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**TRANSCRIPT OF PROCEEDINGS**

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O/N H-1340248

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH DEPARTMENT**

**RE: GATEWAY DETERMINATION REVIEW – 30-46 AUBURN ROAD,  
REGENTS PARK**

**PANEL: DIANNE LEESON (CHAIR)**

**OFFICE OF THE IPC: JANE ANDERSON  
LINDSEY BLECHER**

**DEPARTMENT: BRENDAN METCALFE  
RENEE COULL  
JOHN KURKO**

**LOCATION: ZOOM VIDEO CONFERENCE**

**DATE: 3.00 PM, MONDAY, 30 NOVEMBER 2020**

**THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE**

MS D. LEESON: We will get started and we will have a short statement of  
5 introduction. So, good afternoon and welcome. Before we begin, I would like to  
acknowledge the traditional owners of the lands on which we meet and pay my  
respects to their elders past, present and emerging. Welcome to the meeting today to  
discuss the Gateway Determination review for 30-46 Auburn Road, Regents Park.  
My name is Dianne Leeson. I am the chair of this commission panel. We are also  
10 joined by Jane Anderson and Lindsey Blecher from the Office of the Independent  
Planning Commission. In the interest of openness and transparency and to ensure the  
full capture of information today's meeting is being recorded and a full transcript  
will be produced and made available on the Commission's website. This meeting is  
one part of the Commission's consideration of this matter and will form one of  
15 several sources of information upon which the Commission will base its advice.

It is important for the commissioners to ask questions of attendees and clarify issues  
whenever it's considered appropriate. If you are asked a question and not in a  
20 position to answer, please, feel free to take the question on notice and provide any  
additional information in writing which we will then put up on our website. I request  
that all members here today introduce themselves before speaking for the first time  
and for all members to ensure they do not speak over the top of each other to ensure  
accuracy of the transcript. We will now begin. So welcome Brendan, Renee and  
John. We have a short agenda this afternoon and the first item on the agenda is,  
25 obviously, what I have just been through. The opening statement from the chair and  
that presentation from the Department on strategic and site specific merit and then if  
there are additional questions from the Commission we will go through those before  
we close the meeting. So if I can hand across to you, Brendan, to lead the  
Department's presentation on this?  
30

MR B. METCALFE: Thanks, Dianne. Yes. So we are here for this reason –  
decision on 30 to 46 Auburn Road, Regents Park. It's a gateway review. The  
agenda we've put together today is a quick introduction, the site context, the  
35 planning proposal history, an overview of the planning proposal, some key issues  
and then the Department's recommendation. So the planning proposal seeks to  
increase floor space ratio and maximum building height controls under the  
Bankstown Local Environmental Plan 2015 to enable residential development within  
walking distance of Regents Park railway station. The Gateway Determination as  
altered was based on extensive urban design testing. The proponent is seeking this  
40 gateway review not council. Council is unsupportive of the proposed increases to  
height and FSR.

The Department considers that the FSR under the gateway alteration is appropriate  
and will lead to a better outcome than the FSR proposed by the proponent and the  
45 Department does agree that there is merit to a minor increase to heights in metres to

facilitate the delivery of the intended number of stories. Onto the site context. The site fronts Auburn Road to the east, industrial land to the north and freight and commuter rail lines to the south and west and the site is approximately 500 metres from Regents Park railway station and 3.5 kilometres from the Bankstown strategic centre. The site is approximately 2.2 hectares in size and the current uses include a construction training school and light industrial land uses. The surrounding context is characterised by generally low density residential industrial and – industrial and residential development.

10 The current planning controls. The site zoned are for high density residential and there's no proposal to change that. The building height control is 13 metres or three stories currently and the maximum floor space ratio control is 0.6 to one. I've just got a couple of slides here of the site. This one is looking left towards the site from the corner of Morris and Auburn Road and there's a little orientation box down there  
15 in the left-hand corner. So you can see where we're looking from. And this one is to the south of the site looking northwest from Auburn Road. It's just on the railway overpass. Renee is going to do the planning proposal history.

MS R. COULL: So in terms of the planning proposal history - - -

20 MS LEESON: Sorry, Renee, just - - -

MS COULL: - - - any proposal height - - -

25 MS LEESON: Can you give your name for Auscript, please?

MS COULL: Sorry. I'm Renee Coull from the Department of Planning.

