone)

<b>Height of Buildings (HOB)</b>	9m	16m (for apartments) 12m (for townhouses)
<b>Additional Permitted Use under schedule 1</b>	N/A	Food and Drink Premises restricted to a floor area of 150m <sup>2</sup> for each individual tenancy on the site

Several meetings were held prior to the lodgement of the Planning Proposal between Council and the applicant, including:

- 24 October 2022 – Inception Meeting
- 6 April 2023 – Approvals pathways discussion and outline of proposal
- 27 June 2023 – Introduction of Clarke Hopkins Clarke and initial concept masterplan
- 7 August 2023 – Design Workshop
- 18 December 2023 – Progress meeting
- 13 March 2024 – Councillor briefing

Council provided formal Pre-Lodgment advice on 29 November 2023 and 21 December 2023 (included at **Attachment 14**). The Planning Proposal was formally lodged on 5<sup>th</sup> April 2024. A letter regarding the submitted Transport Impact Assessment was sent to the proponent on 4 April 2024, also made available at **Attachment 14**.

## 1.2 Attachments

<b>Attachment No.</b>	<b>Attachment Title</b>
1	Planning Proposal
2	Survey Plan
3	Urban Design Report
4	Concept Design Pack
5	Visual Impact Assessment
6	Geotechnical Investigation Report
7	Heritage Impact Statement
8	Due Diligence Infrastructure Report
9	Amended Transport Impact Assessment (dated 20.5.24)
10	Socio-Economic Impact Assessment
11	Social and Community Needs Assessment
12	Noise Impact Assessment
13	Design Guidelines
14	Pre-lodgement advice
15	Transport Impact Assessment (dated 5.3.24)

## 2.0 Site Description and Context

50 Busby Street is located in South Bathurst and is currently zoned R1 General Residential. The site is bounded by Busby and Prospect Streets, and the juncture of the two roads connect perpendicularly to Havannah Street, presenting prominently on the corner. The land has an area of approximately 1.17ha and has a current site coverage of 34%, containing buildings with a footprint of approximately 4,000m<sup>2</sup>. A full site survey has been provided at **Attachment 2**.





**Figure 2 – Site detail**

St Catherine's Nursing Home and Aged Care Facilities formerly operated on the site until the operation was relocated to Gormans Hill. The buildings have been vacant since 2017.

The site was originally developed from vacant land in 1964 to accommodate elderly Sisters of Mercy, a religious institute for women in the Roman Catholic Church. Accommodation would allow the elderly women to remain close to the order's main convent and novitiate at St Joseph's Mount (next door at 34 Busby Street). As such there has been a strong social connection between the two sites over time.

The site is comprised of two main building complexes; the 24-bed nursing home built in 1966 and the 23-bed hostel built in 1999, both of which have been extended during their lifetime. The 1966 building was constructed in a variation of Post War International Style consistent with the Novitiate Wing constructed at St Joseph's Mount in 1962. Like the Novitiate Wing on the adjacent site, the original nursing home building was constructed with face brick walls with rendered concrete columns and spandrels. The brick colour harmonises with St Joseph's Mount and the surrounding warm autumn toned brick that is iconic in Bathurst's heritage streetscapes.

It is likely that the design of the nursing home was by local architects D. Trevor Jones & Associates whose other work is reflected in the former NAB building on the corner of William and Russell Streets in the Bathurst CBD.

The lift overrun and part of the top floor of the existing nursing home building slightly exceed the existing 9m height limit, as seen in figure 3.



**Figure 3** – Existing building heights as viewed from Busby Street. (Clarke Hopkins Clarke, 2024)

Alongside the substantial built form that remains on site, a number of established trees and shrubs feature in small garden areas. The southern portion fronting Prospect Street is free from significant plantings or built form, featuring generally flat lawn and a driveway.

The immediate surrounding area is characterised by low density residential development, generally single storey fronting Prospect Street, with some two-storey development fronting Havannah Street and the rear of Prospect Street. The western end of Busby Street generally does not have dwellings fronting the street, rather they present rear yards and sheds to Busby Street. The lower end of Busby Street, after St Joseph's Mount, present street-facing dwellings.

The most prominent buildings in the immediate vicinity are local heritage items St Joseph's Mount (Logan Brae), directly to the east of the site, and St Stanislaus College to the north.

Over half of the land is within the Bathurst Heritage Conservation Area, and several heritage items are within close proximity to the site:

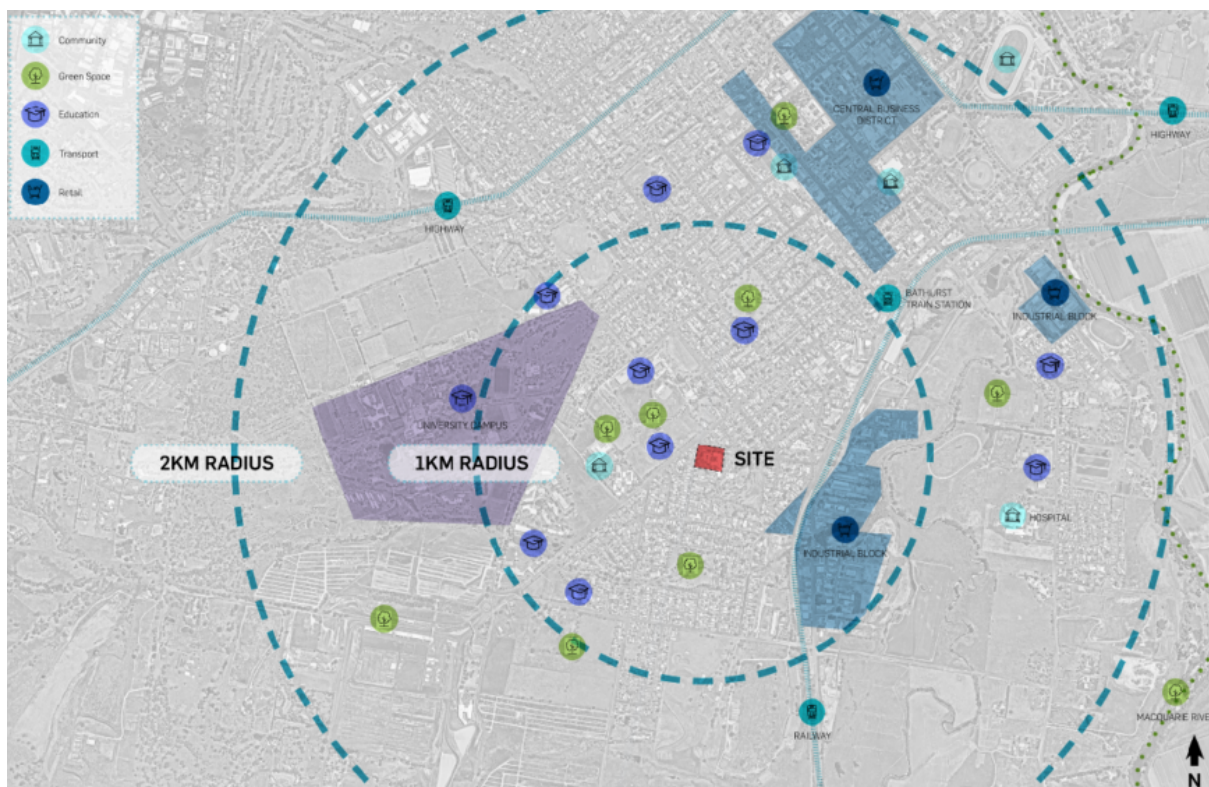
- Adjoins the western boundary of local item I247 'St Joseph's Mount' (Logan Brae)
- Approximately 50m south-east of local item I9 'St Stanislaus College'
- Approximately 37m south of local item I397, a Federation dwelling house fronting Spencer Street
- Approximately 108m south of local item I396, a Federation dwelling house fronting Havannah Street
- Approximately 117m south-west of local item I361 'St Barnaby's Rectory', a Late Victorian dwelling house fronting Brilliant Street
- Approximately 228m south of local item I307, 'Bishop's Court'
- Approximately 321m north-west of state item I246 'Ben Chifley House' and local item I395 a residence attached to Ben Chifley House.





**Figure 4** – Nearby heritage items. (Clarke Hopkins Clarke, 2024)

Nearby education facilities include Bathurst South Public School, St Stanislaus College, St Philomena's School, Skillset Senior College and Charles Sturt University.



**Figure 5 – Site Context Map** (Clarke Hopkins Clarke, 2024) [N.B. The figure has been edited from the original to insert the education icon over the location of the Bathurst South Public School which had been omitted from the original figure]

The site is located approximately 1.1km from the Bathurst CBD and its likely collector roads are Busby, Prospect, Havannah, Brilliant, Bant, Torch and Rocket Streets.

Existing active transport connectivity from the site is poor given that the only footpath is on Busby Street spanning the width of the subject site. There is a footpath on the northern side of Havannah Street which traverses nearly the entire length of Havannah Street. It passes the intersection of Havannah with Busby and Prospect Streets, however it currently does not link to the short pathway on Busby Street.

From the site, significant views lie to the east to St Joseph's Mount (Logan Brae), to the north toward St Stanislaus College, and to the south-west toward Mount Panorama Wahluu.

### 3.0 Master Plan

The proponent has prepared a concept Master Plan (Urban Design Report and Concept Design Pack) for the site which is available at **Attachment 3 and 4**.

In the development of the Master Plan, the proponent examined the current site conditions, noting that the site contains existing vacant buildings and is in a heritage conservation area. Where there are existing buildings, regardless of the site being in a heritage conservation area, an assessment should be made as to whether the intended use of the site is capable of being carried out by adaptively re-using the existing built form.



The proponent intends to use the site for mixed-use residential and small format commercial development in a medium-density format. The proponent has determined that the potential for adaptive re-use of the existing buildings for those purposes is not feasible. The assessment determined that the existing buildings have poor orientation, that the topography poses significant challenges to adaptive re-use, that the buildings in their existing form present planning non-compliances, have insufficient services/parking provisions, inefficient layouts and poor public domain outcomes. The St Catherine's Aged Care Facility was deemed impractical and unfeasible for re-purposing on those grounds, establishing that demolishing, recycling and re-building the site would be the best and most sustainable approach.

In its current form, the Master Plan proposes to demolish all buildings and trees on site and proposes to construct 97 dwellings made up of 34 townhouses and 63 apartments. The townhouses range from 150m<sup>2</sup> to 220m<sup>2</sup> and the apartments range from 75m<sup>2</sup> to 175m<sup>2</sup> providing a mix of 1-3 bedroom apartments. These are indicative figures only.



**Figure 6** – Ground floor/upper level site plan showing indicative building footprints. (Clarke Hopkins Clarke, 2024)

### Dwelling Density

The site has an area of 1.17ha. Under the current R1 General Residential zoning and the provisions of chapter 4.2.2.4 of the Bathurst Regional Development Control Plan 2014 (DCP), the maximum density of persons permitted on site for the purposes of medium density development is no more than 70.2 persons (current standard is 60 persons per site hectare). The proposal is expected to generate a projected population of approximately 239 persons (closer to 200 persons per site hectare). Hence a rezoning to the R3 Medium Density zone is being sought.

### Building Height



Preliminary designs of the buildings have been provided in **Attachment 4**. The elevations can be viewed in figures 7a-7d below.



**Figure 7a** – Northern elevation (as viewed from Busby Street)



**Figure 7b** – Western elevation (as viewed from Prospect Street)



**Figure 7c** – Southern elevation (as viewed from 36/38 Prospect Street)



**Figure 7d** – Eastern elevation (as viewed from St Joseph's Mount (Logan Brae) at 34 Busby Street)

It should be noted that the viewing angles as presented in figures 7a-7d are inconsistent and the potential visual impact of the proposal could best be represented in a 3D environment, such as the Bathurst Digital Twin, should that be made possible. It should also be reiterated that the designs represented are unlikely to be the final representation and should be taken as indicative only.

The indicative proposal seeks to enable a 16m high apartment building and 12m high townhouses.

The LEP currently restricts building height at the subject land to 9m hence the planning proposal seeks an increase in building height to 16m and 12m.

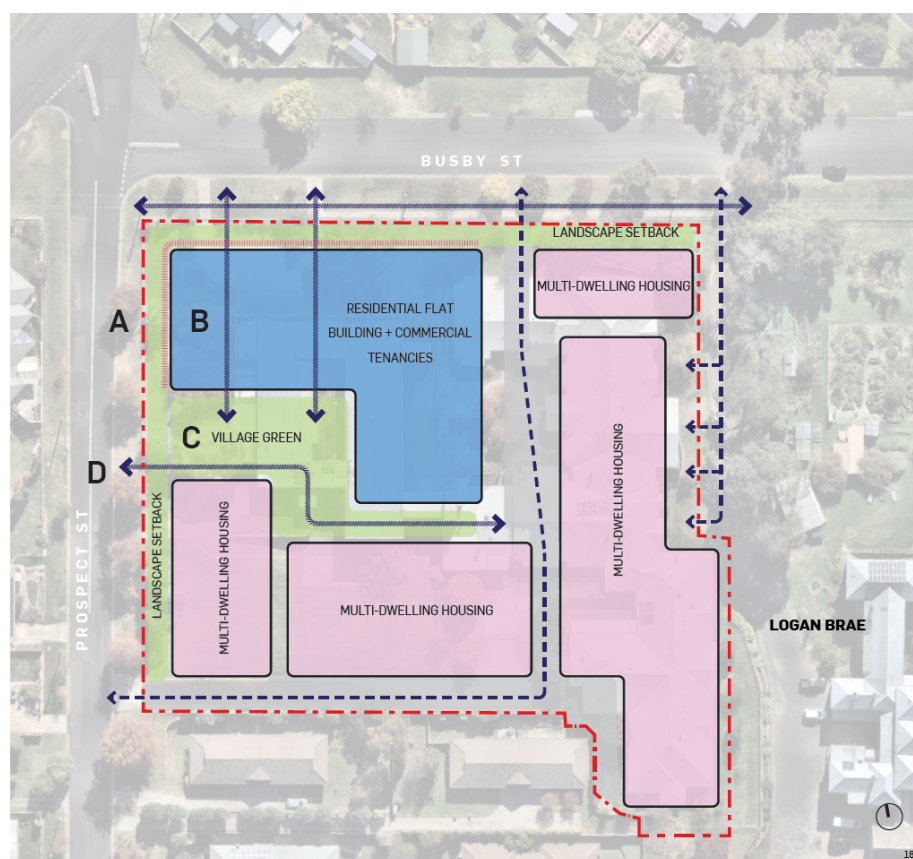
### Site Design

A setback of 5.5m is proposed from Busby and Prospect streets defining the building envelopes to be located over where existing built form and trees are currently located, which if acted upon will require the full demolition of the existing buildings on the site. The planting species that might feature in a landscaping buffer within the setback is detail that should be provided at the DA stage. The proposed siting of building envelopes prevent the retention of existing trees within the site.

