

Planning and Assessment

IRF19/4966

Alteration of Gateway determination report

LGA	Canterbury-Bankstown
PPA	Canterbury-Bankstown Council
NAME	Increase the height and FSR for land at 30 - 46 Auburn Road, Regents Park
NUMBER	PP_2016_CBANK_001_01
LEP TO BE AMENDED	Bankstown Local Environmental Plan 2015
ADDRESS	30-46 Auburn Road, Regents Park
DESCRIPTION	Lot 1 in DP656032 and Lot 2 in DP 433938
RECEIVED	July 2016
FILE NO.	IRF19/4966
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Background to Gateway Alteration

In March 2016 the Sydney West Joint Regional Planning Panel (JRPP) undertook a pre-Gateway review of a planning proposal for the subject site. The proposal sought to increase the maximum floor space ratio (FSR) from 0.6:1 to 2:1.

The panel recommended that Council progress a planning proposal with a maximum FSR of 1.75:1 and a maximum height that would allow for 6 storeys along Auburn Road and 8 storeys for the remainder of the site.

The intended outcome of the original planning proposal was to:

- enable increased residential development within a reasonable walking distance of the Regents Park Station; and
- provide an appropriate mechanism to ensure that the development of the site delivers certain public improvements works, and to realise these improvement works in a timely manner.

While the proposed maximum heights aligned with the panel recommendations the planning proposal received for Gateway determination sought to achieve a maximum FSR of 1.75:1 or 2.25:1.

These various FSR limits were proposed but only where there was additional public benefits, otherwise a FSR of 1.5:1 was proposed as a base FSR. Without public benefits the FSR for the site was only proposed for 1.75:1.

On 11 May 2016, the former Bankstown Council adopted the North Central Local Area Plan and in doing so resolved to increase the FSR on this site to 2.25:1. However, on 26 July 2016, Council resolved to submit the planning proposal with an FSR of 1.75:1, noting in the supporting documentation that an FSR of 2.25:1 would be investigated during the exhibition period.

In September 2016 the Department of Planning and Environment issued a Gateway determination for the planning proposal. Due to the uncertainty surrounding the FSR, a key Gateway condition was that the planning proposal was to be amended to have a maximum overall FSR of either 1.75:1 or 2.25:1, or an alternative FSR, which was to reflect the outcome of an FSR review prior to exhibition.

Below shows a series of contradicting opinions and studies by Council and Pacific Planning (the proponent), which failed to arrive at a mutual consensus on a suitable FSR for the site:

- Bankstown Council’s resolution to adopt the North Central Local Area Plan, which included an FSR of **2.25:1** on the site (May 2016);
- the new Canterbury-Bankstown Council’s resolution to lodge a planning proposal for the site to allow an FSR of **1.75:1** equating to a maximum building height of **6 – 8 storeys** (July 2016);
- the Gateway determination to allow an FSR of either **1.75:1** or **2.25:1**, or an **alternative** FSR (September 2016);
- a review by Architectus (engaged by Council) which recommended an FSR of **1.75:1** would be most suitable for the site equating to a maximum building height of **6 – 8 storeys** (December 2016);
- a review by Olsson Architects (engaged by Council) which recommended an FSR of **1.75:1** would be most suitable again equating to a maximum building height of **6 – 8 storeys** (April 2017);
- the proponent’s rebuttal of the Olsson Architect review and further justification for an FSR of **2.25:1** (June 2017);
- the recommendation by the Independent Hearing and Assessment Panel to proceed with an FSR of **1.75:1** (July 2017); and
- the proponent’s request for an alteration of Gateway determination to allow an FSR of **2.25:1** (February 2018).

The following table provides a timeline of the events leading to the current design review work being undertaken by the Department for this proposal.

Date	Activity
December 2012	The proponent applied to amend the LEP for the site to achieve a maximum FSR of 3:1, with building heights up to 17 storeys.
February 2013	The former City of Bankstown Council (Bankstown Council) deemed the proposal too dense for the site and surrounding area. Council resolved to not support the planning proposal.
August 2013	The Sydney West Joint Regional Planning Panel (the Panel) reviewed the planning proposal and chose to not recommend the planning proposal for Gateway determination.

Date	Activity
February 2014	The proponent submitted a second planning proposal to amend the LEP, seeking a maximum FSR of 2:1, and a maximum height of 8 storeys.
April 2014	Bankstown Council resolved to not support the second planning proposal, deeming that a maximum FSR of 1:1 and a maximum height of 4 storeys was more appropriate.
September 2014	Bankstown Council engaged Architectus to prepare a Structure Plan for the precinct which resulted in an FSR of 1.2:1 and a height limit of 18 metres (5 storeys).
2015	The proponent submitted a third proposal for the site for a maximum FSR of 4:1 and a maximum building height ranging from 17 to 64 metres (5 to 20 storeys).
August 2015	Bankstown Council engaged Architectus to review the planning proposal. Architectus recommended an FSR of 1.75:1 with heights of up to 27 metres (8 storeys).
March 2016	The Sydney West Joint Regional Planning Panel undertook a pre-Gateway review of the revised planning proposal and recommended it proceed to Gateway with a maximum FSR of 2:1.
May 2016	Bankstown Council resolved to adopt the North Central Local Area Plan, which sought to allow an FSR of 2.25:1 on the site.
July 2016	The new City of Canterbury-Bankstown Council (Council) resolved to lodge a planning proposal for the site to allow a maximum height of 19 to 25 metres, and an FSR of 1.75:1.
September 2016	The Department of Planning and Environment issued a Gateway determination for the planning proposal with conditions. A key condition was that the planning proposal was to be amended to reflect the outcome of an FSR review (either 1.75:1 or 2.25:1, or an alternative FSR).
December 2016	Council engaged Architectus to conduct a further review to recommend a suitable FSR for the site which concluded an FSR of 1.75:1 would be appropriate with a maximum height of 19 to 25 metres (6-8 storeys).
February 2017	The proponent lodged a concept development application for the site which complied with the existing FSR of 0.6:1 and heights of 2-3 storeys, which was approved by Council.
April 2017	Council engaged Olsson Architects to conduct a review of the site and previous structure plans to determine an appropriate FSR. The review concluded an appropriate FSR to be 1.75:1 and heights of 6-8 storeys consistent with the Architectus review.
June 2017	The proponent refuted Olsson Architect's findings, maintaining that an FSR of 2.25:1 was suitable for the site.
July 2017	An Independent Hearing and Assessment Panel (IHAP) review recommended that the planning proposal proceed with the maximum FSR of 1.75:1 for the site.