30 MS LEESON: Thanks, Renee.

MS COULL: So in terms of the planning proposal history the planning proposal has a complex history. It was originally submitted to council in 2015 with an FSR of four to one and building heights up to 20 stories. Council completed urban design reviews and was the subject to a pre-gateway review with the Sydney West Joint  
35 Regional Planning Panel. Council submitted the planning proposal to the Department in July 2016 with an FSR of 1.75 to one and six and eight storey heights. The Department issued a Gateway Determination in September 2016 for an FSR of 1.75 to one or 2.25 to one or an alternative FSR and heights of six and eight stories. The flexible condition regarding FSRs relates to a council resolution in 2016 to  
40 amend the north central local area plan by increasing the FSR for this opportunity site from 1.75 to one to 2.25 to one subject to traffic and public domain works.

At the time the FSR in the Gateway Determination was consistent with the council resolution. Following Gateway Determination further urban design reviews were  
45 undertaken by council, the proponent and the Department. A gateway alteration was issued in February 2020 for an FSR of two to one and heights of six, eight and 12 stories. The proponent remained unsatisfied with the outcome and requested this

gateway review in April 2020. Since then the proponent has submitted alternate design concepts and DA level detail to support this request. This has been reviewed in detail by the Department who are of the opinion that the FSR granted in the gateway alteration is the best outcome for the site whilst the minor adjustment to heights in metres is supported in part.

MR METCALFE: Thanks, Renee. And so just to do a quick comparison of the Gateway Determination as altered the Department's happy with the R4 high density residential zoning. So is the proponent. The forced base ratio in the Gateway Determination as altered was two to one but the proponent is requesting 2.4 to one. The maximum building height at six stories is 19 metres in the current Gateway Determination. But the proponent is seeking that to be increased by four metres to 23 metres. The eight storey control is 25 metres which the proponent is seeking 29 metres and the 12 storey control is 38 metres but the proponent is seeking 47 metres.

The key issues with the planning proposal relate to amenity, the number of stories that are being proposed, forced base ratio efficiency rates and the suitability of the site for the intensification. In terms of amenity whilst the planning proposal focus on high level merit issues there is an opportunity on large sites to meet and exceed amenity that is otherwise difficult to provide where there's existing built form constraints. The proponent has submitted DA level detail or documentation and asserts that the proposal with an FSR of 2.4 to one can achieve compliance with amenity requirements set out in the New South Wales government Apartment Design Guide or ADG. The Department tested the various development schemes for the site in January 2020 and November 2020 having regard to whether or not good amenity can be achieved.

The Department's review concluded that the proposed FSR of 2.4 to one fails to achieve adequate solar access due to a large number of south facing units, internal overshadowing between buildings and the cumulative impacts of height and bulk resulting from that proposed FSR. So regarding the solar access three of the six buildings do not meet the ADG suggested maximum of 15 per cent and two of the six buildings fail to achieve the ADG suggested controls for solar access regarding living rooms and private open spaces receiving a minimum of two hours direct sunlight between 9 am and 3 pm mid-winter. The Department's review concluded that the highest FSR that is possible on the site whilst maintaining ADG standards for solar access and the central green is 2.1 to one. But we note that this results in an encroachment into council's proposed setbacks that accompany planning proposal.

The Department's review concluded that taking into consideration council setbacks adequate solar access and retention of the central green the maximum FSR achievable on the site is 1.9 to one. Council setbacks respond to the interface with the surrounding uses such as Auburn Road, the railway line and the industrial land uses and the proponent's request to increase the FSR is not supported and the Department considers that the current gateway FSR of two to one is a good fit for the site taking into consideration its capability of delivering good amenity. In terms of the number of stories maximum building height in the Bankstown LEP is measured

in metres above existing ground level. The ADG specifies that maximum building height should consider the desired number of stories and comprise – and be comprised of the following metrics.