A laneway from Busby Street through the site to Prospect Street is proposed to service the dwellings and underground parking, and an existing right of way over 34 Busby Street is proposed to be used to provide vehicular access to the eastern portion of townhouses from Busby Street.

#### MASTERPLAN SPATIAL PLANNING

- MULTI-DWELLING HOUSING
- RESIDENTIAL FLAT BUILDING
- ACTIVATED STREET FRONTAGE
- ACCESS & PERMEABILITY
- VEHICULAR ACCESS LANEWAY



**Figure 8** – Master plan of spatial uses. (Clarke Hopkins Clarke, 2024)

A communal open space area is proposed fronting Prospect Street which is intended to be used by residents of the site and is expected to be designed respecting the river connections of the Wiradjuri people in the more detailed DA stage. No pedestrian connection is proposed between the site and the adjacent 34 Busby Street (St Joseph's Mount).

A gym, library and other similar uses are proposed to be accessible to residents only. Small scale food and beverage tenancies on the corner of Busby Street and Prospect Street have been proposed which will provide a café, delicatessen and/or bakery or the like to service the day-to-day needs of existing and future residents in the South Bathurst area. Individual tenancies are proposed to be restricted to a floor area of 150m<sup>2</sup> so as not to compete with the commercial primacy of the Bathurst CBD. The proposed R3 zoning restricts these commercial uses and so the Planning Proposal seeks the inclusion of an additional permitted use (under schedule 1 of the LEP) to permit these development types on this site only (as opposed to permitting these land uses across all lands within the R3 zone).

## **4.0 Council's Assessment of Planning Proposal**

The purpose of this report is to provide Council's initial assessment of the Planning Proposal, as submitted, to determine if Council supports progression of the Planning Proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway Determination to enable public exhibition of the planning proposal.

The initial assessment of the Planning Proposal is outlined in the following sections, the format of which correlates with those matters set out in the Department of Planning's Local Environmental Plan Making Guideline dated August 2023

### **Objectives and Intended Outcomes**

The Planning Proposal was prepared independently from Council by Allera Planning and submitted by the applicant and owner, Kirana Bathurst Pty Ltd. It was prepared to enable the proposed Master Plan as described above.

The proponent has developed the Planning Proposal based on the following objectives.

- Plan a site that can provide for high quality residential development to meet the demand for new housing in the Bathurst LGA.
- Respond to the current and projected growth of Bathurst and the Central West region with the delivery of a diverse range of lot sizes and dwelling sizes creating diversity and choice in the housing market.
- Enable other land uses that provide facilities or services to meet the day to day needs of residents without detracting from commercial centres.
- Provide a high-quality urban design outcome that contributes positively to the Bathurst LGA.
- Ensure minimal environmental impact.
- Ensure development is compatible with surrounding development.

The intended outcomes of the Planning Proposal are to:

- Rezone the land to support the concept Master Plan as outlined above.
- Allow for sufficient public open space to contribute positively to the future liveability of South Bathurst.
- Allow for a diversity of housing types to address the needs of the growing Bathurst community.
- Provide a scale of development that integrates with the existing development as well as represents the desired future character of the area.
- Allow for a high quality walkable and active transport network which promotes safe pedestrian travel.

- Incorporate Bathurst's rich cultural identity within the development with links to the civil character and compact public spaces.

In assessing a Planning Proposal, Council must consider whether the Planning Proposal is the best means of achieving the intended objectives and outcomes.

A Clause 4.6 variation to the Bathurst Regional Local Environmental Plan 2014 provides a degree of flexibility in applying certain development standards to development in particular circumstances. Given the significant increase in residential density and building height proposed by the Master Plan, the use of a clause 4.6 variation is not considered appropriate. An amendment to the LEP (Planning Proposal) is considered the best means to achieve the intended objectives and outcomes.

A subsequent amendment to the Bathurst Regional Development Control Plan 2014 will also be required to ensure that detailed development controls can be applied to the site to ensure the Master Plan objectives and outcomes are achieved.

To this end it will be recommended that Council include, in the planning proposal, the insertion of an additional clause in the LEP requiring that development consent cannot be granted for development to which the clause applies until such time as controls for the range of relevant matters has been prepared. This will be discussed later in the report.

At this stage, maps consistent with the Department's *Standard Technical Requirements for Spatial Datasets and Maps* guidelines have not been provided by the proponent. It is expected that draft mapping will be provided by the proponent to ensure accuracy of the changes proposed, particularly in relation to the variation in height standard sought across the site.

## 4.2 Explanation of Provisions

The Planning Proposal seeks a range of amendments to the LEP to facilitate the proposed development on the site as outlined in the sections below.

### 4.2.1 Land Zoning Map (LZN)

The Planning Proposal seeks to rezone land from R1 General Residential to R3 Medium Density as the current LEP and DCP provisions do not allow for the density that is proposed in the Master Plan.





**Figure 9** – Proposed zone. Areas outside of the dotted blue line are the existing controls. (Allera, 2024)

The use of the R3 zone is the most appropriate mechanism to achieve the residential density outcomes sought in the Master Plan.

A subsequent amendment to the Development Control Plan will be required to establish the detailed controls that should apply to the R3 zone at this site. As part of the Planning Proposal, Council should insert an appropriate additional clause in the LEP to provide surety as to the outcomes of future development on the site.

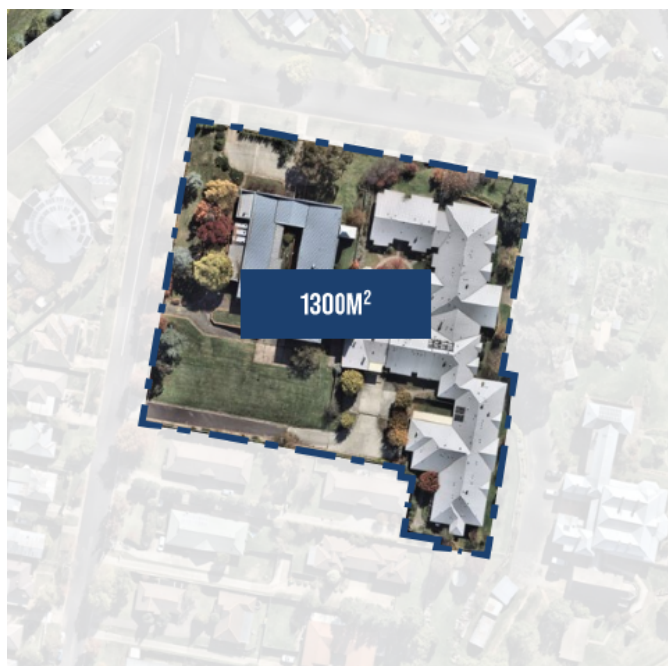
#### **4.2.2 Lot Size Map (LSZ)**

The current minimum lot size for the erection of a dwelling that applies to the site is 550m<sup>2</sup>. Consistent with Council's pre-lodgment advice, the Planning Proposal seeks to increase the minimum lot size for the erection of a dwelling to 1,300m<sup>2</sup>. The change in lot size seeks to:

- Encourage medium-density development over single-dwelling house development.
- Minimise the possible fragmentation of the site and so ensure the concepts in the Master Plan can be achieved.

It is the intention of the current owner to fully develop the land as proposed in the Master Plan. The increase in minimum lot size for the erection of a single dwelling is considered the best means to ensure the Master Plan concept reaches fruition.

The current minimum lot size that applies to the area for multi-dwelling housing or residential flat buildings is 1300m<sup>2</sup>. This will remain unchanged and will facilitate the staging of the Master Plan concept.



**Figure 10** – Proposed minimum lot size for single dwellings and multi-dwelling housing. (Allera, 2024)

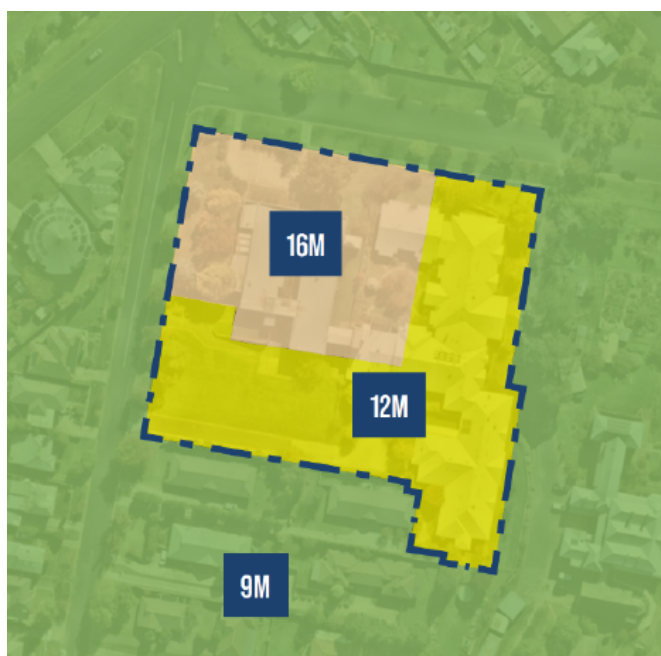
#### **4.2.3 Minimum Lot Size – Dual Occupancy Map (LSD)**

The R3 Medium Density zone prohibits dual occupancies to encourage a greater density of dwellings in the zone, such as multi-dwelling housing (e.g. townhouses) and residential flat buildings (e.g. apartments).

A minimum lot size for dual occupancies currently applies to the land under its current R1 General Residential zoning. The Planning Proposal proposes the rezoning of the site to the R3 Medium Density zone, necessitating the need to remove the minimum lot size for dual occupancy developments on the LSD as it relates to this site as it will no longer be relevant.

#### 4.2.4 Height of Buildings (HOB)

The current height of buildings applicable to the site is 9m. The Planning Proposal seeks to increase that height to 16m and 12m as shown in [figure 11](#). The apartment building on the corner of Busby and Prospect Streets is proposed to be the tallest element of the proposed development (maximum of 16m) and will achieve the highest residential density on the site. The multi-dwelling housing (townhouses) are proposed to have a maximum height of 12m and are distributed around the apartment building.



**Figure 11** – Proposed height limits. Areas outside of the dotted blue line are the existing controls. (Allera, 2024)

Limiting the 16m height increase to the corner will help to reduce the impacts of the proposed heights on the adjacent local heritage item, St Joseph's Mount (Logan Brae), notwithstanding that this location is the highest point on the site and as such a building at 16m would impact the heritage conservation area and have more prominent views to and from the site.

Maps consistent with the Department's *Standard Technical Requirements for Spatial Datasets and Maps* guidelines will need to be provided by the proponent to ensure accuracy of the changes proposed in relation to the variation in height standard sought across the site.

Again, a subsequent amendment to the Development Control Plan will be required to establish the detailed controls that should apply to manage the change in permissible

height. As part of the Planning Proposal, Council should insert an appropriate additional clause in the LEP to provide surety of the outcomes of future development on the site.

#### **4.2.5 Additional Permitted Use (APU)**

Schedule 1 of the LEP provides the opportunity to permit certain additional permitted uses (APUs) on a site that might otherwise be prohibited in the broader.

The Master Plan proposes small commercial tenancies (food and drink premises) to be located on the ground floor of the apartment building, such as cafes or similar. Food and Drink premises are currently prohibited in the R3 Medium Density zone, requiring an APU to be inserted into schedule 1 of the LEP for this specific site.

Individual tenancies will be restricted to a floor area of 150m<sup>2</sup> and no other commercial uses will be permitted other than those ancillary to the residential functions on the site so as to minimise conflict with the commercial activity of the Bathurst CBD.

It will be recommended that Council further restrict the total available floor area to a maximum of 300m<sup>2</sup> to ensure the total commercial elements are of a small scale only.

#### **4.3 Assessment of Strategic Merit**

## **Is the Planning Proposal consistent with an endorsed LSPS, strategic study or report?**

The Planning Proposal is considered against relevant planning strategies at the local, regional, and state levels, including:

#### **Local Strategies:**

- Vision Bathurst 2040: Bathurst Regional Local Strategic Planning Statement (LSPS)
- Bathurst 2036 Housing Strategy (Housing Strategy)
- Bathurst Community Strategic Plan 2022 (CSP)
- Policy – Urban Design Excellence – R3 Medium Density and E1 Local Centre Zones
- Bathurst 2040 Open Space Strategy
- Bathurst CBD & Bulky Goods Business Development Strategy 2011 (Retail Strategy)

#### **Regional Plan:**

- Central West and Orana Regional Plan 2041

#### **State Strategies:**

- Housing 2041
- Regional Housing Taskforce

#### ***Vision Bathurst 2040: Bathurst Regional Local Strategic Planning Statement***

Vision Bathurst 2040 - the Bathurst Regional Local Strategic Planning Statement (LSPS), sets out a 20-year plan to achieve forecast, desired and sustainable growth for the Bathurst Region.

The key planning priorities relevant to the Planning Proposal (PP) are addressed as follows.

## **Planning Priority**

2 – Align Development, growth and infrastructure

## **Council assessment**

The PP is supported by an Infrastructure Report (see **Attachment 8**) which outlines how services, including water, sewer and stormwater drainage may function.

No major issues have been identified. The report notes that further investigation is required in relation to stormwater drainage. This can be appropriately completed prior to lodgement of a development application. Council's Engineering section have advised that the proponent needs to quantify the loading on the water and sewer network, inclusive of fire protection loadings, to enable Council to model implications of the potential full development. It is recommended that an appropriate condition be included on the Gateway Determination.

3 – Connect the Bathurst Region

A Traffic Impact Assessment (see **Attachment 9**) has been lodged with the PP. Council has identified a number of possible deficiencies in the report and it is recommended that Council seek a peer review of the TIA prior to public exhibition, as discussed in more detail below.

6 – Protect Mount Panorama (Wahluu) as a motor sport and event precinct

A Noise Impact Assessment (see **Attachment 12**) has been lodged with the PP. Council has identified a number of possible deficiencies in the report and it is recommended that Council seek a peer review of the Noise Impact Assessment prior to public exhibition as discussed in more detail below.

7 – Leverage new Opportunities

Action 7.7 of Planning Priority 7 echoes the need to protect the Mount Panorama Racing circuit from potential landuse conflict as addressed above for planning priority 6.

8 – Become a Smart City

The Infrastructure Report submitted with the PP proposes that the site will have no gas connections, therefore relying on electric smart technologies to provide everyday living solutions.

Planning Priority 8 also encourages the support of Charles Sturt University's presence within the Bathurst region. Located in close proximity to CSU, the site offers new residential opportunities that may be used by students and/or staff in support of CSU's operations.