Date	Activity
	Council resolved to proceed with a maximum FSR of 1.75:1.
February 2018	Council provided documentation to satisfy the conditions of the Gateway Determination and requested the Department's approval to proceed to exhibition with a maximum FSR of 1.75:1.
February 2018	The proponent sought a revised Gateway determination seeking an increased FSR from 1.75:1 to 2.25:1.

1.2 Independent Review

On 9 February 2018, Council provided information seeking to satisfy the conditions of the Gateway determination and requested approval to proceed to exhibition with a maximum FSR of 1.75:1 and maximum building height of between 6 and 8 storeys for the site. However, the proponent disputed the proposed FSR and requested the Department consider an increased FSR of 2.25:1.

To help resolve this matter the Department engaged independent urban design consultant, McGregor Coxall, to undertake an assessment to determine what scale and density of residential development was suitable for the site. This work included:

- a detailed urban design analysis to underpin the proposed planning controls e.g., FSR and building height) recommendations;
- providing commentary on the vision and principles identified in the draft Structure Plan; and
- recommending any changes or new controls required for the future development control plan to facilitate the optimum outcome.

McGregor Coxall reviewed all reports related to the planning proposal including those prepared by the proponent, Council, Architectus and Olsson Architects.

Based on this testing and the work by McGregor Coxall a proposed maximum FSR of 2:1 for the site with building heights to remain the same as per originally proposed, with additional height permitted at the north west corner of the site to 12 storeys (**Appendix 1**). This work was based on an indicative scheme (**Figure 1**).

