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**TRANSCRIPT OF PROCEEDINGS**

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TRANSCRIPT IN CONFIDENCE

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O/N H-1344206

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH APPLICANT**

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

**PANEL: DIANNE LEESON (CHAIR)**

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

**APPLICANT: PETER SMITH  
MATTHEW DANIEL  
JAMES MATTHEWS  
RAYMOND RAAD  
SCOTT WALSH**

**LOCATION: ZOOM VIDEO CONFERENCE**

**DATE: 4.00 PM, WEDNESDAY, 2 DECEMBER 2020**

**THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE**

5 MS D. LEESON: 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're also joined by Jane Anderson and Lindsey Blecher from the Office of the Independent  
10 Planning Commission. In the interests 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.

15 This meeting is one part of the Commission's consideration of this matter and will form one of several sources of information upon which the Commission will base its advice. It is important for the Commissioner to ask questions of attendees and to clarify issues whenever it's considered appropriate. If you're asked a question and are not in a position to answer, please feel free to take that question on notice and provide any additional information in writing which we will then also put up on our  
20 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 the accuracy of the transcript. We will now begin.

25 And I'm sorry about the background noise. Someone's just set to interrupt. It won't take a minute. It won't – it won't be long. So I – yes, sorry about that. We will get underway. Welcome, as I say. We have an hour set aside for our meeting this afternoon. I've introduced myself and the commissioners. We might quickly do a quick self-introduction from the applicant's side, just to make sure Auscript can hear everybody. And then we will get underway. I've read the opening statement and  
30 then we will handover after introductions to receive the presentation from the applicant. So I can hand across to you to introduce yourselves. Perhaps Matthew, I can see you.

35 MR M. DANIEL: Matthew Daniel, Pacific Planning.

MS LEESON: Thank you. Raymond?

40 MR R. RAAD: Raymond Raad, Hallmark Construction on behalf of the property owner.

MS LEESON: Thank you. Peter?

45 MR P. SMITH: Peter Smith from Smith& Tzannes, the applicant's urban design advisor.

MS LEESON: Thank you. And James?

MR J. MATTHEWS: Yes. James Matthews, Pacific Planning. I'm the town planner.

5 MS LEESON: Thank you, James. And in the background, we have Scott Walsh from Walsh Analysis who is here in case of any questions around solar that needs some expert input to. So thanks for that. I will hand straight across to you as the applicant to present how you see. I'm hoping you've got screen-share capability there, and we will have a presentation. We might ask a question or two along the way, but, otherwise, we will probably save them until the end. So if we can hand  
10 across to you. Thank you.

MR DANIEL: James, would you like me to drive or – and put it up on the screen while you speak? Or how would you like to do that?

15 MR MATTHEWS: Yes. Do you want to – do you want to try and do that, and I will – if you can.

MR DANIEL: I will do that.

20 MR MATTHEWS: We've got – we've got – we've sent across the – a presentation and I think Matthew is going to try and put that up. And I also understand we sent a – just a short letter through – which we understand that you've also received just with a – with a bit of recent background and, I guess, where the focus and target of our presentation will be today. So obviously please feel free to jump in with any  
25 questions and – and also any of the project team, feel free to jump in with comment as we go. It's a bit of a collaborative presentation that we've prepared together. So if you would just jump on to where we are.

30 Obviously, this project has quite a long and – and detailed history so we don't really want to go back too far over any of that today. And I've seen the number of documents that have been uploaded to the – to the system that the Department have referred you. So if – if you do have any questions in relation to where we've been on this journey, then – then please feel free to jump in, because I appreciate that getting your heads around – around that, all those documents, can be quite tricky in a – in a  
35 short space of time. But I think if you just go to the third – the next file, Matt, on the purpose. I think today we just want to focus on – on where we've been recently, and the – just the letter provided a little bit of that most recent background in terms of why we started this process in 2018 with McGregor Coxall.

40 And the Department in its wisdom thought that an independent design report that came out of that most recent – sorry, of the Gateway and how we worked with the Department on – on this revised scheme. So when this Gateway came out in – at the start of this year on 26 February, we were a little bit surprised to see some different controls in there than – than we – than the controls that we thought were on a  
45 pathway of working with the Department and – and McGregor Coxall. So we're – we're here today just to try and get that right, and just to correct – correct those controls, being 2.4 to 1, and the Department Gateway was 2 to 1. And then just

those heights in terms of the – the agreement on the storeys which is six, eight and 12.