9 – Protect indigenous cultural heritage

The subject site is not a place of Aboriginal significance and due to past extensive land disturbance it is not expected that any Aboriginal archaeology is present on the land.

Relevant provisions should be included in the future DCP that relate to the site to protect any unexpected finds.

See further comments below.

10 – Protect European and non-Indigenous heritage

A Heritage Impact Statement has been submitted with the PP (see **Attachment 7**) as discussed in more detail below.

12 – Enhance environmentally sensitive land and biodiversity

There are several prescribed trees on site that may be at risk as a result of implementation of the Master Plan. See comments below.

14 – Create a sustainable Bathurst Region

The Planning Proposal seeks to significantly increase living density in reasonable proximity to the Bathurst CBD. It therefore supports action 14.6 which encourages Council to review its planning instrument provisions to reduce urban sprawl.



**Planning Priority**

15 – Improve resilience to natural hazards and extreme weather events

**Council assessment**

The land is not identified by any mapped hazards such as flooding or bushfire. However, it is acknowledged that extreme weather events are on the rise and that planning controls must enable community preparedness and resilience. With the proposed increase in density, Council must consider whether the expected population on the site will be able to orderly move through the city during and following a disaster event. This consideration goes hand in hand with whether the existing roadways can support the normal expected traffic to and from the site. See discussion below in relation to Planning Priority 3.

16 – Provide new homes

The PP is supported by a Social and Community Needs Assessment (see **Attachment 11**) which is discussed in more detail below.

18 – Deliver public spaces and recreation

A communal open space is proposed as part of the Master Plan of the site which is intended to be used by residents of the site only. Relevant provision of landscaping and private and communal open space needs to be considered as part of the subsequent DCP provisions.

19 – Deliver social, community and cultural infrastructure.

The PP is supported by a Social and Community Needs Assessment (see **Attachment 11**). The Master Plan and Planning Proposal does not propose any social housing quotas. Wider community infrastructure provision would be supported through developer contributions at the DA stage.

**Planning Priority 3 – Connect the Bathurst Region**

The proponent has submitted a Traffic Impact Assessment (TIA) available at **Attachment 9**. Note that the TIA at **Attachment 9** supersedes the original TIA included at **Attachment 15**. The TIA was prepared by SALT<sup>3</sup> and demonstrates the expected commuting and parking habits. Using the SIDRA traffic model, the report studied the Havannah Street/Prospect Street and Prospect Street/Busby Street intersections on Thursday 12 October 2023 during the peak periods of 7-10am and 3-6pm at the following intersections:

- Havannah Street / Prospect Street; and
- Prospect Street / Busby Street.

Upon review of the original TIA (**Attachment 15**), Council considered that the surveyed intersections were not broad enough to consider the likely impacts of traffic on the area. In a letter dated 21 December 2023 addressed to the proponent, Council requested the following intersections be considered in an amended report:

- Havannah Street / Brilliant Street (in proximity to St Stanislaus College).
- Havannah Street / Rocket Street (Transport for NSW).
- Busby Street / Bant Street.
- Bant Street / Rocket Street.
- Torch Street / Rocket Street.
- Busby Street / Spencer Street.
- Havannah Street / Spencer Street.



**Figure 12** – Predicted road network for access to the subject site.

An amended TIA was submitted on 24 May 2024 (**Attachment 9**). A correction was made to note that the initial survey period was not 3-6.30pm but 3-6pm on 12 October 2023.

Based on Salt<sup>3</sup>'s knowledge of the area and SIDRA results found in the original report, the amended report determined that it was unnecessary to undertake detailed traffic modelling of all of the listed intersections that Council requested to be surveyed because the traffic generated by the proposal is expected to have very minimal impact on the operation of most of those intersections.

Nonetheless additional modelling was undertaken on 2 May 2024 between 7am-10am and 3-6pm at the following intersections:

- Havannah Street / Brilliant Street; and
- Havannah Street / Rocket Street.

The remaining intersections not yet surveyed include:

- Busby Street / Bant Street.
- Bant Street / Rocket Street.
- Torch Street / Rocket Street.
- Busby Street / Spencer Street.
- Havannah Street / Spencer Street.



The SIDRA INTERSECTION 9.1 software was used for the intersection assessments, focusing on parameters like Level of Service, Average Delay and Degree of Saturation. Vehicular access to the site will primarily be via Prospect Street and Busby Street. Traffic generation assumptions were based on RTA (RMS) guidelines. Specific trip distribution assumptions were made according to land use type. The proposed development is estimated to generate 69 and 75 vehicle trips in the AM and PM peak hours respectively. This figure was unchanged between the original and amended TIA.

The final SIDRA results indicated that key intersections will operate efficiently during peak periods post-development.

Assessment of the cumulative traffic impact at the 10-year design horizon took into consideration the adjacent property known as Lot 22 DP 1033481 (34 Busby Street, South Bathurst), for which a Planning Proposal has been lodged to rezone a portion of the land to R3 Medium Density, noting also a separate development proposal to adaptively re-use the existing heritage building (St Josephs Mount) as a function centre with ancillary services not limited to a chapel, restaurant/café, and tourist and visitor accommodation.

However, the TIA does not consider the adaptive reuse of the heritage building, it only considers the cumulative impacts of the medium density development. Moreover, it considers the adjacent site's yield as 150 dwellings despite the expected yield actually being much greater, at 218 dwellings. Based on a yield of 150 dwellings and excluding potential traffic impacts from the future function centre at 34 Busby Street, the cumulative traffic impact analysis indicated that the surrounding intersections would also continue to operate well at LoSA with minimal queuing and delays on all approaches. In summary the assessment found that the observed traffic levels were relatively low, which is typical of local roads servicing residential areas, however these findings must be more closely considered in a peer review.

In relation to car parking, the report examined the existing car parking areas as shown in Figure 13 below.



**Figure 13** – Car parking survey extent. (Salt<sup>3</sup>, 2024)

The current DCP rate for car parking was applied to all proposed uses and found that a total of 182 car parking spaces would be required, including 55 spaces for visitor parking spots. Each townhouse is proposed to have a one or two car garage, with ample space generally provided on site to accommodate one visitor parking space. Therefore, the statutory parking requirement for the proposed townhouses would be able to meet the current DCP parking requirement.

A total of 65 parking spaces are proposed on site for the apartments, with 59 of these included in the basement car parks and a further six provided along the internal site link. The requirement for resident parking of 63 spaces would be able to be met, however the report proposes that visitor car parking and parking for retail and food and drink premises users would be accommodated in a combination of on- and off-site parking.

It is Council's expectation that all carparking and loading/unloading areas for the resultant development would be provided entirely onsite, consistent with the requirements of the DCP. Providing up to 49 off-site (on-street) parking (20 apartment visitor and 29 retail/café) as proposed in the report is not supported. Upon lodgement of the future Development Application, the applicant would be able to seek a variation to the DCP standards, however, Council cannot guarantee it would support any such variation at this time. Rather, at DA stage, the finalised development should be capable of accommodating the on-site car parking required by the proposed uses consistent with the requirements of the DCP. This might result in less development potential as envisaged by the Master Plan and/or the need for additional carparking levels, thereby influencing building height and bulk within the envelopes proposed.

Overall, Council considers that the amended TIA does not adequately assess or represent the likely individual and cumulative traffic impacts of the Planning Proposal and the impacts of adjoining development on the Local and State Road networks.

It is recommended that Council request, as a condition of the gateway determination, that the TIA for both the subject site and the adjoining site (34 Busby Street) be peer reviewed so as to dispel concerns that there might be discrepancies between the two reports and to ascertain the true impact of traffic as a result of both Planning Proposals and the proposed adaptive re-use of the heritage item at 34 Busby Street.

The peer review needs to be completed prior to public exhibition of the draft Planning Proposal.

The cost of the peer review would be at full cost to the applicant, in accordance with Council's revenue policy, and that cost could be equally shared between the proponents of 50 and 34 Busby Street.

Related to traffic and the movement of people, the planning proposal states that there is a need to improve active transport facilities, noting in the Social and Community Needs Assessment (available at **Attachment 11**) that active transport infrastructure around the site is currently poor. The Planning Proposal does not provide any details how the improvement of active transport in and around the site might be achieved.

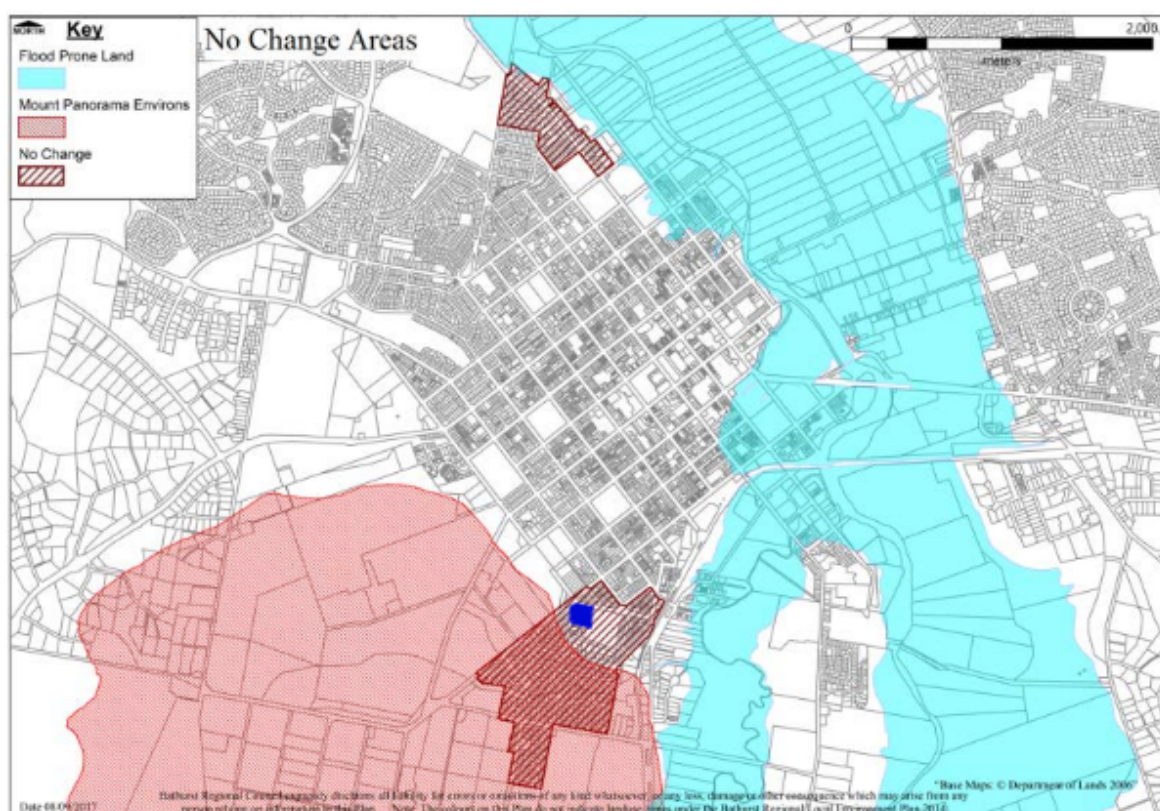
A new site-specific DCP would consider the need for footpaths along both street frontages, and might include foot/cycleway connections between the site and 34 Busby Street (given they were historically linked), Havannah Street (main thoroughfare to the CBD), two nearby bus stops on Prospect Street, and to nearby public open spaces, schools, and so on.

Planning Priority 6 – Protect Mount Panorama (Wahluu) as a motor sport and event precinct

The LSPS identifies the significance of Mount Panorama as a major economic and cultural precinct. Council's long-term goal is to protect Mount Panorama as an international motor racing venue and to foster further economic growth through the delivery of a motor sport precinct inclusive of a second world class circuit and associated research and development business park.

Action 6.6 of the LSPS states that as an ongoing action, *Council should minimise or reduce, where possible, the permitted residential density in South Bathurst over those existing residential lands within the 50 dBA noise contour and other identified land that may be affected by noise exposure from the Mount Panorama racing precinct.*

The subject site is **not** located within the Mount Panorama racing precinct, nor is it within the 50 dBA Mount Panorama Environs map as per Clause 7.6 of the LEP. The subject site is marked as a 'no change area' in the *Bathurst 2036 Housing Strategy* due to its proximity to lands within the 50dBA noise contour.



**Figure 14** – 'No Change Area' precincts in the *Bathurst 2036 Housing Strategy*. Subject site identified in navy blue.

The Bathurst 2036 Housing Strategy recommended 'no change areas' to prevent new residential living opportunities, including increased living densities, on environmentally sensitive lands. The area in which the subject site is located was nominated as a 'No Change Area' because of its proximity to the potential for noise impacts from the Mount Panorama racing precinct, whether or not the circuit expands or a second circuit proceeds.

Whilst the proponent has argued that the second racing circuit is not proceeding, action 6.6 of the LSPS remains relevant to ensure existing activities at Mount Panorama are not

jeopardised by increased living densities within proximity of the adopted 50dBA noise contour. Council has, therefore, requested that a Noise Impact Assessment be included as part of the Planning Proposal. It is important that Council is satisfied that the development is capable of complying with relevant standards and be protected from noise that may be generated from existing activities that occur at the Mount Panorama racing circuit such that that level of noise will not unreasonably disturb a high number of residents to an unacceptable level.

The Noise Impact Assessment, available at **Attachment 12**, does not give Council assurance that the resultant medium density development can be reasonably protected from potential noise impacts. The methodology used for assessment is unusual; it used the *Development near Rail Corridors and Busy Roads Interim Guideline* which is a guideline normally used when the daily traffic volume is more than 40,000 vehicles. As this is well above the expected traffic volume for the site, a more appropriate methodology might have been to use time periods/levels like those used in the *Noise Policy for Industry*. The report does not substantiate why the methodology used is the appropriate methodology.

In addition to the questionable methodology, there are a number of other matters that the Noise Impact Assessment does not address, not limited to what the estimated noise level would be with acoustic treatments in place, whether external treatments are required for balconies and/or communal open spaces, what cost may be involved in the proposed treatments, whether those methods could affect the affordability of housing, and so on. It is therefore recommended that Council seek a peer review of the Noise Impact Assessment by an independent external consultant appointed by Council so as to provide certainty as to the impacts that noise from the Mount Panorama racing circuit might have on the future residents of the site. The peer review can be consolidated to include a peer review of the requested noise assessment on the adjoining lands at 34 Busby Street which is also seeking a R3 rezoning. The peer review needs to be completed prior to public exhibition of the draft Planning Proposal and it will be recommended that the Department of Planning, Housing and Infrastructure (DPHI) require the peer review as part of its Gateway Determination.

The cost of the peer review would be at full cost to the applicant, in accordance with Council's revenue policy, and that cost could be equally shared between the proponents of 50 and 34 Busby Street.