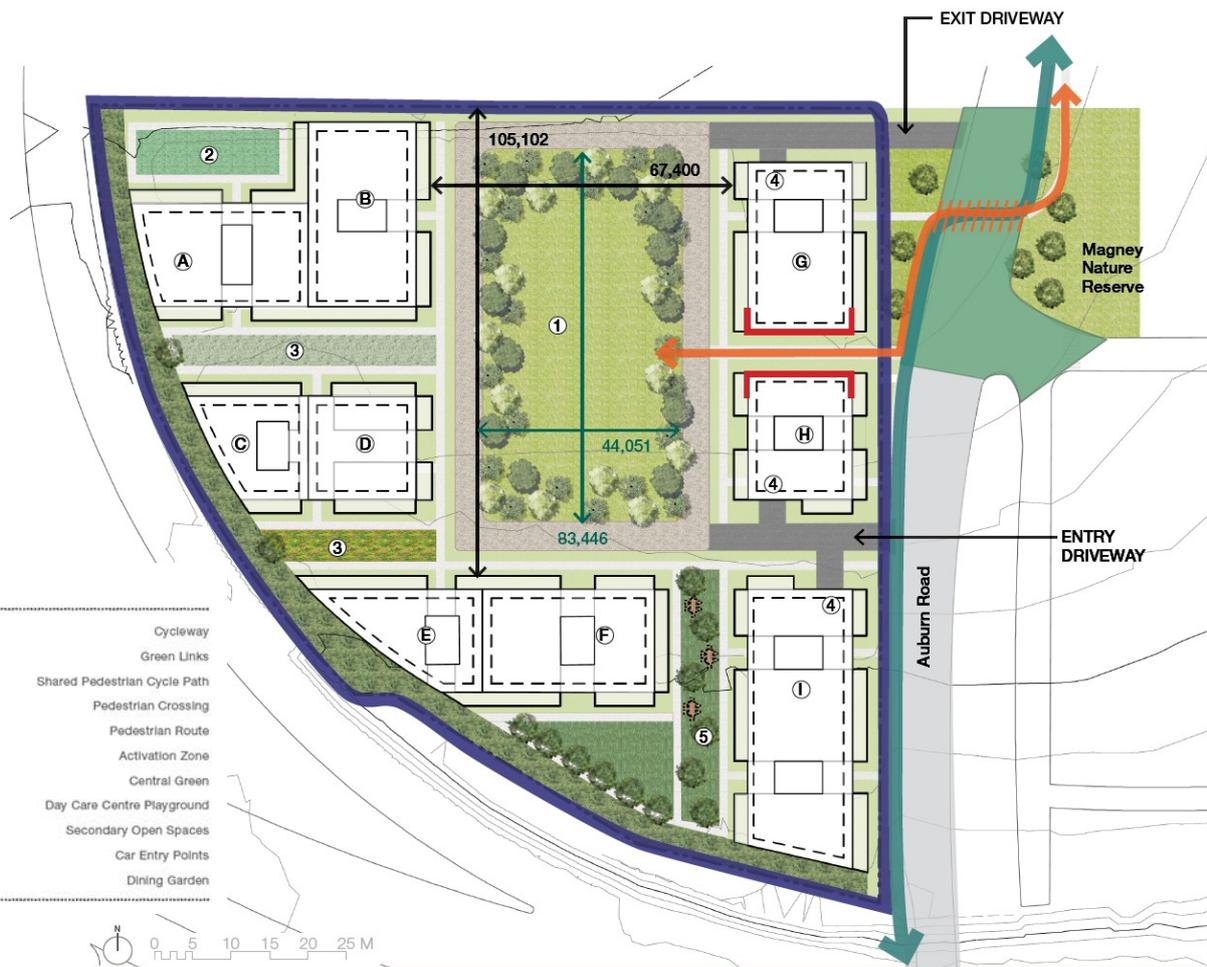


Figure 1 – McGregor Coxall's Scheme January 2019

The following outlines the work undertaken by the independent consultant McGregor Coxall, the proponent and the Department.

Date	Activity
May 2018	The Department of Planning and Environment engaged McGregor Coxall to undertake an independent Urban Design Review of the site and previous structure plans to identify an appropriate FSR for development on the site given the discrepancy between the findings of the proponent and Council. The review recommended an FSR of 2:1 with a maximum height of 12 storeys at the north west corner of the site, 6 storeys fronting Auburn Road and 8 storeys for the remainder of the site (Figure 2).
September 2018	An Alteration of Gateway determination to provide an extension of time to October 2019 was issued.

Date	Activity
<p>March 2019</p>	<p>The proponent and Council were provided with the opportunity to review and respond to the McGregor Coxall review. Their response can be summarised as:</p> <ul style="list-style-type: none"> • Architectus on behalf of Council maintain that an FSR of 1.75:1 with a maximum height range of 6 to 8 storeys is most appropriate for the site. Council was supportive of the indicative structure plan for the site upon which McGregor Coxall used to test and determine a suitable FSR. • The proponent agrees with the McGregor Coxall structure plan, however seeks an FSR of 3.45:1 in order to deliver the proposed public open space on the site. Adopting the layout the proponent provided a model of their own scheme (Figure 3).
<p>April 2019</p>	<p>The Department facilitated a discussion between the proponent, the proponent's Architect and McGregor Coxall to discuss the proponent's views of the recommendations.</p> <p>It was agreed that McGregor Coxall would test the proponent's scheme as it was expected to have wider building footprints than that recommended by McGregor Coxall's scheme, but would still achieve the required suitable solar access, natural ventilation and building separation requirements under the SEPP 65 Apartment Design Guide (ADG).</p> <p>Using the correct site area of 21,117sqm, the review by McGregor Coxall demonstrated that the floorplates by the proponent were not as generous in floor area as McGregor's own scheme (Table 1).</p> <p>McGregor Coxall also reviewed the way in which the proponent had calculated the Gross Floor Area (GFA) and FSR using the proponent's scheme and did not agree with this method of calculating GFA or FSR.</p> <p>The review demonstrated that the additional FSR proposed by the proponent was only achieved through additional building heights across the site with 7 - 9 storeys along Auburn Road, 13 storeys at the north west corner of the site and 9 storeys for the remainder of the site.</p>
<p>December 2019</p>	<p>Council also reviewed the proponent's revised proposed scheme for a FSR of 3.45:1 and determined that this was inappropriate for the site and continued to recommend that a FSR maximum of 1.75:1, despite also supporting the general layout of the scheme used by McGregor Coxall to test a suitable FSR for the site.</p>
<p>January 2020</p>	<p>The Department's Urban Design team also undertook a peer review of the CAD drawings and calculations by McGregor Coxall. This showed it had margins of error in the order of 1sqm for some floorplate calculations.</p> <p>The resultant FSR using the correct site area of 21,170sqm and based on McGregor Coxall's scheme and testing their CAD drawings but with corrected floorplate calculations resulted in a maximum FSR of 1.99:1 (Table 1).</p> <p>Also in using the SEPP 65 ADG standard of a 75% efficiency of Gross Building Area (GBA) to determine GFA, the scheme only achieved a maximum FSR of 2.27:1, and not 3.45:1 as proposed by the proponent.</p> <p>Without the additionally proposed building height and using the heights/storeys recommended by McGregor Coxall, the proponent's scheme only achieves a maximum FSR of 1.93:1 (Figure 4 and Table 1).</p>