5 And we've just gone back and looked at that and just, you know, to get the – the correct height in terms of when we're – we start lodging Das in terms of floor to ceiling lift-over and – and ensure a smoother process with council. So we're keen to obviously move on to the part 4 process and – and work with council on – on a DA for the site on its revised scheme. But I think it's – the one I think is important to just jump on, Matt.

10 MS LEESON: Can I just hold you there for a second, please, James? Can you – you're – you're confirming then that you're seeking six storeys at 25 metres, eight at 31, and 12 at 41. Because there has been various references, I think, to – to other heights and, in particular, 12 storey at 47 metres.

15 MR MATTHEWS: Yes. And the 47, this is – I think there's a table, isn't there, in the – in the – in the Department's report that has a number of different storeys. So just to quickly go back on the background there. So the 47 came up out from McGregor Coxall. So when we originally lodged this Gateway Review, the – we – we just simply adopted the McGregor Coxall recommendation which was the 23, 29 and 47. And the Gateway came out with 19, 25, 38. So, again, we went away and tested that unfortunately after we lodged the original Gateway request, and that's – and Peter can talk to those heights as he did another – he did an independent review on the McGregor Coxall and the Department's Gateway and – and our original – our original scheme and original request. And so those heights – which were 25, 31 and 25 41 – came out of Peter Smith's work.

MS LEESON: Okay. That's why ..... - - -

30 MR MATTHEWS: Yes.

MS LEESON: - - - the numbers I'm now looking at, because there are – there's – it has been agreed there are some different numbers floating around. So that's fine.

35 MR MATTHEWS: Yes.

MS LEESON: .....

40 MR MATTHEWS: Yes. Sorry. That – that table in – in the Department's report is quite helpful to – to see the various – about heights that we've experienced recently. But those – those are the heights that we're seeking today, and we – we can share a – I think, actually it's in one of our reports most recently from Peter that shows those floor to ceiling heights in – in great detail for the heights that we're – we're seeking.

45 MS LEESON: Thank you.

MR MATTHEWS: I – I guess, just – just a very quick observation on the next slide was – while the Department’s report is quite helpful in providing a lot of information, it also does provide a recommendation which we were quite surprised to see. So while it does make our job a little bit easier in terms of knowing what we’re  
5 – what we need to address, we – we anticipated this was an independent process where they would provide you with the information rather than a recommendation. So – but – but as I – I’ve said, it does assist us to know what we – what the Department are thinking in terms of making a – a recommendation on this. But, yes, that was a little bit of a surprise. I’m just quoting the Department’s own guideline  
10 there for how they refer things to the IPC. So that – that’s just an observation.

And – and – yes. So if we could just move on to the – to the next slide, Matt. I think the – the – the one thing that we – that we found through this process is that it’s a  
15 very large site and a number of different schemes have been presented, whether it’s council’s scheme – whether it’s council’s urban design which is Architectus, came up with a different scheme. This was the scheme for the site that we’ve been working to for a number of years, and this was the scheme that supported the original plan proposal. So in 2017, we lodged a concept DA and that was approved in November of that year. And so this was our lay – this was the layout that we – we  
20 achieved consent for.

Now, this is – these heights and identities compliance, so these were two to three stores. And it was at 0.6 to 1. And – but this is what we had been working to. So, again, linking back to – to AG – the ADG in ..... 65 and compliance, we’ve worked  
25 quite with council, and we had a – we had a vision for this site of a number of different open spaces. There’s a communal open space at the bottom left there. And there was – we had some – a – a variety of different spaces which you can’t tell from this because it’s – this mixture isn’t really necessarily a landscape plan. But it demonstrates what we were trying to achieve in terms of a design philosophy and  
30 outcome for the site.