#### Planning Priority 9 – Protect indigenous cultural heritage

The Wiradjuri people are the Traditional Owners and Custodians of the Bathurst Plains. Their occupation of the area extends thousands of years to the time of Gudyiin ('the beginning', time immemorial).

The Wiradjuri people continue to have a spiritual and cultural connection to the land. This connection long pre-dates European settlement, and despite modification of the land through urban development, many places of significance remain.

Council has completed extensive studies and investigations about the Region's Aboriginal Cultural Heritage. The Bathurst Region Aboriginal Heritage Study was completed in 2015 and includes Aboriginal cultural heritage sensitivity mapping which is being used to inform development decisions. Extensive Aboriginal Cultural Heritage investigations have also been completed at Mount Panorama (Wahluu).

The site is close to the Charles Sturt University campus through which, as it is understood through oral history, a significant songline traverses as it merges with Mount Panorama



Wahluu. There may also be cultural connotations with the existing nursing home building by living Aboriginal descendants of those who inhabited the building.

The proponent was encouraged to discuss the Planning Proposal with the Bathurst Local Aboriginal Land Council and the Wiradjuri Traditional Owners Central West Aboriginal Corporation (WTOCWAC) prior to lodgement. The proposal does not demonstrate such consultation occurred however it must be noted that consultation with Aboriginal groups is not required by the *National Parks and Wildlife Act 1974* unless an Aboriginal Cultural Heritage Assessment (ACHA) is required to be prepared because of impact to a registered Aboriginal object. There are no registered objects on the subject site.

As part of the exhibition process, Council will seek to consult with the Bathurst Local Aboriginal Land Council and the WTOCWAC to comment on the impacts of the proposal on tangible and intangible Aboriginal heritage. Council recognises that there are opportunities for feedback with respect to the proposed open space given that the Master Plan proposes to inform the open space design with Wiradjuri motifs, such as river connections. The feedback received may form part of design excellence guidelines and/or site interpretation controls that would be applied through the subsequent DCP provisions.

#### Planning Priority 10 – Protect European and non-Indigenous heritage

The majority of the site is within the Bathurst Heritage Conservation Area and is adjacent to local heritage item St Joseph's Mount (Logan Brae). It is in an area of rich built heritage character and the site's elevation presents itself on a prominent corner such that the resultant development will be visible on skylines.

The site contains the former St Catherine's nursing home and ancillary accommodation buildings. The nursing home was built in face brick like the Novitiate Wing attached to St Joseph's Mount, allowing the built form, albeit modern, to harmonise with St Joseph's Mount as well as the surrounding warm autumn toned brick buildings like St Stanislaus College, and others, that are so iconic to Bathurst's heritage streetscapes.

The site is not listed as a heritage item, though its design is significant in that it was likely a design by local architects D. Trevor Jones & Associates whose other work is reflected in the former NAB building on the corner of William and Russell Street in the Bathurst CBD. Actions 10.6, 10.8 and 10.12 of the LSPS are relevant to this Planning Proposal, being:

10.6 Undertake a review of the heritage and urban design provisions within Council's planning instruments.

10.8 Ensure that impacts on heritage are given significant consideration in the development assessment process through Council's heritage advisory service and pre-Development Application processes.

10.12 To promote the importance of the Region's unique heritage and minimise the future loss of heritage assets.

A Heritage Impact Statement (HIS) has been submitted at **Attachment 7**. Council must note that the purpose of a HIS at Planning Proposal stage is not to retrofit a justification for the pre-designed replacement building but to assess whether the proposed amendments to the LEP are appropriate for the site in its context of being in a heritage conservation area and adjacent to a significant local heritage item.

Despite this, the HIS as submitted was structured to assess whether the proposed replacement building would be appropriate and itself is deficient in information. Little regard is given toward whether the increase in density and height are appropriate, simply noting that Bathurst 'has a need for medium density development' and that 'the site is

considered very suitable for such a development' despite providing no heritage justification for such a statement.

In addition, the report is limited in that it does not provide a comprehensive investigation into the site's history, including Aboriginal history, the possible architects and their other comparable work, and the background of the Sisters of Mercy. The report writer also did not examine the interiors of the buildings, missing the opportunity to rate the significance of internal features, and did not assess the significance of existing landscaping which could have identified any trees that should be maintained, and could have informed an appropriate landscape buffer for the setback that includes significant trees.

In examining the existing site, the report determined that the potential for adaptive re-use for the proposed purposes was not feasible. The St Catherine's Aged Care Facility was deemed impractical and unfeasible for re-purposing, establishing that demolishing, recycling and re-building the site would be the best and most sustainable approach.

The report makes the following recommendations:

- Provide an archival recording of the buildings prior to demolition. This should include the preparation of plans and elevations of the existing buildings and their context on site, and the preparation of a photographic record of the complex.
- Incorporation of interpretations of the history of the place within the landscaping of any proposed development.
- Where possible, materials such as bricks should be recovered and re-used within new landscaping structures.
- Ensure sufficient setbacks from the eastern boundary of the site to preserve site lines to Logan Brae from Busby Street.
- Ensure the buildings on the eastern side of the block are sympathetic to the surrounding neighbours, in particular helping to avoid overshadowing of the neighbouring St Joseph's Mount.
- New developments should comply with the guidelines of the HCA including scale, form, colours and textures of external materials and finishes.

It also notes that the statue of Mary located near the 1966 Nursing Home should be conserved and incorporated into new landscaping.

In relation to the re-use of materials, it is considered that the re-use of bricks for landscaping is a diminutive use of the substantial amount of original material that currently exists on site. Red bricks, in particular, are characteristic of Bathurst and its heritage buildings. Construction of new buildings should involve the reuse of existing materials as far as reasonably possible, and the colours and materials should reflect those used in the Heritage Conservation Area and the adjacent local heritage item, St Joseph's Mount (Logan Brae).

Overall the report is limited on assessing the proposed LEP amendments from a heritage perspective. The increase in density and increase in height limit *will* have an impact on the heritage character of the area. The ways in which the proposal could mitigate those effects could have been better articulated, and the report could have included discreet, numerical setbacks and other methods of managing impacts to heritage.

What might be an appropriate setback on the eastern side of the block between the site and Logan Brae has not been defined in the report. Heritage best practice typically requires that replacement buildings utilise the existing footprint of the former building, which currently has a setback of approximately 18m to Prospect Street and 19.5m to Busby Street (approximately 11m for existing accommodation units). Concessions may be



made to having a setback consistent with the existing setbacks on the same side of the street. Visibility on corner allotments must also be maintained.

Figure 15 below demonstrates the setbacks of the existing site and the setbacks of buildings on the same side of Prospect and Busby streets. It also shows the setbacks of Logan Brae to the shared boundary and to the buildings on 50 Busby Street.



**Figure 15** – Diagram of setbacks of site and surrounding buildings on the same side of the street (Busby and Prospect Streets)

The only dwellings that are closer than 5.5m to the front boundary is 28 Busby Street at 3m and 24 Busby Street at 4m, however both of these dwellings are on the other end of the block. In addition, 24 Busby Street is on the corner of Busby and Lewins Street and is sited at an angle away from Busby Street. Every other dwelling on the same side of Busby and Prospect streets have setbacks deeper than 5.5m.

The concept Master Plan proposes the apartment building to be at 16m in height and to be setback by 5.5m to both Busby and Prospect Streets, with floors above level 1 to be setback by a further 2m (7.5m). The 12m tall townhouses are proposed to be setback by 5.5m to both streets, and 6m from the boundary shared with the adjacent St Joseph's Mount (Logan Brae).

The setback of 6m between the shared boundary with St Joseph's Mount (Logan Brae) may be appropriate, however the setbacks to Busby and Prospect Streets are uncharacteristic of the area. A setback of 5.5m-6m will impose significant bulk on the site to a scale that the area has not historically seen. A deeper setback on upper storeys should not be limited to the apartment building. Overall, it would be more appropriate for the apartment building to utilise the existing footprint at no higher than the existing building, and step and increase the bulk back from there. This would allow the highest point on the site to be used for landscaping with better solar access than in the area that has been proposed. A deeper setback would also allow the retention of existing established trees.

However, Council might be in a position to consider a shallower setback if it can be demonstrated that the design is of such considerable excellence that the variation can be

accepted. Such design excellence is best managed by inserting a clause in the LEP that a site-specific DCP must be in place before a development consent can be issued. As such it is expected that the designs proposed in the Master Plan would not be the final presentation.

The proponent has submitted design guidelines in **Attachment 13** with the intent of informing the development controls that would help manage how the site might be developed. This will form a starting point to the development of Council's site specific development controls (DCP) which will consider in more detail how heritage impacts can be mitigated.

As outlined earlier it is recommended that, as part of this planning proposal, Council insert a new provision in its LEP to require that development consent cannot be granted for development to which the clause applies (being the subject land) until such time as the development controls for relevant matters (DCP provisions) have been prepared for the land. This will enable Council to ensure that the replacement buildings are assessed against a rigorous design excellence clause which would enable an in-depth analysis of the final development design and how heritage impact can be mitigated.

Design excellence guidelines within the subsequent DCP will also be needed to address potential impacts from a 16m tall apartment building and 12m tall townhouse buildings in a conservation area that has not before seen buildings of that height in this location.

#### Planning Priority 12 – Enhance environmentally sensitive land and biodiversity

The subject site is within the Bathurst Heritage Conservation Area and therefore Council's Tree Preservation Policy applies to the protection of prescribed trees on the site. Prescribed trees are any tree that is:

- a) greater than nine (9) metres in height; or
- b) has a stem diameter of one (1) metre or more at a height of one (1) metre from the ground; or
- c) has a branch spread of fifteen (15) metres or more; or
- d) is not an exempt tree (i.e. not a species listed in the list of exempt trees in the policy).

There are trees greater than 9m in height on the site, including the gum trees on the Busby street frontage which are between 10-11m in height. The concept Master Plan indicates that the footprint of the apartment building will overlap with the location of these two trees, suggesting that these trees would need to be removed. A more appropriate building setback might enable the prescribed trees to be retained. The management of landscaping on site will also be an important aspect of the subsequent DCP provisions that will need to apply to the site.

#### Planning Priority 16 – Provide new homes

Planning Priority 16 addresses the growing population of the Bathurst Region and the need to accommodate this growth. The LSPS notes that the Bathurst population is expected to grow to 55,250 by 2036 representing an increase of 12,600 people requiring 5,245 new dwellings to accommodate this growth. The LSPS identifies some key demographic trends that will affect future housing provision including:

- a reduction in household size from 2.5 persons to 2.32 persons by 2036;
- an increase of over 42% in the population of retirement age;
- an increase of over 22% in the population under working age;

- an increase of over 19% in the population of working age; and
- lone person households becoming more common.

The majority of the current housing stock comprises detached dwellings with up to 4 or more bedrooms. The dominance of large detached dwellings does not correlate with the key demographic trends that are identified above. The LSPS calls to improve housing choice and diversity to address these trends and also as a means to contribute to housing affordability. The key challenge identified is the markets acceptance of lower cost housing and smaller lot sizes in suburban locations.

The Planning Proposal represents a unique opportunity for the physical realisation of providing housing diversity and choice in the market at a location that is relatively close to the CBD.

### Summary

It is considered that the Planning Proposal is consistent with the objectives of the Bathurst Region LSPS subject to completion of the Peer Reviews of the Noise and Traffic Impact Assessments prior to public exhibition and subject to those reviews providing for favourable outcomes where any possible impacts might be appropriately mitigated. It is recommended that DPHI condition these reviews as part of their Gateway determination.

### ***Bathurst 2036 Housing Strategy***

The Bathurst 2036 Housing Strategy (Housing Strategy) is a strategic document which assists Council to encourage a range of housing that meets the existing and future housing needs of the Bathurst LGA. The Housing Strategy details the expected growth of Bathurst and the changing demographic trends and identifies potential locations for new or intensified housing.

The goals of the Housing Strategy are to:

- 1) Balance the housing supply between new areas and increase housing densities in existing areas close to services.
- 2) Improve housing diversity/choice and affordability.
- 3) Deliver a better-built environment, urban design and housing design.
- 4) Improve connectivity, especially walkability.

The proponent has submitted a Socio-Economic Impact Assessment, available at **Attachment 10** which examined the existing housing stock and whether the proposal would meet the future demand of housing in Bathurst.

The report states that owing to market attitudes towards higher density living, which are only just emerging, feasible development of higher density in Bathurst's existing urban area is generally limited to blocks that can be purchased for an economic price (vacant or with a small dwelling at the end of its economic useful life). It is for this reason that the majority of the development pipeline for medium density dwellings and residential units are typically small in scale in Bathurst.

Whilst the site is located in South Bathurst, the report makes recommendations about dwelling/number of bedrooms and other aspects referring to the 'Bathurst Central Area' from the 2021 ABS Statistics. This area is a combination of the census localities of Bathurst, Bathurst South, Bathurst East and Bathurst West. It is suggested that as the proposal is most in line with 'inner fringe neighbourhoods', the most appropriate data set would be the census locality of 'Bathurst' on its own. This area is more representative of

the medium density dwelling housing stock whereas the Bathurst LGA also includes suburban and rural dwelling formats.



Figure 16 – Bathurst Area (2021 ABS Statistics)

	Number of bedrooms in housing market		
	Bathurst LGA	Bathurst Central Area	Bathurst
1-Bedroom Dwellings	3.4%	-	7%
2-Bedroom Dwellings	13.8%	13%	39%
3-Bedroom Dwellings	36.5%	33%	36.6%
4-Bedroom Dwellings	44.5%	31%	14.9%

The report submitted states that the Bathurst LGA generally lacks the provision of 1-2 bedroom dwellings. It notes, however, that within the suburb of Bathurst (inner city area), 2-bedroom dwellings are statistically common and this would correlate with the proximity of smaller sized housing to the CBD.

The Planning Proposal envisages the development of 97 dwellings in a medium density format, providing 34 townhouses (comprising a mix of 3- and 4-bedrooms), and 63 apartments (ranging from 1- to 3-bedrooms). The additional 1-bedroom dwellings will add to a dwelling typology that is rarer in the Bathurst suburb and wider LGA.

Of note, the Housing Strategy identifies the site as a ‘No Change Area’ as shown earlier in [Figure 14](#).

As discussed previously, the Strategy recommended ‘No Change Areas’ to prevent new residential living opportunities, including increased living densities, on environmentally sensitive lands. The area in which the subject site is located was nominated as a ‘No Change Area’ because of the potential noise impacts of the Mount Panorama racing precinct, including a possible second circuit if it were to be constructed.

Council needs to be satisfied that the development is capable of complying with relevant standards and be protected from noise that is generated from the Mount Panorama racing circuit such that that level of noise will not disturb a high number of residents to an unacceptable level.