5 So at 0.4 metres per floor structure. 3.3 metres ceiling height for the ground floor  
plan – ground floor level. 2.7 metre ceiling height from levels above ground floor.  
One metre for rooftop articulation and up to two metres for topographic changes and  
then there's also a consideration for flooding and fill requirements that you can have  
10 regard to. The Gateway Determination as altered specified heights of six stories,  
eight stories and 12 stories and all those figures are set out here. We've completed  
further testing and application of the ADG metrics to the McGregor Coxall scheme  
which equates to 22.2 metres for the six stories, 28.4 metres for the eight stories and  
40.8 metres for the 12 stories and these can be rounded up to 23, 29 and 41 metres  
15 which will reasonably ensure the number of stories identified in the McGregor  
Coxall scheme can be achieved. Therefore, the Department partly supports a  
proposed request to increase building heights in metres noting that no change is  
proposed to the number of stories.

20 MS COULL: I'm Renee from the Department of Planning and I will talk about the  
remaining issues. Floor space ratio efficiency rates are set out in the New South  
Wales government Apartment Design Guide and it specifies that in order to calculate  
FSR the gross floor area of a residential building typically fills up 70 to 75 per cent  
of the building envelope and this allows for important building components that do  
not count towards GFA. The Gateway Determination as altered was informed by the  
25 McGregor Coxall urban design review on behalf of the Department which was based  
on an efficiency rate of 75 per cent resulting in an FSR of two to one. The proponent  
refined the McGregor Coxall scheme to present an alternative with a greater  
efficiency of 80 per cent plus and an increased storey to each building resulting in an  
FSR of 2.6 to one.

30 McGregor Coxall then tested the proponent's model for the Department and  
supported the greater efficiency rate resulting in a recommended FSR of 2.4 to one.  
The Department's urban design team further tested both the McGregor Coxall and  
proponent's schemes and recommended an efficiency rate of 75 per cent. This is  
35 consistent with the ADG and results in an FSR of two to one. The office of the  
Government Architect of New South Wales also confirmed that they would not defer  
from the ADG recommendation for calculating GFA and FSR, therefore, the  
proponent's request to modify the FSR is not supported. In terms of the suitability of  
the site for further intensification the site is surrounded by industrial uses and low  
40 density residential development and although the site zone are for high density  
residential consideration must be given to its surrounding environment.

The adjoining freight and passenger line, the railway overpass and the adjoining  
industrial land to the north are all constraints that must be considered when allocating  
45 development standards. The Department considers that the density supported under  
the current Gateway Determination as altered at two to one FSR and heights of six,  
eight and 12 stories would allow for development of a bulk and scale that responds to

its surroundings and provides suitable amenity for future residents and, therefore, the proponent's request to increase FSR is not supported. This slide just shows some 3D images from the McGregor Coxall scheme in January 2019 which is based on the Gateway Determination that was issued – gateway alteration.

5

MR METCALFE: Just moving onto our final recommendations. So we recommend that the floor space ratio to remain unchanged and the maximum building height controls can be refined as outlined in the table below and as stated in this presentation. And that concludes our presentation.

10

MS LEESON: Thanks, Brendan. Can we come back onto the screen so that we can see the thing now? Terrific. Thank you for that. I do have a few follow up questions if I can? The first one is around strategic context and – because this is the first threshold issue for a gateway process – and I'm interested in the Department's view of council centre's hierarchy – the LSPS, the NTLEP – and how Regents Park as a small village centre sits within that and then against that the – sort of, the context of the development of this scale and why – or the Department's, I suppose, drawing out at an increased density of 2.4 to one instead of two to one is inconsistent with that strategic comment. So I would just like to draw out from you a little more on the strategic context if I can.

20

MR METCALFE: Sure. I think the Department supports council's approach to its centres and it has had a very clear approach to generally applying six to eight stories in its centres. That's across the former Canterbury and Bankstown LGAs. They've put together a comprehensive LEP and the local area plans generally reflect that approach. In terms of this particular site and how it relates to those plans what we've done is we've had a look at the – the merits of – and the opportunities of this particular site knowing that it doesn't adjoin a very low density residential area. Knowing that you can have building heights that are slightly higher because there is no overshadowing of adjoining buildings and that's why we've supported a slightly set of controls in this area for the maximum building heights and then an FSR of two to one.

25

30

MS LEESON: So it's really the opportunity of the site given its scale and its proximity to Regents Park is why you – you're comfortable with a higher FSR – not going as high as high as 2.4?

35

MR METCALFE: That's correct.

MS LEESON: Paraphrasing. Okay.

40

MR METCALFE: And the site is in walking distance to a couple of stations. So you've got Regents Park which is about 500 metres away but then Birrong Station is also very close by.