But I think critical to all of this was that because of the location of the railway line, we were trying to bookend the buildings to ensure the best possible amenity for residents in their apartments, that we weren’t having habitable spaces facing on to  
35 the railway line. So this was – that was the driving force for this concept. Now, we know the – than then therefore the – the location of the communal open space at that bottom left-hand corner worked within that framework and received decent communal open space in a – in a scheme with taller buildings. But obviously that could have – it could have performed better.  
40

But in terms of an overall – I guess, an overall concept, what we’re trying – what we were – one, I guess, I’m illustrating here is this is just one way that we could have – the site could have been developed. And this was an – an approved DA that we were working towards that supported the controls. So we were trying to show the  
45 Department and – and the council this is – this is how the planning – the control is being sought by the planning proposal will – will work in a development outcome

that we were working with council on. So if you move on to the – the next one, Matt.

5 So when we got to the – the – the revision of the Gateway and – and from the 2016 Gateway Determination, you will see that the – the – the two small bullet points in there about a – a review of the FSR, you know, which could have been a number of things, but let's do some urban design testing. So in – in February of that year, we – we sat down. We met with the then executive director of the Department and the team who said, "Look, we're going to go away and we're going to get an urban  
10 design review of this – of – of – an independent design review to tell us what this FSR should be for this site. And that's when McGregor Coxall was appointed. So that took a – quite a while to get a draft report, and that came out in October 2000 – sorry. That came out later that year. I think it was late – late 2018, early 2019.

15 And that's when the – the concept and the site layouts was – that's the first time we saw that. So I will just – I will get to – to McGregor Coxall's masterplan in just a – in just a moment. But one of the key items for that was a more central piece and a larger piece of open space, which – which was at the north of the site and, therefore, performed very well in terms of the solar access. There was also adopted in – in that,  
20 the bookending of the buildings to the railway line, so that kept and aligned with our design philosophy. So in – in good faith at that point, rather than – you know, even though we've got this approved concept DA for the site, rather than continuing to pursue and argue and not – not come to any agreement with the Department and McGregor Coxall on what the outcome should be, we – we just adopted McGregor  
25 Coxall's scheme and moved forward with that. And so it was – yes, I think it's important to note there that the council just continued to be against, I guess, the – the – the McGregor Coxall scheme throughout this entire process.

30 MS LEESON: James, just correct me. Do McGregor Coxall have an earlier view of a lower FSR, but this was a revised report that they did?

MR MATTHEWS: Yes. Well, yes. So McGregor – McGregor Coxall had done a – a – I guess, a piece of – of work that hadn't – had gone to a certain level of interrogation up to that point. And so they said, "Look, an FSR of 2 to 1 might be  
35 appropriate here." And so from – from that, we – we did a little bit more work and – and said, "Look, we've taken your scheme and we've done a little bit more work to show how this could develop in a – in a development application." Not to that level of default, but in a – in that framework in a – in a future part 4 framework, and said, "Can you – can you please comment on that?" And McGregor Coxall went away and  
40 said, "Yep, you're right. That's" – and that was the letter dated October 2019.

MS LEESON: Thank you.

45 MR MATTHEWS: I don't know if anyone else has got anything to add – add to that – that process of 2018/19.

MS LEESON: Yes. I – I can't find where it is just in the papers in front of me at the moment. But I think council or someone, or – or the Department took a view that that revised FSR included some elements which typically would not be included in a FSR calculation. That's fine. Don't worry about it. I will – I will go and find it,  
5 unless you can point me to it straight away.

MR DANIEL: I guess - - -

MR MATTHEWS: Yes.  
10

MR DANIEL: - - - the only comment I would make, James, in addition to that was there was a sense of collaboration and an intent to come out with a much better urban design outcome. And there was a genuine vision and drive from the Department to encourage us to have a central space. And so we readily adopted that in concert with  
15 McGregor Coxall, with our architects, and we agreed to come – we were working quite well to get that sort of outcome. And that's why we were – we were – we were a tad surprised. And our architects and McGregor Coxall were appropriately in a governance for working well together under stewardship of the Department. And – and we felt we were at an end. Okay, we're in an agreed position here. But then –  
20 then, as the letter describes, then – then it seemed to go a bit astray, which was unfortunate.