A Noise Impact Assessment has been submitted (**Attachment 12**), and as indicated earlier does not give Council assurance that the resultant medium density site can be reasonably protected from potential noise impacts.

It is therefore recommended to Council that it seeks a peer review of the Noise Impact Assessment to provide certainty as to the impacts that noise from the Mount Panorama racing circuit might have on the future residents of the site.

Depending upon the outcomes of the Peer Review, Council may need to undertake a review of the Housing Strategy and its LEP where the noise levels from the Mount Panorama racing precinct necessitate the Mount Panorama Environs Map to be modified.

Should the Peer Review report demonstrate that the subject site is suitable for rezoning, the site might be better classified under the Housing Strategy as an 'Inner Fringe' area. The Housing Strategy nominates Inner Fringe neighbourhoods close to the CBD's amenities and facilities for appropriate urban renewal with increases in residential density.

The submitted Social and Community Needs Assessment (see **Attachment 11**) identifies that the site has good connections to existing community and education facilities as well as being well sited to connect to local and regional parks.

The Housing Strategy supports owner-initiated planning proposals to support the urban renewal of land in the 'Inner Fringe' areas to be rezoned or redeveloped to allow for an increase in density. It stipulates that for this to occur, the site must achieve a design outcome that will achieve affordability, sustainability, and accessibility beyond those outcomes that might otherwise occur.

The Housing Strategy calls for agreed development principles for these sites to be formulated. The subsequent DCP provisions will therefore be important in finalising appropriate residential density standards that will be permitted on the site taking into account a wide range of matters including design, siting, landscaping and to achieve design-excellence.

It is considered that the Planning Proposal is consistent with the objectives of the Bathurst Housing Strategy subject to completion of the Peer Review of the Noise Impact Assessment and subject to that review providing favourable outcomes where any possible impacts might be appropriately mitigated. The site can then appropriately be considered under the Housing Strategy recommendations as an 'Inner Fringe' area instead of as a 'No Change' area.

### ***Bathurst Community Strategic Plan 2022***

Our Region Our Future, the Bathurst region's Community Strategic Plan (CSP) is a Plan for the Bathurst community that describes how we can achieve the region's vision over the next 20 years.

*Objective 4 Sustainable and Balanced Growth, Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community identifies Bathurst's proximity to Sydney as a key indicator of growth. The population of Bathurst is expected to grow to 58,622 by 2041. To accommodate the population growth, the CSP notes Council will work with developers to improve the utilisation of our land resources more effectively, which may include higher density living.*

The site represents a unique opportunity for Council to consider higher densities within close proximity to the Bathurst CBD. The Planning Proposal supports the vision and objectives of the CSP.

### ***Policy – Urban Design Excellence – R3 Medium Density and E1 Local Centre Zones***

The R3 Medium Density Housing zone was introduced for the first time in 2023 and applied to lands within the Laffing Waters Master Plan precinct. Council recognised that other lands within the Bathurst built up areas may be zoned R3 Medium Density as part of future developments to increase living densities, as supported by the recommendations of the Bathurst 2036 Housing Strategy.

As a consequence, Council recently adopted a new policy to encourage design excellence for new developments in the R3 Medium Density zone, along with the E1 Local Centre Zone.

The policy sets the guiding principles to ensure impacts on the public realm respond to changing community values and economic and environmental influences in those localities zoned, or proposed to be zoned, R3 Medium Density and E1 Local Centre, encouraging design excellence for new developments.

The following Guiding Principles are to be considered:

1. Sense of Place: How does change engage the street, neighbourhood and surrounding locality.
2. Heritage and Streetscape: How does change integrate with the street, neighbourhood, parklands and surrounding locality.
3. Landscape and Environment: How does change respond to and integrate with the environment and landscape.
4. Economic vitality: How does change revitalise an existing Neighbourhood Activity Centre and activate new and existing Main Streets.
5. Connection: How does change prioritise connectivity and walkability.
6. Traffic and Parking: How does change manage disruptions to traffic and parking and enhance opportunities for public and active transport.
7. Climate and Resilience: How does change respond to climate conditions and their impacts.
8. Liveability: How does change encourage new employees to work and new residents to live.

As discussed earlier, it is recommended that Council insert a new clause within the LEP that requires DCP provisions to be in place to guide development on the site before any development consent can be issued. That clause should provide a link to this policy in a manner similar to the clause inserted in relation to the proposed Bathurst Integrated Medical Centre which links to the CBD design excellence policy.

As a starting point the proponent has submitted a draft design guide (see **Attachment 13**) which will inform the development of the future DCP provisions.

### ***Bathurst 2040 Open Space Strategy***

The Open Space Strategy outlines principles to guide how open space and public recreation areas might be developed, upgraded, expanded and delivered to the Bathurst city and regional communities. The Planning Proposal does not reduce the land available for public purposes. The Master Plan proposes a communal open space area ancillary to the development which will primarily service residents of the site and users of the small

commercial tenancies. This open space area is not proposed to be zoned as RE1 Public Recreation land.

The site is otherwise well connected to nearby parks and regionally significant recreational spaces. Development Contributions may be required at DA stage to help facilitate the Strategy's broader open space objectives.

### ***Bathurst CBD & Bulky Goods Business Development Strategy 2011 (Retail Strategy)***

The Retail Strategy assesses the commercial activity of Bathurst and demonstrates the importance of the Bathurst CBD as the commercial core. The Planning Proposal includes a proposed Additional Permitted Use (APU) to allow small scale food and drink premises to occur within the site which would otherwise be prohibited in the R3 Medium Density zone.

Food and drink premises are separately defined by the LEP as follows:

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

The concept Master Plan proposes two tenancies of between 90m<sup>2</sup> and 130m<sup>2</sup> and are likely to be small cafes and/or the sale of convenience goods.

Whilst the site is over 1km from the Bathurst CBD, it is within walking distance or just a short drive away, and therefore Council must consider whether the commercial elements of the proposal will have an impact on the primacy of the Bathurst CBD.

Within proximity to the site are similar commercial services, including a small neighbourhood shop and takeaway store that is located just 250m southwest from the site, and a coffee shop and butcher is located just 450m northeast. The Metro petrol station is just 390m northeast.

To mitigate potential impacts on the operation of the CBD, the proposal includes a restriction on the individual tenancies to 150m<sup>2</sup>. This would discourage larger franchise-based commercial tenancies like McDonald's or KFC. Such a control is not unprecedented. Clause 5.4(7) already restricts neighbourhood shop developments to 150 square metres, neighbourhood shops being a permissible use in the R3 zone.

The introduction of an APU is considered the best means to enable small scale food and drink premises on the site.

To further safeguard the primacy of the CBD, it is recommended that Council impose an overall maximum food and drink premises floor area so as to avoid scenarios where excessive 150m<sup>2</sup> tenancies are proposed on the site. Given that the proponent has proposed two tenancies which would be between 90-130m<sup>2</sup>, for a combined total of at least 260m<sup>2</sup>, it is considered reasonable to restrict the total floor area to no more than 300m<sup>2</sup>. The proposed APU under schedule 1 would need to include this overall floor space restriction.

The Master Plan also seeks to provide the potential for living rooms or bedrooms of the townhouse dwellings to be used as 'SoHo's, meaning home offices. This use is not dissimilar to existing planning provisions that enable home businesses to occur without development consent in the residential zones, provided that the floor area does not exceed an area of more than 60m<sup>2</sup>.

The use of a portion of a dwelling in the R3 zone as a 'SoHo', or home business, would also have to comply with the definition of a home business which includes considerations of whether the use impacts amenities, including noise, traffic, waste, and other requirements, at which point it would be considered as development without consent.



The Planning Proposal is consistent with the objectives and recommendations of the Bathurst CBD & Bulky Goods Business Development Strategy 2011.

### **Central West and Orana Regional Plan 2041**

The Central West and Orana Regional Plan 2041 (Plan) is a 20-year plan for the region, helping to guide planning priorities and decision making. It provides an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions.

The region's projected population growth will be greatest in the regional cities, with a combined growth of 30,062 people (in the regional cities and surrounding LGAs) over the next 20 years. Bathurst is identified as one of the regional cities where the greatest population growth and housing demand is expected to occur. It is anticipated the growth will require regional centres to provide a mixture of housing that meets the regions changing needs and reflects the unique local character and needs of each community.

The housing supply and demand is shaped by the older population, an increase in single person households and a decrease in the average household size. The plan recognises that the existing housing stock mainly comprise large, detached housing and that the existing typology will not complement the forecast population growth and composition.

The Planning Proposal utilises an existing brownfield site to provide a diverse range of housing typologies which seeks to meet the needs of the changing demographic and household composition.

The following objectives of the Regional Plan are relevant to the Planning Proposal and in most cases Council's assessment against the Regional Plan correlates with the assessment made above in relation to Vision Bathurst – Bathurst Regional Local Strategic Planning Statement (LSPS).

#### **Central West and Orana Regional Plan 2041 Objectives**

6 – Support connected and healthy communities

7 – Plan for resilient places and communities

9 – Ensure site selection and design embraces and respects the region's landscapes, character and cultural heritage

11 – Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities

#### **Council Assessment**

The Social and Community Needs Assessment available at **Attachment 11** assesses the existing provision of recreation and open space in the area surrounding the site.

Generally the site is well located to access current and future open space and recreation areas, however the active transport routes need improvement.

The land is not affected by any mapped hazards such as flooding or bushfire, however it is acknowledged that extreme weather events are on the rise and that planning controls must enable community preparedness and resilience.

As part of the exhibition process, Council will seek to consult with the Bathurst Local Aboriginal Land Council and the WTOCWAC to comment on the impacts of the proposal on tangible and intangible Aboriginal heritage.

The Planning Proposal will provide a diverse mix of housing in a medium density format that is relatively rare in Bathurst's current housing stock market.



**Central West and Orana  
Regional Plan 2041  
Objectives**

12 – Sustain a network of healthy and prosperous centres

13 – Provide well located housing options to meet the demand

14 – Plan for diverse, affordable, resilient and inclusive housing

16 – Provide accommodation options for seasonal, temporary and key workers

17 – Coordinate smart and resilient utility infrastructure

**Council Assessment**

The Planning Proposal, in addition to providing a range of housing typologies that will diversify the Bathurst housing market, will provide a mix of 'SoHo' style apartments, an acronym for 'small office home office' whereby dwellings will have a living area or room able to be adapted into work spaces. Small scale food and drink premises and other retail permitted in the R3 Medium Density zone will be provided as a mixed-use format on the site. The tenancies will be limited to 150m<sup>2</sup> for a total maximum floor area of 300m<sup>2</sup> to minimise conflicts with the Bathurst CBD being the commercial core of the city.

The proposal is supported by a Master Plan which seeks to cater for the identified need for housing in the Bathurst LGA. The proposal seeks to bring forward the delivery of residential development through the unlocking of an existing brownfield site, which is relatively void of significant environmental constraints. The proposal is capable of utilising existing services to cater for the development. **Subject to the peer reviews recommended for the noise impact assessment and traffic impact assessment**, the site is considered appropriate for future residential development and the proposal will contribute significantly to the supply of housing in the Bathurst LGA in response to forecasted population growth and projection. The proposal will also improve housing choice and diversity.

The proposal seeks to provide a diverse range of lots and housing typologies at varying price points to cater for varying demographics. Through the supply and diversity of new housing, the proposal will provide greater housing choice and contribute to affordability, whilst catering specifically to the forecasted population growth and changing demographic. Furthermore, the proposal will create significant employment opportunities throughout the construction phase, thereby contributing significantly to the local economy.

Development of the land as proposed by the Master Plan would be of a scale not seen before in Bathurst. This will place a premium on the demand for short term accommodation for the construction of the project. The completed project may provide housing options for seasonal, temporary, and key workers, particularly those working out of Charles Sturt University given its close proximity to the site.

The Infrastructure Report proposes not to provide gas connections in line with the move toward green energy provisions, and to provide EV charging stations at a number not yet defined. An assessment has been made

**Central West and Orana  
Regional Plan 2041  
Objectives**

**Council Assessment**

	as to the likely electricity demand for the site. A substation will likely be required, the size and location of which is subject to the detailed design stage and meeting Essential Energy's requirements.
20 – Protect and leverage the existing and future road, rail and air transport networks and infrastructure	See comments above in relation to the LSPS priorities recommending a peer review of the traffic impact assessment prior to public exhibition.
21 – Implement a precinct-based approach to planning for higher education and health facilities	The subject site presents an opportunity to provide medium density housing options close to existing educational hubs and so create housing opportunities for workers to live near their employment centres and could also generate activity on the nearby campuses. This opportunity is afforded by making use of a large site that can be spot developed into a higher density location.
23 – Supporting Aboriginal aspirations through land use planning	As part of the exhibition process, Council will seek to consult with the Bathurst Local Aboriginal Land Council and the WTOCWAC to comment on the impacts of the proposal on tangible and intangible Aboriginal heritage.

It is considered that the Planning Proposal is consistent with the objectives of the Central West and Orana Regional Plan subject to completion of the Peer Reviews of the Noise and Traffic Impact Assessments prior to public exhibition and subject to those reviews providing for favourable outcomes where any possible impacts might be appropriately mitigated.

***Housing 2041***

Housing 2041 is a 20-year vision for housing in NSW. It embodies the State Government's goals and ambitions to deliver better housing outcomes by 2041 - housing in the right locations, housing that suits diverse needs and housing that feels like home.

The 20-year vision for Housing 2041 is set out below.

Peoples and communities have:

- access to housing security, diversity and support, irrespective of whether they live in metropolitan or regional areas.
- choices that enable them to afford a home without compromising on basic needs.
- support and opportunity in differing circumstances, including people in crisis, social housing residents, private rental tenants and those who aspire to home ownership.

Homes in NSW are:

- accessible and suitable for different stages of life or changing circumstances.
- connected to local facilities, jobs and social networks, with infrastructure, services and spaces that people need to live sustainably.

- designed to support human wellbeing and respond to the environment, maximise technology and support local character and place.

The Master Plan seeks to provide high quality housing to meet the demands for dwellings within the Central West. The proposal provides housing that would be connected to local facilities, jobs and social networks. The proposal provides housing diversity through an additional supply and provision of a range of dwelling typologies and sizes.

Housing 2041 aims to meet this vision through the following aspirations:

1. Enhanced partnerships and cross-sector collaboration.
2. Increased support for those most in need.
3. More investment and support for housing that is adaptable to changing needs and environments.
4. Improved alignment of housing with infrastructure and community services for NSW communities.
5. Additional support for first homebuyers.
6. Continued support for people in the private rental market.