45

MS LEESON: Okay. If we can then – I think we will – there will be a few questions come out and maybe they overlap in a way. Can you explain why the –

and I understand. You've said that you've got to 41 metres for the 12 storey part of the site – well, it's proposed it's 12 storey – using the ADGs and that arithmetical seems to work well. Can you explain what the proponent's justification is on how they are looking at a 47 metre development to still get 12 stories?

5

MR METCALFE: I can't really explain their rationale on behalf of them. But my understanding is that their maximum building height allows them the greatest flexibility on the site and it would also enable ground level apartments to be – have a mezzanine level that would – that's my understanding of why they're seeking additional height. One, because of the flexibility and how the site is configured in the topography of the site and then, two, the configuration of ground floor apartments to be able to do mezzanine development.

10

MS LEESON: John, could I ask you? Do you have anything to add to that comment from Brendan about this height issue of 47 metres to 12 stories?

15

MR J. KURKO: Yes, thanks. It's John Kurko. Manger of urban design for Greater Sydney placement infrastructure at the Department. It is interesting. They have – have pushed the height limits up and as Brendan was saying that having a mezzanine floor does lift up that first floor plate. It also gives them the opportunity, perhaps, to use that adaptable floor plate for residential use rather than commercial use. The other point being is that it also gives them a strategy to try and address the limitations of having a high FSR by having units over the first two floors, almost, in height to lift the other units up so that they might be able to get some solar access because the two to four – 2.4 to one is difficult to achieve to get solar access to all the units across the whole site and I think a strategy for that might be using a unit type on the ground floor which gives them a mezzanine level which would help their calculations in getting units with solar access at the end.

20

25

MS LEESON: Right. Okay. I will – I will - - -

30

MR METCALFE: There is one other point that they raised as well which was activation of the rooftop. So rather than have a very – a height that matches the height of the rooftop and the lift overrun giving more height allows for activation of the rooftop – rooftop spaces.

35

MS LEESON: Yes, I think they were talking about rooftop gardens and the like.

MR METCALFE: Yes, that's correct.

40

MS LEESON: And does the Department accept some justification for additional height to accommodate the rooftop garden? I'm not sure whether the ADGs cover these sorts of issues. But is there some consideration of that from the Department's point of view? Perhaps that's one for John.

45

MR METCALFE: I think that might be one we take on notice as well just to go through all the mathematics of the additional. But John may be able to add some more to that.

5 MS LEESON: At least if I can keep a – and I'm very happy for you to take it on notice and come back to us. I'm interested in the principle of additional height to enable rooftop activity and garden. So perhaps if you can take that on – on notice and come back to us?

10 MR METCALFE: I'm not sure if John is still – his connection's still working.

MR KURKO: Is it okay? Can you hear me?

15 MR METCALFE: No, there we go. You're right.

MR KURKO: Okay. Sorry. Look, Dianne, probably taking it on notice is probably the best thing to do. I'm not aware of any proposed rooftop communal space at this stage. But I haven't completed the technical work on the assessment either. So it may be they're in the proposal. I suppose that will be something we need to take on  
20 notice and come back.

MS LEESON: If you don't mind. That's fine. Thank you. My next question was around the efficiency rates and I think what I understood you to say was whilst the applicant's proposing an efficiency rate of 80 per cent the guidelines call up 75 per  
25 cent and the Department is not moving from 75 per cent. I'm interested in the Department's analysis of the proponent's justification so that it – I will be asking the same question of the proponent – why they believe 80 per cent is justifiable and whether the Department has had a look at that or whether it's just this is the guideline and we're sticking to the guideline?  
30

MR KURKO: I can take that question if you like, Brendan?

MR METCALFE: Thanks, John.

35 MR KURKO: Yes. John Kurko. From the Department. In terms of the efficiency ratio there's a number of elements to that that should be considered, I guess. I think the 81 per cent that's reported by the proponent or, ultimately, ends up being around that 81 per cent – they are – as Brendan said the level of detail they've produced is at a DA level, I guess, to some degree where they have attempted to justify their results  
40 through physical plans that indicate that they could achieve, potentially, that efficiency ratio. From the Department's points of view this is a planning proposal and what will be built on site may not resemble the plans that have been provided and for comfort and, also, confidence to ensure that the site is able to achieve adequate amenity – particularly from the ADG's point of view in terms of solar  
45 access and ventilation – the 75 per cent is, you know, over a longer period of time.