MS LEESON: Okay. Thanks. Thank you, Matthew. Sorry, James, if you want to continue.  
25

MR MATTHEWS: Yes. So – sorry. Let me just – all your faces are in the way so I can't always see the – see the screen that's being shared. So – yes. So – so, I guess, that's again what – just what Matt has spoken to there is the – that was the outcome of the – of the – of the McGregor Coxall recommendation, based on that letter. It  
30 would be interesting just to – to – to be able to respond to your comments if you do and the finding, what you're just referring to then in terms of the calculation of the – of the FSR. But that's partly why, you know, we've booked ..... as well to do that too, another supplementary review which, I think, we provided you in August and then September this year, to – to assist you and the Department with – with looking  
35 at that. So if you do come across that, that would be helpful. “

MS LEESON: If we do, James - - -

MR MATTHEWS: Yes.  
40

MS LEESON: - - - and it's brought an issue for us, we will come back with a clarification request.

MR MATTHEWS: Yes. Great.  
45

MS LEESON: Thanks.

MR MATTHEWS: Thank you. So just on the next slide. That's the – that's the scheme that – that McGregor Coxall recommended – when we get there. There you go. So it's – so, yes. So that's – that was the scheme that – that we – we ended up adopting. We worked with McGregor Coxall on, and that's where the October 2019  
5 supplementary letter to .4 to 1 came from. So we – we – we felt that we were working well and – with – with the Department and McGregor Coxall. And so that's – that's apart from my point if we – yes, it came as a bit of a surprise when the Gateway came out with something – something a little bit different.

10 I do note in all that as well that – that council have consistently recommended their original density of 1.7, I believe, or 1.75 to 1 through this entire process, and it's always been based on their Architectus scheme. And so we, you know, abandoned our scheme and tried to work with what the independent consultant was recommending to the Department, which – which was this scheme. So when we see  
15 different recommendations from council, it – it does relate to something different. So we've all – we've consistency now in the last two years worked towards this to – to refine it, to bring Pete Smith on the – on to a different – on to this scheme as well. We found that this – this large piece of continuous open space performs quite well with – with – with solar. And there's a central peace, you know, a central kind of  
20 peace to the community.

So we were – we were never against McGregor Coxall's concept, even though it was slightly inconvenient in terms of all the work that we've been doing over the previous three or four years on the – and – and what that – that was approved at –  
25 with the DA. But I think it's just important to note that – that the council had never – never adopted this. So when they talk about densities, it's aligned to a different scheme and – and not this one.

MS LEESON: But you indicated earlier that you picked up what was McGregor  
30 Coxall's scheme because you had thought it was a superior scheme to the one you had initially prepared. Is that right?

MR MATTHEWS: Well, I'm – I'm not sure about superior, but it had a number of attributes that were consistent with our design principles that we had in our DA  
35 approved scheme. Like I said, that one of the – the – the thing that we liked about this was the large piece of open – continuous open space at the – at the centre. That's a key difference to the – the – the design principle that we had in our previous one, which had a number of different open spaces that people could go to, larger people with open space. It – or they could go to little pocket parks or, you know,  
40 little squares. So that – that was our design philosophy for the – for the concept DA approved one. And so that this was a key difference with a larger piece of open space.

But we felt that that was also a positive design aspect and that's why we adopted –  
45 adopted – and – and also, yes, we felt that it was going to be a more positive outcome driven process if we worked with the McGregor Coxall scheme and – and the Department, rather than in – in a combative nature of, "Well, this is our scheme and,



you know, you've just gone and re-written all this work that we've done over the three or – previous three or four years.” So in - - -

5 MR SMITH: When I was, like, yes, proposed when I joined and reviewed the project in – in August of this year, I was asked to have a look at the Architectus scheme, as well as the McGregor Coxall scheme, and how that had been developed by the applicant's architects. And I quickly came to the conclusion that the McGregor Coxall scheme was the superior scheme. I felt that ..... a lot more closely with the surrounding neighbourhood than the Architectus scheme. But also, 10 importantly, allowed the opportunity for this site to then potentially re-develop further to the north. So between this site and the railway station and the Regents Park and that little shopping village there, there's other industrial sites that, in time, that is likely to be also re-developed in a similar way.