The provision of a range of residential typologies may contribute to affordability. Additional supply of housing may have a wider flow on affect such as lowering rents in the private rental market and regulating short term accommodation options. Whether the dwellings will be affordable, however, is a matter that has not yet been determined given that the noise attenuation that may be required and other amenity and market factors may influence the price point above acceptable affordability levels. It should be noted that the Planning Proposal and associated documents do not include opportunities for social housing.

### ***Regional Housing Taskforce***

As a direct consequence of the significant increases of demand and the resultant shortfall of supply for housing throughout Regional NSW, the Regional Housing Taskforce was formed in June 2021 to investigate challenges and barriers to housing supply in the NSW planning system. The Taskforce also sought to develop recommendations on how the planning system and other NSW State Government levers could be used to achieve better housing outcomes for regional NSW. The recommendations of the Taskforce were adopted by the State Government in August 2022.

Key findings of the report are summarised below:

- Greenfield sites present barriers through site specific constraints such as environmental and biodiversity issues, cost, and complexity of required technical studies, the funding and delivery of critical enabling infrastructure, and development feasibility and market factors. This can lead to land banking or slow release of housing.
- Certain planning processes should be consolidated and streamlined to enable more efficient assessment. Effort and resources should be deployed to address place-based barriers and to resolve complex issues that exist within the planning system.
- There is a need for greater upfront strategic planning including investment in technical studies to resolve issues earlier in the planning process. Further, infrastructure planning, delivery and coordination need to be improved to unlock regional housing supply.

The Regional Housing Taskforce recommended:

1. Support measures that bring forward a supply of “development ready” land.
2. Increase the availability of affordable and diverse housing across regional NSW.
3. Provide more certainty about where, when and what types of homes will be built.
4. Investigate planning levers to facilitate the delivery of housing that meets short term needs.
5. Improve monitoring of housing and policy outcomes and demand indicators.

The proposed development represents an infill opportunity that comprises the redevelopment of a brownfield site with existing links to services and as such, the site is considered ‘development ready’.

The proposal would provide a diverse range of housing responding to the market demand and demographic changes in the Bathurst population.

In August 2022, the NSW Government adopted recommendations of the Regional Housing Taskforce as part of a comprehensive response to support the delivery of 127,000 new homes needed to house the growing population over the next 10 years.

The proposal is consistent with the aim of objectives of the Regional Housing Taskforce.

***SUMMARY - Is the planning proposal consistent with Council’s LSPS and other endorsed local, regional or State strategy or strategic plan?***

Evaluation criteria	Y/N	Comment
<p>Does the proposal have strategic merit and:</p> <ul style="list-style-type: none"> <li>◇ Is consistent with a relevant local strategy endorsed by the Director General; or</li> <li>◇ Is consistent with the relevant regional strategy or Metropolitan Plan; or</li> <li>◇ Can it demonstrate strategic merit, giving consideration to the relevant section 117 directions applying to the site and other strategic considerations (e.g., proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc.)</li> </ul>	Yes	<p>See discussion above.</p> <p>The planning proposal is consistent with the Central West and Orana Regional Plan. The Planning Proposal supports Direction 25 to support the region’s growth and change and Direction 29 to deliver healthy built environments and better urban design.</p> <p>The Planning Proposal is consistent with Council’s Bathurst Regional Local Strategic Planning Statement and is capable of addressing or achieving actions 6.5, 6.5, 6.7, 7.7, 8.2, 8.10, 9.4, 10.8, 10.12, 12.7, 12.8, 12.11, 14.6, 14.7, 15.6, 15.7, 15.8, 16.6, 16.7, 16.8, 16.9, 16.10, 18.4, 18.8, 18.9, 18.13, 19.15, and 19.16.</p> <p>The Planning Proposal is consistent with the relevant Section 9.1 directions of the Minister (see section 4.3.2.5 below)</p>
<p>Does the proposal have site specific merit and is it compatible with the surrounding land uses, having regard to the following:</p> <ul style="list-style-type: none"> <li>◇ The natural environment (including known significant environmental values, resources or hazards) and</li> </ul>	Yes	<p>See discussion above and further discussion in section 4.4 of this report below.</p> <p>The planning proposal is supported by a Master Plan prepared for the subject land that examined site specific details to determine an appropriate development outcome for the site.</p>

<ul style="list-style-type: none"> <li>◇ The existing uses, approved uses and likely future uses of the land in the vicinity of the proposal; and</li> <li>◇ The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.</li> </ul>		
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It is considered that the Planning Proposal is consistent with the objectives of the Bathurst Region LSPS subject to completion of the Peer Reviews of the Noise and Traffic Impact Assessments prior to public exhibition and subject to those reviews providing for favourable outcomes where any possible impacts might be appropriately mitigated.

It should be noted that the noise assessment must take into consideration the adjoining future development of 34 Busby Street which is proposed to be partially rezoned to R3 Medium Density and for St Joseph's Mount (Logan Brae) to be adaptively reused as a function centre. The submitted Noise Impact Assessment for the Planning Proposal at 50 Busby Street has considered the adjacent rezoning proposal but has not considered the potential noise impacts of the function centre.

Where Council is satisfied that residents of the subject site will not be unreasonably burdened by noise impacts and that traffic generation can be accommodated within the existing road network, the proposal would be considered consistent with the LSPS. It is recommended that DPHI condition the two peer reviews as part of their Gateway Determination.

#### **4.3.2 Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Council has undertaken a review to determine whether the Planning Proposal is consistent with the State Environmental Planning Policies (SEPPs).

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance (Yes/No or Not Relevant)</b>
SEPP (Aboriginal Land) 2019	<b>Not Relevant</b>
SEPP (Activation Precincts) 2020	<b>Not Relevant</b>
SEPP (Affordable Rental Housing) 2009	<b>Not Relevant</b>
SEPP (Building Sustainability Index: BASIX) 2004	<b>The Planning Proposal will continue to require BASIX affected buildings to meet BASIX commitments.</b>
SEPP (Coastal Management) 2018	<b>Not Relevant</b>
SEPP (Concurrences and Consents) 2018	<b>Not Relevant</b>
SEPP (Educational Establishment Child Care Facilities) 2017	<b>Not Relevant</b>
SEPP (Exempt and Complying Development Codes) 2008	<b>The Planning Proposal will continue to allow Exempt and Complying Development to apply.</b>
SEPP (Gosford City Centre) 2018	<b>Not Relevant</b>
SEPP (Housing for Seniors or People with a Disability) 2004	<b>The Planning Proposal will continue to allow seniors living housing and housing for people with a disability.</b>
SEPP (Infrastructure) 2007	<b>Not Relevant</b>
SEPP (Koala Habitat Protection) 2020	<b>Not Relevant</b> The Planning Proposal does not include RU1, RU2 or RU3 zoned land.



<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance (Yes/No or Not Relevant)</b>
SEPP (Koala Habitat Protection) 2021	<b>Yes</b> Whilst the site contains some native vegetation, the site does not contain a koala population.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	<b>Not Relevant</b>
SEPP (Kurnell Peninsula) 1989	<b>Not Relevant</b>
SEPP (Major Infrastructure Corridors) 2020	<b>Not Relevant</b>
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	<b>Not Relevant</b>
SEPP (Miscellaneous Consent Provisions) 2007	<b>Not Relevant</b>
SEPP No 19 – Bushland in Urban Areas	<b>Not Relevant</b>
SEPP No 21 – Caravan Parks	<b>Not Relevant</b>
SEPP No 33 – Hazardous and Offensive Development	<b>Not Relevant</b>
SEPP No 36 – Manufactured Home Estates	<b>Not Relevant</b>
SEPP No 50 – Canal Estate Development	<b>Not Relevant</b>
SEPP No 55 – Remediation of Land	<b>Not Relevant</b>
SEPP No 64 – Advertising and Signage	<b>Not Relevant</b>
SEPP No 65 – Design Quality of Residential Flat Development	<b>Not Relevant</b> SEPP 65 applies to development for the purpose of a residential flat building, shop-top housing or mixed-use development with a residential accommodation component if it includes a new building of at least three storeys and more than four dwellings. The resultant development is capable of complying with the Apartment Design Guidelines as evidenced in the Visual Impact Assessment ( <b>Attachment 5</b> ). The Planning Proposal does not involve the construction of any buildings and therefore this SEPP is not relevant at this stage.
SEPP No 70 – Affordable Housing (Revised Schemes)	<b>Not Relevant</b>
SEPP (Penrith Lakes Scheme) 1989	<b>Not Relevant</b>
SEPP (Primary Production and Rural Development) 2019	<b>Not Relevant</b> The land is already zoned for urban purposes.
SEPP (State and Regional Development) 2011	<b>Not Relevant</b>
SEPP (State Significant Precincts) 2005	<b>Not Relevant</b>
SEPP (Sydney Water Drinking Catchment) 2011	<b>Not Relevant</b>
SEPP (Sydney Region Growth Centres) 2006	<b>Not Relevant</b>
SEPP (Three Ports) 2013	<b>Not Relevant</b>
SEPP (Urban Renewal) 2010	<b>Not Relevant</b>

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance (Yes/No or Not Relevant)</b>
SEPP (Vegetation in Non-Rural Areas) 2017	<b>Yes</b> The proposed development in the master plan is unlikely to impact critical habitat or threatened species, population or ecological communities, or their habitats noting however that there are significant trees on site. Prior to the site being developed, a site-specific DCP should be in place that includes appropriate landscaping controls that could include the protection of the existing substantial trees on site within landscaping buffer areas.
State Environmental Planning Policy (Western Sydney Aerotropolis) 2020	<b>Not Relevant</b>
SEPP (Western Sydney Employment Area) 2009	<b>Not Relevant</b>
SEPP (Western Sydney Parklands) 2009	<b>Not Relevant</b>

#### **4.3.3 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?**

Council has undertaken a review to ensure the Planning Proposal is consistent with all relevant Section 9.1 Ministerial Directions issued by the Minister for Planning to relevant planning authorities under section 9.1(2) of the *Environmental Planning and Assessment Act 1979*.

All relevant Section 9.1 Ministerial Directions are considered in the following table.

<b>Section 9.1 Ministerial Direction</b>	<b>Consistency</b>
<b>1. Employment and resources</b>	
1.1 Business and Industrial Zones	Not applicable. The land is zoned for residential purposes and will continue to be zoned for residential purposes. An Additional Permitted Use will apply only for food and drink premises limited to a floor area of 150m <sup>2</sup> , because such a use is otherwise prohibited in the R3 Medium Density zone. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction, is of minor significance (Clause 5(d)) and should be supported.</b>
1.2 Rural Zones	Not applicable. The land is zoned for residential purposes and will continue to be zoned for residential purposes. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
1.4 Oyster Aquaculture	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
1.5 Rural Lands	Not applicable. The land is already zoned for urban purposes. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
<b>2. Environment and Heritage</b>	
2.1 Environment Protection Zones	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>

<b>Section 9.1 Ministerial Direction</b>	<b>Consistency</b>
2.2 Coastal Protection	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
2.3 Heritage Conservation	The land is located on and within the edge of the Bathurst Heritage Conservation Area. Increasing the density to the height proposed will have an impact on the heritage conservation area which is currently characterised by low-density single dwelling housing. The impacts that this planning proposal will create is best managed by design excellence guidelines and a site-specific DCP chapter which would deliver development that is consistent and complementary to the heritage streetscape and adjoining heritage item. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
2.4 Recreation Vehicle Areas	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
2.6 Remediation of Contaminated Land	Complies. The subject land has not been identified on Council's contaminated land register. Additionally, the land is already zoned for urban purposes. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	The direction applies due to the amendments to the R1 zone and the introduction of the R3 Medium Density zone. The Planning Proposal seeks to rezone the existing R1 General Residential zone as it applies to the land to the R3 Medium Density zone. The minimum lot size for subdivision will be increased to 1300m <sup>2</sup> consistent with the residential flat buildings minimum lot size. The proposed amendments will encourage new medium density housing and improve the housing choice that is provided within established areas of Bathurst and provide certainty for the residents of the types of development that may occur within the subdivision. The Bathurst 2036 Housing Strategy identified the subject site as a 'no change area' due to the potential impacts of noise from the Mount Panorama Racing Circuit current and future operations. Further details are required as to the full extent of noise impacts and possible noise attenuation methods as a gateway condition. The Planning Proposal is consistent with Council's Bathurst Regional Local Strategic Planning Statement and is capable of addressing or achieving actions 6.5, 6.5, 6.7, 7.7, 8.2, 8.10, 9.4, 10.8, 10.12, 12.7, 12.8, 12.11, 14.6, 14.7, 15.6, 15.7, 15.8, 16.6, 16.7, 16.8, 16.9, 16.10, 18.4, 18.8, 18.9, 18.13, 19.15, and 19.16.  <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction (Clause 6(a), (b), and (c)) and should be supported by the Department, provided that gateway conditions are imposed as recommended.</b>
3.2 Caravan Parks and Manufactured Home Estates	Not applicable. <b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b>
3.3 Home Occupations	<b>Repealed.</b>

<b>Section 9.1 Ministerial Direction</b>	<b>Consistency</b>
3.4 Integrating Land Use and Transport	<p>The direction applies due to the amendments to the R1 zone. A Traffic Impact Assessment has been submitted with the Planning Proposal however Council is not satisfied that the report has considered the full extent of potential traffic impacts as a result of the Planning Proposal and subsequent development.</p> <p>Given that the spot-rezoning is proposed adjacent to another site also subject to an R3 Medium Density Planning Proposal, Council will seek to have the Traffic Impact Assessments for both sites peer reviewed to ascertain the extent to which roads, parking and other upgrades may be required to support both proposals. The peer review is requested to be a condition of gateway.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction, is of minor significance (Clause 5(d)) and should be supported, provided that gateway conditions are imposed as recommended.</b></p>
3.5 Development Near Regulated Airports and Defence Airfields	<p>Not applicable.</p> <p>The subject site is over 7km from the Bathurst Airport and is not within the Obstacle Limitation Surface area.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
3.6 Shooting Ranges	<p>The proposal does not affect land adjacent or adjoining an existing shooting range.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
3.7 Reduction in non-hosted short term rental accommodation period	<p>The proposal does not reduce non-hosted short term rental accommodation because such a use will still be permissible provided that the dwelling in which it occurs is approved.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	<p>The Bathurst Region does not include any land identified on Acid Sulfate Soils Planning maps held by the Department.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
4.2 Mine Subsidence and Unstable Land	<p>The Bathurst Region does not include any land identified as within a Mine Subsidence District proclaimed under the Mine Subsidence Compensation Act 1961.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
4.3 Flood Prone Land	<p>The subject land is not identified as flood prone. The resultant development will be required to be designed with water sensitive urban design considerations, which would form part of a site-specific DCP chapter for the site. It is recommended that the Planning Proposal include the insertion of an LEP clause which requires that a DCP be in place prior to considering a development application on the site.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction, provided the additional LEP clause is inserted as recommended.</b></p>
4.4 Planning for Bushfire Protection	<p>The Planning Proposal does not include any land which is identified as being Bushfire Prone Land.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	<b>Repealed.</b>
5.2 Sydney Drinking Water Catchments	<b>Does not apply to the Bathurst Region.</b>