Over many developments shows to be quite reliable particularly at this planning proposal stage where we need confidence that the development can achieve the reported FSR. And the efficiency rate does change the FSR result significantly and, as we know, FSR is a theoretical maximum. It's not a goal or an aim of the – a plan  
5 – the development. It really is a description of the as built or intended to be built form – built form and 75 per cent – 70 to 75 per cent really gives us the confidence that what is proposed to be put in place can be achieved. And I can talk to that a little bit further in terms of why the efficiency at 81 per cent doesn't work in the proponent's scheme at this current stage.

10

MS LEESON: If you could go into that for a little that would be good. Thanks, John.

MR KURKO: Sure. So the 81 per cent provides you with the 600 units that they've identified and an FSR – reported FSR of 2.4 to one. However, when we have a look at even the well-squared analysis for solar access to units it indicates that three buildings significantly breach the ADG guidelines in terms of getting no solar access at all which is a minimum of 15 – or a maximum of 15 per cent, sorry, of units can receive no sunshine at all. Now, that 81 per cent provides up to – I think by memory  
15 – around 27 per cent of the units in one building not achieving the ADG. And it also – in terms of the analysis of solar access to 70 per cent of the units within buildings it fails to achieve – the proponent's scheme fails to achieve the minimum standard of 70 per cent of solar access to units in two of those buildings.

25 So it immediately does go to show that the actual FSR reported by the proponent is breaching the acceptable amenity limits and, therefore, it has breached that confidence level which that 75 per cent efficiency ratio provides you when you're trying to develop any block of land. And, I guess, that's proof in the pudding. As we – as FSRs reach 2.5 to one overshadowing of itself – of the development itself  
30 becomes a real problem and as we get – we're getting very close at 2.4 – 2.44 – it's having its own internal problems.

MS LEESON: That's a terrific explanation. Thank you. I had no other question. I think the presentation covered off on most of the issues that I was interested in. The setbacks that council has proposed is what drives – I think you said the – is it the FSR of about 2.1 to one? So I'm comfortable I understand that. Before we end I will ask the team from the office of there are any issues that they would like to make sure that we have covered that I might have missed on the way through in the presentation and questions?

40

MS ANDERSON: Nothing from me, Di. I think you've covered all of those points we wanted to raise.

MS LEESON: Lindsey?

45

MR BLECHER: Nothing from me either. Thanks, Di.

MS LEESON: Okay. No, that's fine. I would just like to thank the Department because I think that does get to the nub of the issues from the Commission's perspective. I would like to thank you very much. If you can come back to us with those couple of questions on notice and bring that back through Jane that would be good. Other than that I would very much like to thank you for the presentation and the time - - -

MS ANDERSON: Di, I think – I think John just might have one more final question.

MS LEESON: Okay. John.

MR KURKO: Yes, sure. If I could just say one thing, Dianne? I guess, in terms of the current – it seems like rationale as to why the 2.4 to one from the proponent might achieve that amenity that I talked about – about the ADG in objective 4A.1 – is that they're using a whole site amalgamation of units achieving the ADG of 15 per cent no solar access and 70 per cent of units gaining solar access. So they're aggregating the 600 units together. They're not considering each of the buildings separately. So whilst you look at the 600 units you might achieve just over 70 per cent and you might just get – it still fails at the – the 15 per cent no solar access. It gets 16 per cent with no solar access. But they aggregate everything together. The ADGs are very clear that in large sites aggregation is possible for communal space. For open space. For deep soil planting. But for amenity issues such as solar and ventilation it has to be done on a building by building case basis and three of those buildings fail.

MS LEESON: Thanks, John. And I'm – that's covered in the Department's report. So - - -

MR KURKO: Yes. Thank you.

MS LEESON: - - - thanks for pointing that out. Okay. Now, as I say, I – I don't have any further questions. So there are a couple of things on notice there. If you could come back through Jane that would be good. Other than that I would like to thank you for your attendance and we will close this afternoon's meeting. Thank you.

MR METCALFE: Thanks, Dianne.

MR KURKO: Thanks for your time.

MS LEESON: Thanks.

MS COULL: Thank you.

MS LEESON: Bye.

**MATTER ADJOURNED at 4.41pm INDEFINITELY**