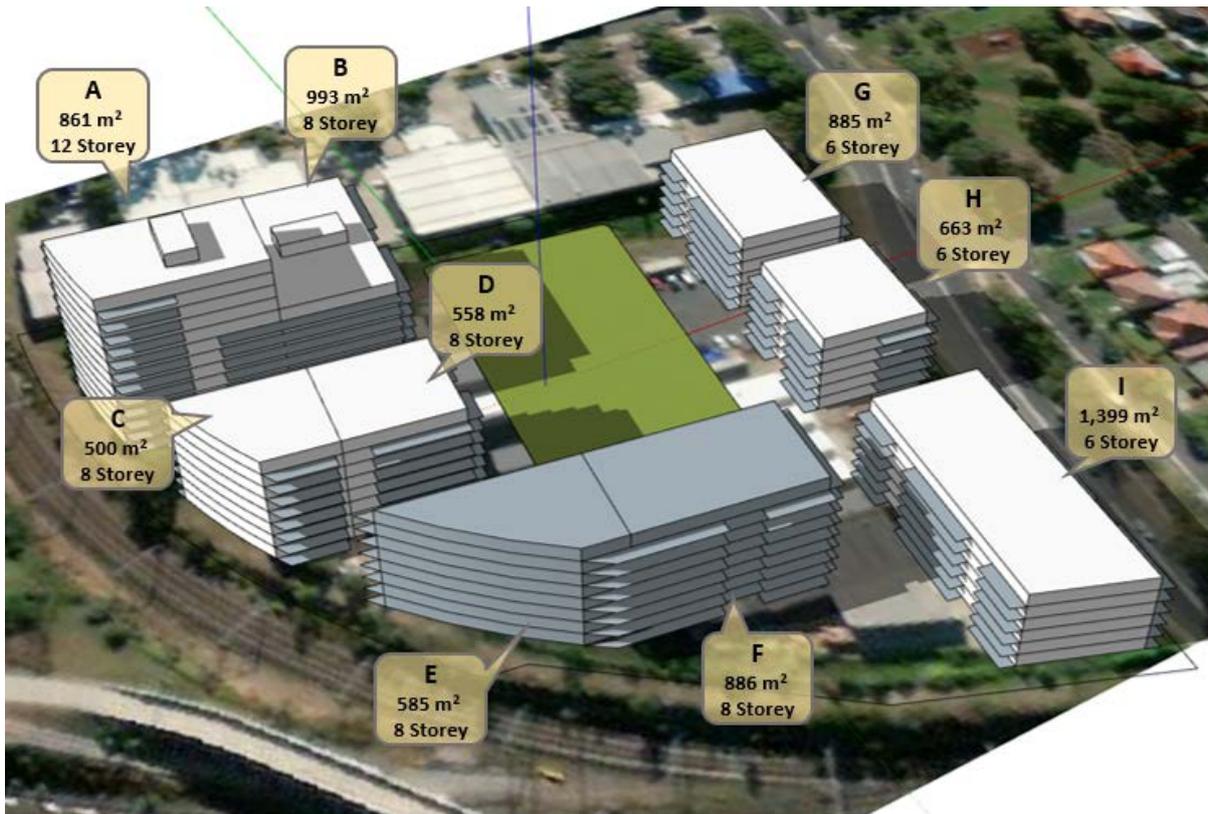


Figure 2 – McGregor Coxall's Scheme January 2019



Figure 3 - Proponent's Proposed Scheme



Figure 4 - Proponent's Proposed Scheme with building heights as recommended by McGregor Coxall

Table 1 – Floor Space Comparison of Schemes

	McGregor Coxall Scheme (Figure 2)	Proponent's Scheme with Extra height (Figure 3)	Proponent's Scheme with same building heights as McGregor Coxall Scheme (Figure 4)
Gross Building Area (m²)	56,182	64,061	54,594
Gross Floor Area (m²)¹	42,136.50	48,046	40,946
Site Area (m²)	21,170	21,170	21,170
FSR	1.99:1	2.27:1	1.93:1
Central Green Area (m²)	3,676	3,363	3,363

¹ Gross Floor Area (GFA) was determined using an efficiency of 75% of Gross Building Area, which is acceptable standard under the SEPP 65 Apartment Design Guide.

2. THE SITE

2.1 Site description

The site is known as 30-46 Auburn Road, Regents Park and legally identified as Lot 1 in DP 656032 and Lot 2 in DP 433938. The site has an area of 20,400m² and is currently used as a construction training school and for light industrial purposes.

Regents Park is located about 3.5 kilometres north west of the Bankstown Central Business District (CBD). It is bounded to the east by Auburn Road, to the south and west by the freight rail line, and to the north by existing industrial land. **Figure** and **Figure** shows the site location.