<b>Section 9.1 Ministerial Direction</b>	<b>Consistency</b>
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<b>Does not apply to the Bathurst Region.</b>
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<b>Does not apply to the Bathurst Region.</b>
5.8 Second Sydney Airport: Badgerys Creek	<b>Repealed.</b>
5.9 North West Rail Link Corridor Strategy	<b>Does not apply to the Bathurst Region.</b>
5.10 Implementation of Regional Plans	<p>The Central West and Orana Regional Plan applies to the Bathurst Region. The Planning Proposal aims to amend existing urban land zones that apply to the land. The intent of the proposal is to provide greater housing choice and to better utilize the existing urban zoned land.</p> <p>The proposed changes are consistent with Council's Local Strategic Planning Statement, local Land Use Strategies and with the overall intent of the Regional Plan, provided that additional information is provided in relation to noise and traffic impacts as a condition of gateway.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction, is consistent with the overall intent of the Regional Plan (Clause 5(b)) and should be supported, provided that gateway conditions are imposed as recommended.</b></p>
5.11 Development of Aboriginal Land Council Land	<p>Not Applicable.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
<b>6. Local Plan Making</b>	
6.1 Approval and referral Requirements	<p>The Planning Proposal does not affect development application provisions and does not propose any additional referral provisions relating to this land.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
6.2 Reserving land for Public Purposes	<p>The Planning Proposal does not reduce the land available for public purposes. The land is zoned R1 General Residential and is proposed to be rezoned to R3 Medium Density. A communal open space area is proposed to be ancillary to the mixed use development which will primarily service residents of the site and users of the small commercial tenancies. This open space area is not proposed to be zoned as RE1 Public Recreation land.</p> <p>The planning proposal is not inconsistent with the recommendations of the Bathurst 2040 Open Space Strategy.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
6.3 Site Specific Provisions	<p>The planning proposal is for the rezoning of a specific site, 50 Busby Street, Bathurst. Whilst the land is already zoned for urban purposes, the proposal will increase the allowable density on the lot through its rezoning from R1 General Residential to R3 Medium Density so as to affect the proposed master plan as it relates to the site.</p> <p>The planning proposal will deliver greater housing diversity with the amended zones and provisions in the LEP. The intended use of the site for urban purposes will not change as a result of the planning proposal.</p> <p><b>Council is satisfied that the planning proposal is consistent with the requirements of the direction.</b></p>
<b>7. Metropolitan Planning</b>	



<b>Section 9.1 Ministerial Direction</b>	<b>Consistency</b>
7.1 Implementation of A Plan for Growing Sydney	<b>Repealed.</b>
7.2 Implementation of Greater Macarthur Land Release Investigation	<b>Repealed.</b>
7.3 Parramatta Road Corridor Urban Transformation Strategy	<b>Does not apply to the Bathurst Region.</b>
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	<b>Does not apply to the Bathurst Region.</b>
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	<b>Does not apply to the Bathurst Region.</b>
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	<b>Does not apply to the Bathurst Region.</b>
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	<b>Does not apply to the Bathurst Region.</b>
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan of Western Sydney A	<b>Does not apply to the Bathurst Region.</b>
7.9 Implementation of Bayside West Precincts 2036 Plan	<b>Does not apply to the Bathurst Region.</b>
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	<b>Does not apply to the Bathurst Region.</b>
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	<b>Does not apply to the Bathurst Region.</b>
7.12 Implementation of Greater Macarthur 2040	<b>Does not apply to the Bathurst Region.</b>
7.13 Implementation of the Pyrmont Peninsula Place Strategy	<b>Does not apply to the Bathurst Region.</b>

Refer to the discussion earlier in terms of the State Government priorities under Housing 2041 and the recommendations of the Regional Housing Task Force.

#### **4.4 Assessment of Site-Specific Merit**

##### **4.4.1 – Environmental, Social and Economic Impact**

***Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The proposed redevelopment of the site is unlikely to impact critical habitat or threatened species, population or ecological communities, or their habitats noting however that there are some significant trees on site.

Prior to the site being developed, a site-specific DCP should be in place that includes appropriate landscaping controls that could include the protection of the existing substantial trees on site within landscaping buffer areas.

***Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?***

The proponent has considered the potential environmental impacts on the site in **Attachment 1** and has stated that the proposal is void of any significant environmental impacts that would prevent affecting the concept master plan on the site. A detailed assessment of impacts on the following environmental factors are provided below (or have been addressed earlier in this report):

- a) Flooding
- b) Bushfire
- c) Waterways and Groundwater
- d) Contamination
- e) Compatibility with surrounding land uses
- f) Traffic
- g) Heritage
- h) Views/visual impact
- i) Privacy
- j) Noise
- k) Safety, security and crime
- l) Waste
- m) Overshadowing

***a) Flooding***

The site is not located in a Flood Planning Area and is not affected by a watercourse.

***b) Bushfire***

The land is not identified as Bushfire Prone Land.

***c) Waterways and Groundwater***

The land is not affected by a watercourse. The proponent has submitted a Geotechnical Investigation Report at **Attachment 6** which was carried out to examine whether the site was suitable for the proposed mixed-use development. The assessment involved examination of the site's subsurface conditions and provides recommendations for building footing design, excavation conditions, preparation of subgrades, stability of cut and fill batters, and site drainage advice.

The report found that there was no permanent groundwater encountered while investigating boreholes within 5m of the existing surface level. The report acknowledged that perched groundwater may be present at a shallower depth within the more pervious

soils, but that seepage flow rates are expected to be relatively low.

*d) Contamination*

The site is not identified on Council's contaminated land register and is not listed on the Loose-fill Asbestos Insulation Register. The site is considered suitable for residential purposes. However it should be noted that should any existing building be demolished for the purpose of infill development, that the demolition and waste of materials are handled appropriately.

*e) Compatibility with surrounding land uses*

The Planning Proposal involves a mixed-use development seeking a rezoning from R1 General Residential land to R3 Medium Density and will include an additional permitted use for the purposes of permitting food and drink premises with development consent given that such a use is currently prohibited in the R3 zone. Food and drink premises are currently permissible with consent in the R1 General Residential zone.

To protect the primacy of the Bathurst CBD, it is proposed that individual food and drink premises are limited to a floor area of no more than 150m<sup>2</sup> and that the maximum floor area for all food and drink premises on site is no greater than 300m<sup>2</sup>.

Whilst the proposed uses are compatible with the existing residential character of the area, the density will be unlike anything the area has seen before, requiring design excellence guidelines to manage the bulk and scale as it is distributed across the site, setbacks, and the colours, materials and design articulation as it relates to the heritage conservation area and the adjacent local heritage item.

In relation to the proposed height, the existing height control is 9m. The proposal involves introducing two new building height envelopes: 16m in the northern corner and 12m to the east, south and southwest. To manage the potential impact that such a height will have on the heritage conservation area and adjacent local heritage item, a site-specific chapter must be inserted in the DCP which includes appropriate controls as to how the development of the site might best be managed. It is recommended that the Planning Proposal include a new LEP clause requiring the DCP to be in place before development is considered.

*f) Traffic*

Refer to the assessment of the Planning Proposal against the LSPS and Housing Strategy earlier in this report.

It is considered that the Planning Proposal is consistent with the objectives of the LSPS and Housing Strategy subject to completion of a Peer Review of the Traffic Impact Assessment prior to public exhibition and subject to that review providing for favourable outcomes where any possible impacts might be appropriately mitigated.

*g) Heritage*

Refer to the assessment of the Planning Proposal against the LSPS and Housing Strategy earlier in this report.

Detailed provisions need to be provided for in the subsequent DCP to ensure rigorous in-depth analysis can be afforded the final design at development application stage so that the development is consistent with the objectives of the Bathurst Heritage Conservation

area.

*h) Views/visual impact*

Given that the proposal includes an increase to the height limit from 9m to a maximum of 16m (12m for townhouses), the impacts to views to and from the site must be considered, particularly in relation to the adjacent local heritage item, Logan Brae (St Joseph's Mount).

The proponent has submitted a Visual Impact Assessment at **Attachment 5**. It is noted that the figures used to represent viewpoints do not use the same viewing angle or distances between existing and proposed mass/concept images.

For example, Figure 5 on page 9 of the assessment shows the existing site when viewed from Havannah Street. Figure 6 represents the proposed building, however, the photograph is taken from further away. The building outline also appears to have been inserted at an incorrect scale given that the building line on Busby Street is proposed to be located in the same location as two existing native gum trees (as seen on the left of Figure 17 below). These gum trees are approximately 10-11m in height. If the building envelope were inserted closer to the correct scale, the red line indicating the highest point of the building would be above the existing trees.



**FIG. 05 VIEWPOINT (EXISTING)**



**FIG. 06 VIEWPOINT (PROPOSED MASS)**

**Figure 17** – Figure 5 in the Visual Impact Assessment overlaid Figure 6 showing discrepancy in visual representation.

Further, the assessment of the visual impact of the proposed envelopes is not comprehensive. Viewpoint 2 assesses the view of the development from Busby Street in front of Logan Brae, however there is no consideration of the following key view corridors:

- Between the site and Logan Brae (i.e. within the sites)
- From the front, side and rear of 270 Havannah Street (dwelling on the corner of Havannah and Prospect Streets)
- From the front and rear of 270A Havannah Street (2 storey dwelling)
- To the site as viewed from 31 Prospect Street
- To the site as viewed from 33 Prospect Street
- To the site as viewed from 38 Prospect Street
- From Spencer Street (which contains a local heritage item)
- From St Stanislaus College (local heritage item)
- From Ben Chifley House (state heritage item)
- From the approach to Bathurst on Sydney Road (eastern side of the bridge)

Notwithstanding the discrepancies and factual errors in the Visual Impact Assessment, the report should have considered the maximum proposed building envelopes rather than

the proposed building design given that the design and massing is subject to change. An increase to the building height from 9m to 16m (apartment building) and 12m (townhouses) will result in an impact to views to and from the site and such impacts are best managed through design guidelines as part of the site-specific DCP.

Other recommendations in the Visual Assessment Report have been made such as ensuring that the proposed development is compatible with the heritage conservation area, incorporates an appropriate roof pitch, includes colours and materials complementary to the area, and so on. However, the design guidelines that have been submitted are not representative of all recommendations within the specialist reports that have been submitted and by the same token is not representative of Council's planning aspirations for the site. Council may adopt some standards from the design guidelines into the site-specific DCP, however it is expected that the DCP amendment will cover a much broader range of issues and design principles. At this stage, Council is not endorsing the design of the development.

Public exhibition of the proposal may benefit from a 3D model of the building envelopes being inserted in the Bathurst Digital Twin, if the model extent allows it. Certainly this would assist assessment of the development application at DA stage.

In the absence of this at the Planning Proposal stage, all viewpoints should be amended to be as close to accurate as possible and should include the maximum building envelopes proposed, not the building design. The building envelopes should be placed in consideration of the definition of Height of Buildings as provided in the LEP, whereby it is measured from ground level (existing). It is recommended that Council seek this additional information prior to public exhibition through a relevant condition of the DPHI's Gateway Determination.

*i) Privacy*

Given the proposed increase in height, density, potential building setbacks and the distribution of bulk and scale, Council must consider the impacts of privacy resulting from the planning proposal on surrounding development. The height will create opportunities for overlooking neighbouring low density residential development. Any future development application will need to consider how the medium density development can mitigate privacy impacts through design such as via the introduction of privacy screens and glazing; deeper setbacks; building orientation; and so on. Such considerations can be inserted into a site-specific DCP chapter.

*j) Noise*

Refer to the assessment of the Planning Proposal against the LSPS and Housing Strategy earlier in this report.

It is considered that the Planning Proposal is consistent with the objectives of the LSPS and Housing Strategy subject to completion of a Peer Review of the Noise Impact Assessment prior to public exhibition and subject to that review providing for favourable outcomes where any possible impacts from noise generated at the Mount Panorama racing circuit might be appropriately mitigated.

*k) Safety, security and crime*

Given that the residential density will increase significantly, the resultant development must be capable of demonstrating that the residential units and townhouses will not result in adverse safety, security and crime impacts. Where 8 or more multi-dwelling housing units are proposed, the DCP requires a Crime Prevention Through Environmental Design



(CPTED) assessment to be submitted with a Development Application. The LEP amendments proposed would not prevent the proposal from being capable of addressing safety, security and crime impacts.

*l) Waste*

Given that the residential density will increase significantly, the resultant development must be capable of demonstrating that the residential units and townhouses will not result in adverse waste generation and disposal impacts. As part of a future Development Application, Council would require demonstration that waste disposal can occur on site with efficiency and little amenity impacts. These parameters could be managed in a site-specific DCP amendment.

*m) Overshadowing*

A Shadow Study is included in the Concept Design Pack available at **Attachment 4**. The DCP requires that where development is two or more storeys high, that shadow diagrams be provided that assess overshadowing on the site and all adjoining properties on the winter solstice in June, from the period of 9am to 3pm. The submitted shadow diagrams have only shown three intervals on the winter and summer solstices, and represent overshadowing from the proposed buildings, not the maximum proposed building envelopes.

The diagrams suggest that neighbouring properties will not be significantly impacted by overshadowing as created by the current proposed design, notwithstanding that the ultimate design is subject to change as a result of complying with a site-specific DCP chapter. Though the impacts of overshadowing to neighbours is minimal, the capability of the private open space as proposed in the concept master plan to achieve at least 2 hours of continuous sunlight is not clear. Due to the orientation of buildings, and the height and scale, it appears that much of the development site becomes overshadowed by the 16m tall apartment building. Likewise the open space area proposed between the apartment complex and townhouses seems to receive next to no sunlight in the winter solstice.

To this end it is recommended that an updated overshadowing analysis be submitted, prior to public exhibition. The assessment should consider the full extent of the proposed building envelopes at their potential full height (not the proposed building designs) on all adjoining and adjacent properties. The shadow diagrams are to be presented for each hourly interval for the winter solstice. The analysis should present conclusions as to how the building height envelope configurations may need to be modified by way of appropriate DCP provisions (e.g. upper floor setbacks, boundary setbacks) to achieve compliance with or exceed compliance with Council's current DCP requirements. The analysis should also consider any internal site implications of overshadowing.

Ways to mitigate overshadowing impacts, inclusive of within the site, could then be managed in a site-specific DCP amendment. As part of a future Development Application, Council would require demonstration that the proposed residential development can achieve at least 2 hours of continuous sunlight on the winter solstice.