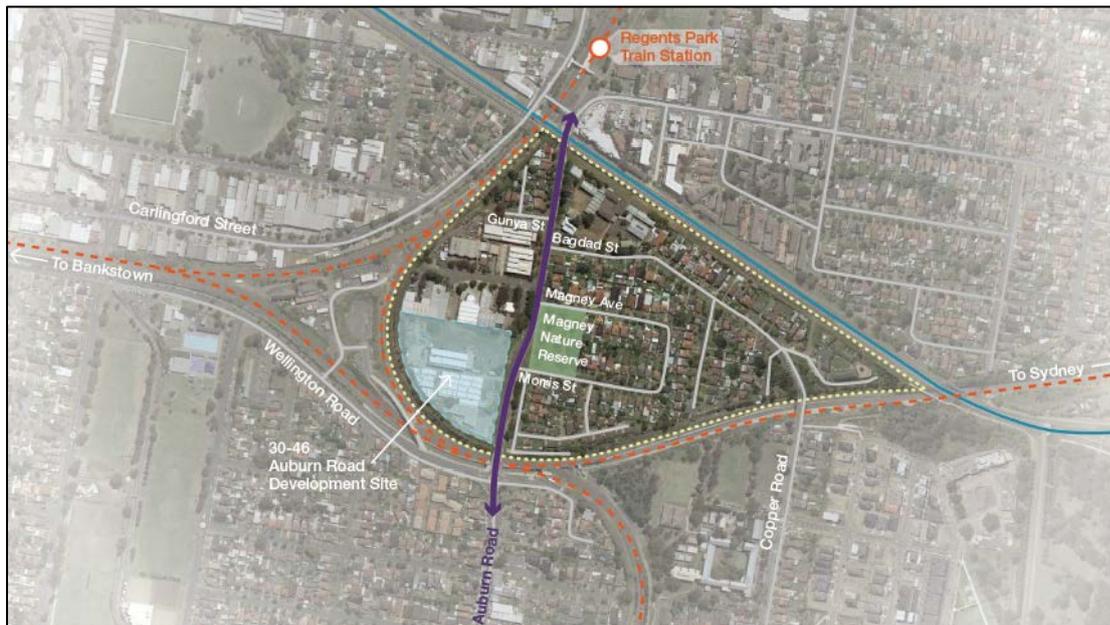


Figure 5 - Site location (McGregor Coxall 2019)



Figure 6 - Surrounding land uses (McGregor Coxall 2019)

2.2 Existing planning controls

The site is currently zoned R4 High Density Residential with a maximum building height of 13 metres and a maximum floor space ratio (FSR) of 0.6:1.

Figure 7 to Figure 9 below shows the existing planning controls applying to the site and its development.

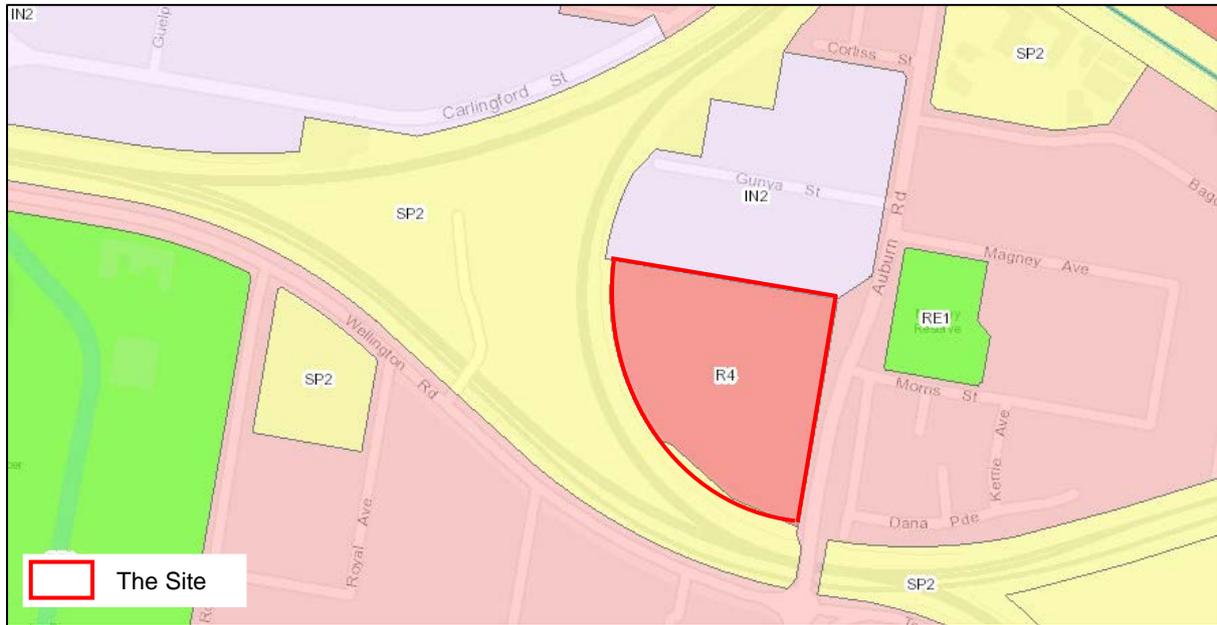


Figure 7 - Current land zoning

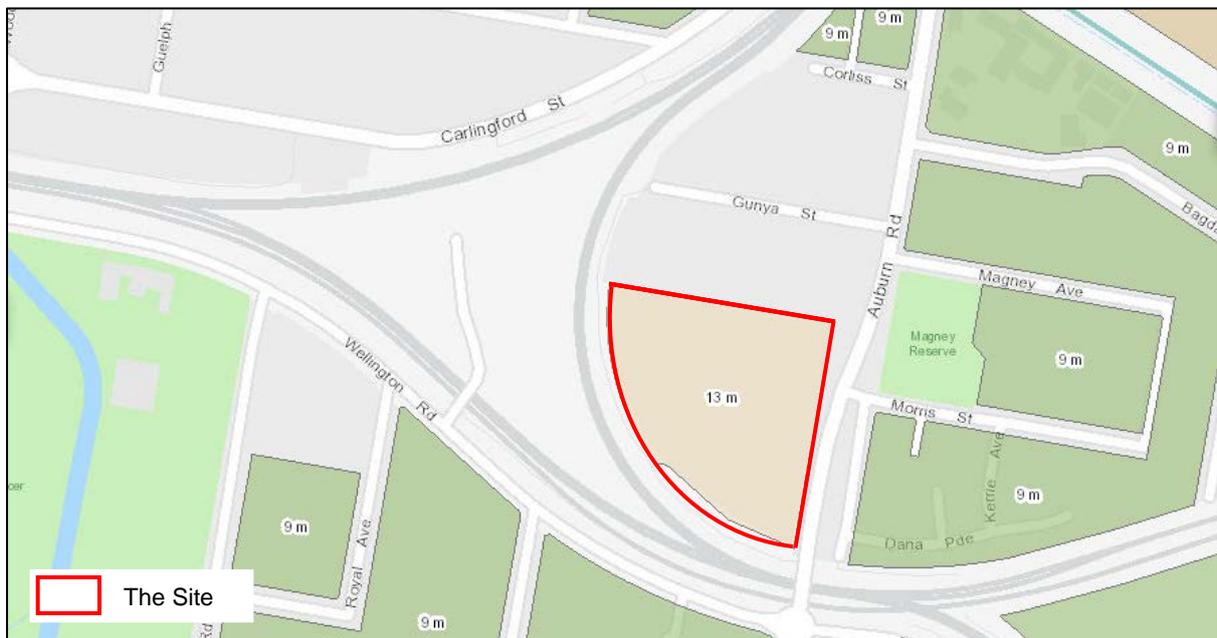


Figure 8 - Current height of building control



Figure 9 - Current floor space ratio control

2.3 Surrounding area

The site is located approximately 3.5 kilometres north west of the Bankstown CBD, approximately 500 metres south of Regents Park Station, 700 metres north of Birrong Station and one kilometre east of Sefton Station. The key land uses to the east and south of site is residential with industrial land uses to the north west.

Figure shows the immediate surrounding land uses.



Figure 10 - Site location

3. ALTERATION OF GATEWAY DETERMINATION

3.1 Objectives or intended outcomes

Utilising the work undertaken and further tested by the Department's own Urban Design team, it is recommended that the maximum FSR for the site and its development is 2:1 and that the maximum building heights only be altered to allow for 12 storeys at the north west corner of the site.

The scheme performed well when tested for internal solar access performance, overshadowing and visual impacts when viewed from areas adjacent to the site as it:

- did not result in detrimental overshadowing to any adjoining sites;
- was not visually prominent from various public domain vantages points; and
- ensured that the development and any future open spaces on the site are capable of receiving suitable solar access.

3.2 Explanation of provisions

The alteration of Gateway determination seeks to apply an FSR of 2:1. The maximum building heights for the site remain as per the current Gateway determination at part 19m and part 25m, with an increase in building height to 38m to the north west corner of the site as per McGregor Coxall's recommendation.

3.3 Mapping

The revised planning proposal would be required to include maps of the proposed changes to the planning controls.

4. NEED FOR THE PLANNING PROPOSAL

The original planning proposal was the result of the Joint Regional Planning Panel's March 2016 pre-Gateway review and recommendation for the development of the site. The Panel acknowledged the site's inclusion in the North Central Local Area Plan (refer to section 4.2).

The proposal for an alteration to the Gateway determination is a result of several studies and ongoing discussions with Council and the proponent. The alteration is required to provide certainty of the development potential of the site and allow the planning proposal to proceed to the public exhibition stage.

An alteration of Gateway determination is the best means for achieving the intended outcome because the current Gateway determination was valid to October 2019.

5. STRATEGIC ASSESSMENT

5.1 South District Plan

The South District Plan was released in March 2018 after the original Planning Team Report (September 2016) was completed for the planning proposal. Provided below is a description of how the planning proposal is consistent with the following relevant planning priorities of the South District Plan.

Planning Priority	Consistency	Urban design criteria*
S4 – Fostering healthy, creative, culturally rich and socially connected communities	The planning proposal is consistent with this planning priority as it aims to create a precinct which forms a connection to the Regents Park Small Village Centre. The precinct will foster a healthy, creative, culturally rich and socially connected community by meeting the precinct objectives outlined in the Urban Design Review conducted by McGregor Coxall (January 2019).	Site permeability Place identity Character Public space delivery Social infrastructure Cultural evolution Social capacity Civic interaction
S5 – Providing housing supply, choice and affordability with access to jobs, services and public transport	The North Central Local Area – Issues Paper (2016) identifies that separate homes dominate the dwelling type in the area comprising 73% of dwellings (in 2011) while high density dwellings only comprise 3%. While this number is likely to have increased since 2011, there is still a clear need to increase supply of high density dwelling to provide housing choice. The planning proposal is consistent with this priority as it provides housing choice close to public transport.	Active transport network Car parking and access Pedestrian prioritisation
S6 – Creating and renewing great places and local centres, and respecting the District’s heritage	The planning proposal is consistent with this priority as aims to create a new precinct with connections to the Regents Park Small Village Centre. The character of the village centre would be retained.	District connectivity Open space network Green grid connectivity

* Urban design criteria refer to those outlined in the Urban Design Review conducted by McGregor Coxall (January 2019)

5.2 Local Strategic Planning Statement (LSPS)

Council has prepared and exhibited its draft LSPS to set out its 20 year vision for land use throughout the local government area. The draft LSPS is to provide greater certainty to the community about what land use changes may be considered over this 20 year period and where additional development is best to occur and is to be consistent and give effect to the South District Plan. It is also required to inform future planning proposals to rezone land, such as the subject proposal.

At the time of writing this report Council’s Draft LSPS had not been approved by the Greater Sydney Commission to allow Council to finalise and implement this LSPS. This approval is anticipated to occur in March.

In this regard an additional Gateway condition has been included to require that the planning proposal be updated to address and assess the proposal against the relevant aspects of the LSPS.