***Has the planning proposal adequately addressed any social and economic effects?***

***Social Impacts***

The alteration to the residential zoning as proposed in this planning proposal will allow for greater housing choice and diversity as compared to other piece-meal small subdivision

and housing development that is currently occurring within the city of Bathurst. These outcomes are supported by the Bathurst 2036 Housing Strategy. The subject site is well placed to access existing community facilities, recreation and open space, education and childcare, and healthcare facilities.

In relation to housing affordability, it must be noted that medium density housing does not necessarily equal affordable housing (they could be luxury apartments, for example). The proposal will provide housing diversity (housing choice), but not necessarily affordable housing. Absent any demonstration of affordability, it can be predicted that the proposal will contribute in some way toward housing affordability, and it will certainly contribute to making the site's dwellings or the housing market in general more affordable.

### ***Economic Impacts***

An Additional Permitted Use is proposed to be inserted into the LEP to facilitate the development of food and drink premises which are currently prohibited in the R3 Medium Density zone.

The Master Plan proposes that the food and drink premises will be small scale tenancies on the corner of Busby and Prospect Streets which will provide a café, delicatessen and/or bakery or the like to service the day-to-day needs of existing and future residents in the South Bathurst area. These premises are proposed to be between 90m<sup>2</sup> to 130m<sup>2</sup>. A gym, library and other similar uses on the site will be accessible to residents only.

To protect the primacy of the Bathurst CBD, it is considered appropriate for Council to impose a maximum food and drink premises floor area so as to avoid scenarios where excessive 150m<sup>2</sup> tenancies are proposed on the site. A total maximum floor area of 300m<sup>2</sup> is recommended.

#### ***4.4.2 – Infrastructure (Local, State and Commonwealth)***

##### ***Is there adequate public infrastructure for the planning proposal?***

A Due Diligence Infrastructure Report has been provided at **Attachment 8** which proposes a preliminary design for how the site may be serviced by essential services. With respect to stormwater drainage, the report notes that further investigation should be undertaken to confirm the size, depth, and state of repair of the existing interallotment drainage, making no judgement as to whether upgrading is required or feasible within the site constraints and master plan proposal. Any design would require to be designed with water sensitive urban design guidelines.

The report also proposes to not provide gas connections in line with the move toward green energy provisions, and to provide EV charging stations at a number not yet defined. An assessment has been made as to the likely electricity demand for the site. A substation will likely be required, the size and location of which is subject to the detailed design stage and meeting Essential Energy's requirements.

Generally the report demonstrates that the initial stages of the Master Plan could be serviced by existing infrastructure subject to detailed design.

It is recommended that the servicing strategy be updated to quantify the loading to the water and sewer networks, inclusive of fire protection needs, to enable Council to model implications of the potential full development on its network.

In relation to social infrastructure, the subject site is well placed to access existing community facilities, recreation and open space, education and childcare, and healthcare facilities. The developed site has the potential to provide housing to students and/or staff at the nearby education and health precinct, largely occupied by the CSU campus.

In relation to the nearby state road (Rocket Street), the impacts that the development might have on road infrastructure is not yet fully known. As discussed throughout this report, Council will request that as a condition of gateway, that the TIA prepared by the proponent and the TIA for the Planning Proposal at the adjacent site is peer reviewed. After the peer review, the proposal could be referred to Transport for NSW for further comment.

#### **4.4.3 – State and Commonwealth Interests**

##### ***What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?***

Council has undertaken a Pre-Planning Proposal meeting with the Department of Planning, Housing and Infrastructure. General support has been expressed for the Planning Proposal, subject to Council's assessment.

Council anticipates referral of the Planning Proposal to the following agencies as part of the Gateway conditions:

- Transport for NSW
- NSW Department of Education
- NSW Heritage
- Emergency service organisations
- Essential Energy
- Telstra
- NBN

Given that gas is not proposed to be connected, no referral to Jemena (gas authority) is required.

The Planning Proposal should not be referred to Transport for NSW until the TIA has been peer reviewed.

#### **4.5 Community Consultation**

Schedule 1 of the EP&A Act requires Council to consult with the community in accordance with the Gateway Determination. It is expected that consultation will be for a minimum of 28 days and will not occur until after the Traffic Impact Assessment and Noise Impact Assessment has been peer reviewed and the amended view analysis is provided.

It is recommended that the Planning Proposals for 50 Busby Street and 34 Busby Street are exhibited concurrently, if reasonably achievable.

During the exhibition period, a notice will be placed on Council's website and all adjoining and adjacent residents will be notified of the Planning Proposal. Details of the Planning Proposal will be made available via the Bathurst Yoursay website.

A public submission hearing is anticipated given that the proposal includes rezoning land and a significant height increase in a heritage conservation area. If required, the submission hearing will be held at the conclusion of the normal exhibition period in accordance with the Bathurst Regional Community Participation Plan 2019.

Council will seek to consult relevant community interest groups and with the Bathurst Local Aboriginal Land Council and the WTOCWAC to comment on the impacts of the proposal on tangible and intangible Aboriginal heritage.

#### **4.6 Future Development Control Plan Provisions**

##### ***4.6.1 – LEP provision to require DCP Provisions***

It is recommended that the Planning Proposal include the insertion of a specific clause into the LEP to require the preparation of a development control plan, similar to provisions in other LEPs, such as clause 7.11 of the Albury LEP or 6.23 of the Parramatta LEP. The site-specific clause would relate to both 50 and 34 Busby Street, Bathurst, given that the sites are adjacent, and that Council is concurrently considering Planning Proposals for both sites.

Wording for the provision will be developed after the public exhibition process and prior to this matter being reported to Council for consideration of its adoption. Note also that the Parliamentary Counsel would provide relevant legal advice to the wording of this clause. Council staff will also discuss with DPHI staff the need to protect the process if at any time future development is considered State Significant where compliance with DCP provisions would not be required.

##### ***4.6.2 – Recommended DCP Amendment***

It is anticipated that Council staff would commence preparation of DCP provisions once the public exhibition of the Planning Proposal was completed. The relevant DCP amendment would be subject to its own public exhibition process.

The range of likely matters that would need to be considered in the DCP chapter would include design guidelines that relate to the following matters. This list should not be viewed as exhaustive.

- a) Building height, setbacks, lot frontages.
- b) Building envelopes, separation and building depth.
- c) Gross floor area.
- d) Ceiling heights.
- e) Site analysis, orientation, overshadowing, solar access, privacy.
- f) Public domain interface.
- g) Passive surveillance.
- h) Private and communal open space.
- i) Landscaping and vegetation, deep soil zones.
- j) Natural ventilation.
- k) Noise attenuation.
- l) Land use management, mixed use.
- m) Site or Precinct mapping.
- n) Active transport infrastructure, vehicular access, bicycle and carparking.
- o) Built form including: facades, colours and materials, bulk and scale.
- p) Heritage conservation and interpretation.
- q) Waste management.

- r) Sustainable development.
- s) Water sensitive urban design.

## 5.0 Project Timeline

The following table outlines Council's anticipated timetable for the completion of the Planning Proposal. Council anticipates that the process will take approximately 12 to 13 months from the date of the Gateway Determination.

Step	Criteria	Project timeline
1	Anticipated commencement date (date of Gateway Determination)	July/August 2024
2	Anticipated timeframe for the completion of required technical information, including peer reviews of the Traffic and Noise Impact Assessments	January 2025
3	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	February/March 2025
4	Commencement and completion dates for public exhibition period	March/April 2025
5	Dates for submission hearing (if required)	June 2025
6	Timeframe for consideration of submissions	July 2025
7	Timeframe for the consideration of a proposal post exhibition	August 2025
8	Date of submission to the Department to finalise the LEP	September 2025

The timeframe is subject to change as the Planning Proposal progresses. It is anticipated that Council staff will commence the drafting the DCP provisions upon completion of the public exhibition of the Planning Proposal noting that further public exhibition of those provisions would be required.

## CONCLUSION

The purpose of this report is to provide Council's initial assessment of the Planning Proposal lodged in relation to 50 Busby St, South Bathurst to determine if Council supports progression of the Planning Proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway Determination to enable public exhibition of the planning proposal.

The table below summarises the LEP amendments for which support is recommended. The table includes those LEP amendments recommended to Council in this report as the Planning Proposal package to be presented to DPHI for Gateway Determination.

Planning control	Existing development controls	Proposed development controls
<b>Zoning</b>	R1 General Residential	R3 Medium Density Residential
<b>Minimum Subdivision Lot Size</b>	550m <sup>2</sup>	1300m <sup>2</sup>



<b>Minimum Subdivision Lot Size – Dual Occupancy, manor houses, multi dwelling housing and residential flat buildings</b>	850m <sup>2</sup>	Remove site from dual occupancy map (because dual occupancies are prohibited in the R3 zone)
<b>Height of Buildings (HOB)</b>	9m	16m (for apartments) 12m (for townhouses)
<b>Additional Permitted Use – Schedule 1</b>	N/A	Food and Drink Premises restricted to a floor area of 150m <sup>2</sup> for each individual tenancy on the site and to a total maximum floor area of 300m <sup>2</sup> .
<b>Additional Local Clause – ensure that development on land occurs in accordance with a site-specific development control plan</b>	N/A	Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the range of matters required to achieve design excellence has been prepared for the land.
<b>Amendments to the relevant mapping layers</b>	<ul style="list-style-type: none"> <li>• Land Zoning Map</li> <li>• Height of Buildings Map</li> <li>• Lot Size Map</li> <li>• Additional Permitted Uses Map</li> <li>• Minimum Lot Size – Dual Occupancy Map</li> </ul>	

#### Recommended Gateway conditions

It is recommended that, at a minimum, the following conditions are imposed by DPHI as conditions of their Gateway Determination:

- 1) Draft LEP maps are to be provided in a manner consistent with the Department's *Standard Technical Requirements for Spatial Datasets and Maps* guidelines accurately identifying those parts of the site to which different Height of Buildings are proposed.
- 2) The Noise Impact Assessment for 50 Busby Street is to be peer reviewed by a Council appointed external consultant in conjunction with the Acoustic Impact Assessment for 34 Busby Street, prior to public exhibition.
- 3) The Traffic Impact Assessment for 50 Busby Street is to be peer reviewed by a Council appointed external consultant in conjunction with the Traffic and Parking Assessment for 34 Busby Street, prior to public exhibition.
- 4) An amended Visual Impact Assessment is to be provided, prior to public exhibition. The assessment is to consider the full extent of the proposed building envelopes at their full height using the LEP definition of Height of Buildings. The visual impact is to consider the full height building envelopes proposed for the development, the cumulative impacts of those building envelopes, and the cumulative impact of building envelopes proposed on the adjoining development site at 50 Busby Street.

The assessment must be in to-scale representations and should show the relationship of the proposal to the ground plane, adjacent buildings, streets and open spaces.

The visual analysis must provide 360° views to and from the site, to at least 100m from the site's boundaries, and should include an analysis of, at a minimum, the following viewpoints:

- a. From the street frontage at Busby Street
- b. From the front, side and rear of 270 Havannah Street
- c. From the front and rear of 270A Havannah Street
- d. To the site as viewed from 31 Prospect Street
- e. To the site as viewed from 33 Prospect Street
- f. To the site as viewed from 38 Prospect Street
- g. From Spencer Street
- h. From Ben Chifley House (state heritage item)
- i. From St Stanislaus College (local heritage item)
- j. From the viewing platform at Mount Panorama Wahluu
- k. From the approach into Bathurst on Sydney Road (eastern side of the bridge)
- l. Between the site and 34 Busby Street (i.e. within the sites)

The analysis should present conclusions as to how the building envelope configurations may need to be modified by way of appropriate DCP provisions (e.g. upper floor setbacks, boundary setbacks), to mitigate impacts on view corridors, streetscapes, and the site's setting within the Bathurst Heritage Conservation Area.

The Visual Impact Assessment should be in the form of a 3D computer model. That model can be inserted into the Bathurst Digital Twin if the extent of the digital twin can include the subject site and its immediate surrounds.

Preparation of the Visual Impact Assessment in conjunction with the proposed development on the adjoining site at 34 Busby Street is encouraged.

- 5) An updated overshadowing analysis is to be submitted, prior to public exhibition. The assessment is to consider the full extent of the proposed building envelopes at their potential full height (not the proposed building designs) on all adjoining and adjacent properties. The shadow diagrams are to be presented for each hourly interval for the winter solstice.

The analysis should present conclusions as to how the building height envelope configurations may need to be modified by way of appropriate DCP provisions (e.g. upper floor setbacks, boundary setbacks) to achieve compliance with or exceed compliance with Council's current DCP requirements. The analysis should also consider internal implications of overshadowing with the development site.

- 6) The servicing strategy is to be updated to quantify the loading to the water and sewer networks, inclusive of fire protection needs, to enable Council to model implications of the potential full development on its network.

It is recommended that Council withdraws its support for the Planning Proposal if the necessary conditions listed above are not included in DPHI's Gateway Determination.

Further, it is recommended that this matter be referred to Council for **reconsideration** if the outcomes of the peer reviews for the Traffic Impact Assessment and Noise Impact Assessment are such that any adverse impacts are not able to be appropriately mitigated. Council must be assured that existing and future activities at the Mount Panorama Racing Circuit are not jeopardised by increased living densities in proximity to the Mount Panorama 50dBA noise contour. Council must also be satisfied that the local road network can support the traffic generated from the future development. The Planning Proposal should not proceed if either of these issues remain unresolved.

## **FINANCIAL IMPLICATIONS:**

Nil.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

### **Objective 4: Sustainable and balanced growth.**

Strategy 4.1      Facilitate development in the region that considers the current and future needs of our community.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Planning Proposal [9.1.7.1 - 55 pages]
2. Survey Plan [9.1.7.2 - 1 page]
3. Urban Design Report [9.1.7.3 - 32 pages]
4. Concept Design Pack [9.1.7.4 - 34 pages]
5. Visual Impact Assessment [9.1.7.5 - 19 pages]
6. Geotechnical Investigation Report [9.1.7.6 - 30 pages]
7. Heritage Impact Statement [9.1.7.7 - 17 pages]
8. Due Diligence Infrastructure Report [9.1.7.8 - 19 pages]
9. Amended Transport Impact Assessment dated 20.5.24 [9.1.7.9 - 61 pages]
10. Socio-Economic Impact Assessment [9.1.7.10 - 39 pages]
11. Social and Community Needs Assessment [9.1.7.11 - 33 pages]
12. Noise Impact Assessment [9.1.7.12 - 29 pages]
13. Design Guidelines [9.1.7.13 - 10 pages]
14. Pre Lodgement Advice [9.1.7.14 - 25 pages]
15. Transport Impact Assessment dated 5.3.24 [9.1.7.15 - 51 pages]