5.3 North Central Local Area Plan

The North Central Local Area Plan was released after the original Planning Team Report (September 2016) was completed for the planning proposal. Therefore, an assessment of the planning proposal's consistency with this plan is provided below.

Background

In September 2016, Canterbury-Bankstown Council released the final North Central Local Area Plan and submitted a planning proposal to the Department of Planning and Environment. The planning proposal sought to apply a minimum FSR of 2.25:1 and a height of 19 metres (along Auburn Road) and 25 metres (for the remainder of the site).

A Gateway determination was issued in January 2017; however in July 2018 Council resolved to not proceed with the planning proposal for the North Central Local Area Plan. Despite the planning proposal being withdrawn, an assessment of this planning proposal against the Local Area Plan structure plan has been provided as it remains a published strategic document and Council had indicated that this work would help inform future comprehensive and strategic planning work.

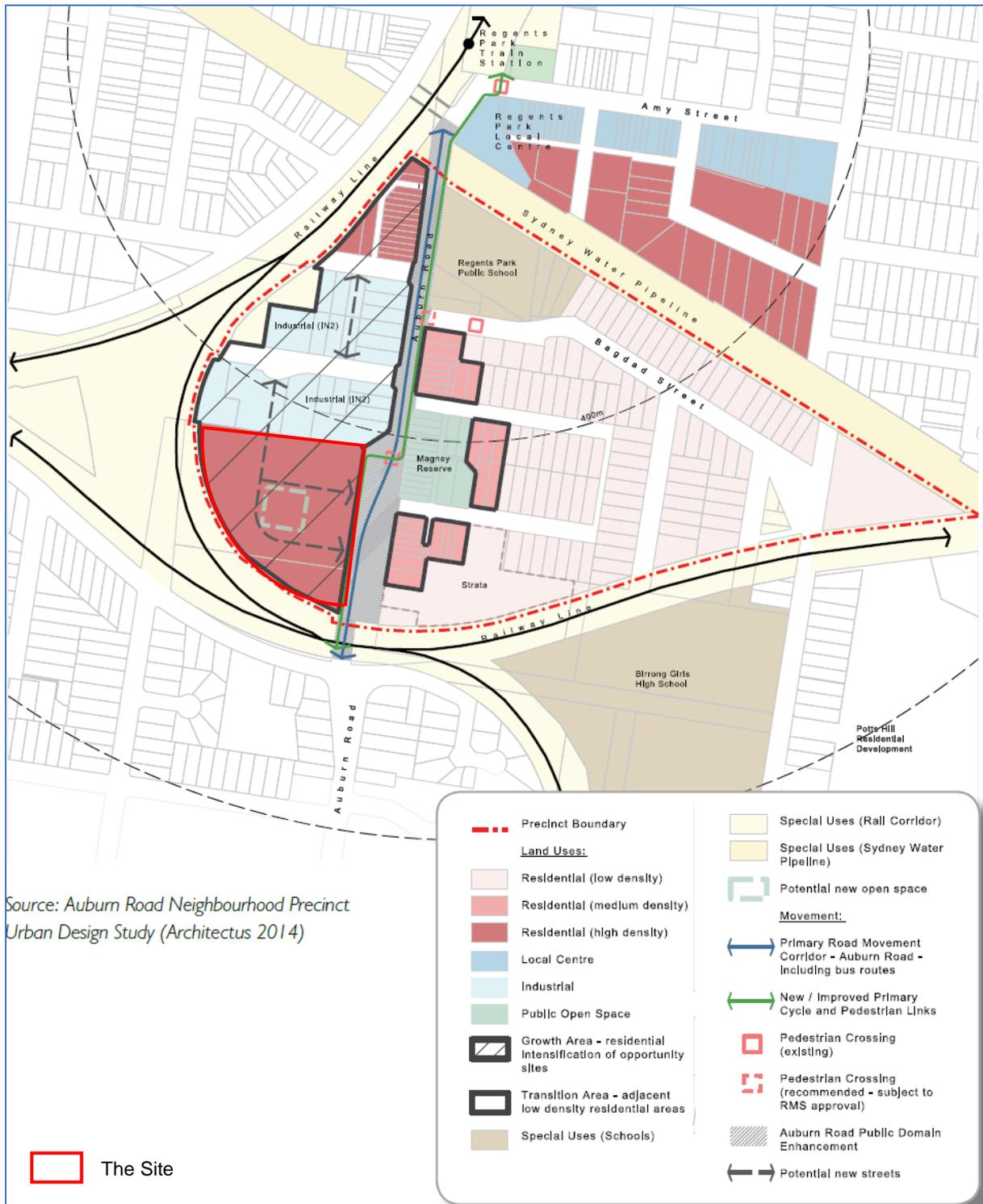
Assessment

The site is within the Regents Park Urban Neighbourhood Precinct, which is identified in the North Central Local Area Plan (**Figure 11**). The Local Area Plan identifies the precinct as an area that will support the residential growth of the Regents Park Small Village Centre, with Auburn Road as the primary spine. Magney Reserve is visioned to be a focal point for the community, with leafy green streets leading to the reserve.

The Local Area Plan (LAP) states that there is an opportunity to extend the street and open space network to provide increased permeability and amenity as part of the *“redevelopment of the site at 30–46 Auburn Road and the large consolidated industrial use lots when changing to residential uses”*.

On review of the indicative scheme prepared by McGregor Coxall the site's redevelopment is compatible with the structure plan for the LAP given that it:

- has the capacity to allow for connections and links into the site to integrate the site with the existing adjacent site and the broader residential area;
- demonstrates that opportunity for the potential for a open space on the subject site; and
- can accommodate high density of scale greater than the adjoining sites to the east of the site.



Source: Auburn Road Neighbourhood Precinct Urban Design Study (Architectus 2014)

Figure 1 - Regents Park Urban Neighbourhood Precinct - Structure Plan (taken from the North Central Local Area Plan)

5.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with Section 9.1 Ministerial Directions has been previously assessed and is presented in the Planning Team Report (September 2016). Since the original assessment, this matter needs to be re-reviewed as part of the revised planning proposal recommended as part of the conditions of the altered Gateway determination.

5.5 State environmental planning policies (SEPPs)

The planning proposal's consistency with SEPPs has been previously assessed and is presented in the Planning Team Report (September 2016). However, given the alterations to the proposal's scope and given the time that has elapsed since the proposal was last assessed against relevant SEPPs, it is recommended that as condition of the altered Gateway that consistency with relevant SEPPs be revised as part of the updated and revised planning proposal.

6. SITE-SPECIFIC ASSESSMENT

A site-specific assessment of the original planning proposal (FSR of 1.75:1 and height limit of 19 and 25 metres) has been previously assessed and is presented in the Planning Team Report (September 2016).

The alteration of Gateway determination is to establish a maximum FSR of 2:1 for the site. The increase in proposed FSR marries with that originally sought for the proposal and is only moderately more than supported by Council at 1.75:1. The additional height to the north west corner of the site has also shown that this increased scale in built form does not result in detrimental visual or overshadowing impacts.

Therefore the increased density over that recommended by Council is not likely to have additional social, environmental and economic detrimental impacts given that:

- the indicative scheme prepared by McGregor Coxall demonstrates an improved site layout by facilitating the opportunity for good place based outcomes for new residents on the site. The scheme was also wholly supported by Council and the proponent;
- the resultant quantum of increased development is likely to generate a nominal number of additional units, which in turn is not expected to generate significantly greater demands on the road network, social infrastructure or transport systems; and
- the site has been demonstrated to present the opportunity to provide open space that could support new residents on the site and provide a new opportunity for adjoining residents if this space were to be public open space.

Despite this, it is recommended that the planning proposal be a revised to update the assessment of social, economic and environmental impacts of the proposal to ensure it aligns with the final proposed maximum FSR and building heights for the site.

7. CONSULTATION

7.1 Community

The Gateway determination issued on 23 September 2016 stated that the planning proposal must be made publicly available for 28 days. No change to this requirement is proposed.

7.2 Agencies

The Gateway determination issued on 23 September 2016 stated that consultation is required with Transport for NSW, Roads and Maritime Services, Environment Protection Authority, the Australian Rail Track Corporation, Ausgrid, Telstra and Sydney Water. No change to this requirement is proposed.

8. TIME FRAME

The current timeframe to complete the LEP is by 4 October 2019. It is proposed to include an extension to the timeframe by a further 12 months be provided to allow Council and the proponent with time to update the planning proposal and undertake consultation.

9. LOCAL PLAN-MAKING AUTHORITY

The Gateway determination issued on 23 September 2016 did not provide Council with local plan-making authority. No change to this is proposed.

10. CONCLUSION

It is recommended that an alteration to the Gateway determination is issued to:

- Remove condition 1(a) and replace with 'reflect the outcome of the urban design review (a maximum FSR of 2:1 and a change to the maximum building heights to that originally proposed where this relates to the north west corner of the site to permit development up to 12 storeys).
- Amend reference to Director Sydney Region West to Director Eastern and South District
- Provide a 12-month extension of time to complete the LEP to 14 February 2021.

11. RECOMMENDATION

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

1. Delete condition 1(a) and replace with:
a new condition 1(a) "reflect the outcomes of the urban design review by the Department of Planning Industry and Environment with a maximum FSR of 2:1 for the site and maximum building heights of 19 metres along the site's Auburn Road frontage, 38 metres in the north-western corner of the site and 25 metres across the remainder of the site;"

2. Delete condition 1(d) and replace with:
a new condition 1(d) “include a flood study in which addresses the requirements of section 9.1 Direction 4.3 Flood Prone Land;”
3. Add condition 1(e) with:
a new condition 1(e) “update the planning proposal to address the South District Plan and Council’s Local Strategic Planning Statement; and”
4. Add condition 1(f) with:
a new condition 1(f) “update the planning proposal to address consistency with the relevant State Environmental Planning Policies.”
5. Delete condition 3 and replace with:
a new condition 3 “the planning proposal is to be amended to reflect conditions 1 and 2 and a copy is to be provided to the Director Eastern and South District.”
6. Delete condition 6 and replace with:
a new condition 6 “the timeframe for completing the LEP is a further 12 months from the date of the altered Gateway”.

Simon Ip
Manager Place and Infrastructure

Brendan Metcalfe
Acting Director
Eastern and South District
Eastern Harbour City
Greater Sydney Place and
Infrastructure

Assessment officer: Teresa Gizzi
Senior Planning Officer, Eastern and South Districts
Phone: 8275 1124

Appendix 1 - 30-46 Auburn Road, Regents Park Urban Design Review, prepared by
McGregor Coxall (2019)