15 And what the McGregor Coxall plan does is set up a street structure that would enable that – those – the north/south running streets on either side of that park to continue through coming into that site. So it's a – it's a masterplan that has the ability to kind of expand and enable the site to integrate very well, rather than be considered to be a gated community, where the Architectus scheme places the 20 communal open space right bang snap in the middle and everything is centred around that, where this starts to reach outwards. Also, one of the criticisms that Architectus were – had of previous schemes the applicants had done was about getting solar access. And as you can see in this proposal here, you've got a lot more buildings that have a northern frontage and northern orientation, compared to the Architectus 25 scheme. So it's much easier to get that northern sunlight into the living spaces when you've got the buildings facing north.

MS LEESON: Thank you. James, I think it's back to you, and you're on mute.

30 MR MATTHEWS: Apologies. I think we'll move on to the next slide. That one, I think, is missing an image. So – and I – I think then just further to – to – to Pete's comments there. That's – that's just a – a helpful indication of the percentage of open space that then this new – you know, our scheme or McGregor Coxall's scheme actually provides across the site in – in a bit of a comparison to – to – to the council's 35 Architectus scheme, and just as a – an additional comparison to somewhere like Central Park. So we're quite pleased with percentage of – of open space that we're actually able to deliver in this scheme of – of, you know, approximately 15.7 per cent. So carrying on.

40 I might just hand over to – to – to Pete just to comment on – I know that – so I know the Department's report focuses a lot on the part 4 process which we're obviously not at yet. And we feel a little bit that we've got – this is part – this part 3 process has got a little bit out – out of control in – in becoming – well, a part 4 process. It feels – it feels like that we've – we've gone down a – a pathway that's beyond a case 45 of a bit of a remit of determining controls and – and an end to part 3. And a lot of this testing is yet to come. And I guess that's why this has been drawn out for a – a

number of years. So I might – I’ll just see if – if Pete would like to just comment on a couple of these bullet points that – that we’ve just prepared.

MR SMITH: Yes. I might come back to this in a moment. But just, I guess, this  
5 starts on where I was going to take off anyway. In that the way I’ve looked at my  
review is to – essentially, the planning proposal is modifying the LEP to seek  
additional height and additional floor space. And the most important part of that is to  
ensure that there is capacity on the site for that floor space and for that height and  
10 how it integrates. One of the things that – there – there is a lot of – there is a lot of  
agreement, I think, between kind of DPIE and council and the applicant with respect  
to what should be achieved on this site.

And what it’s coming down to is the analysis of the configuration that’s been put  
15 forward by the architect in what is quite some quite although – although they appear  
detailed, they’re quite generic plans. And an assessment of that as if it’s a  
development application saying, “Well, you’re only getting a seven/six – it should be  
– you’re only getting 17 per cent. You should be getting 15 per cent and, hence, you  
kind of don’t comply.” Where I’ve looked at it more at the capacity, and that figure  
20 is the next slide. You can – there’s – as has been shown by this quite lengthy process  
says within kind of the heights and even any floor space kind of this site, there’s  
many ways to lay out the site. And a lot of time has been spent trying to find the best  
way to do that.

And if you move on to the next one. And in our analysis, we looked at another way,  
25 kind of, of achieving that as well by on the left-hand side of that screen, you can see  
the McGregor Coxall kind of masterplan with the three parallel buildings kind of  
running along the railway line. We added in an extra one. We looked at, “Well,  
what happens if you make the buildings slightly more slender and can actually  
accommodate another building, what does that do, kind of, to the mix?” And at one  
30 point, we were getting even higher, kind of, floor space ratios, kind of, on the site,  
depending on how we looked at laying out the building.

And I guess the final built form, which is subject to that detailed design, will be  
35 formed by what I call the fixed factors which is the design principles which will be  
set in a developed control plan, and the compliance with LEP controls and  
Department design guide design criteria and design principles in the Department’s  
design guide. And a whole series of other controls that will apply and will – there  
will be an assessment made against, kind of, at – in that part 4 application. And then  
40 you’ve got the many, many variable factor, such as apartment mixed building depths,  
efficiencies of a floor plate, of which irrespective of what height and floor space are  
on the site, you may not be able to achieve the full floor space and comply with all  
the controls, even if it was set at 1.7 to 1, depending on the building orientation and  
the apartment mix and the shape and the size of the apartments and where you locate  
45 the apartments.

So there’s – there’s a lot more work to be done in that detailed design phase in order  
to determine whether or not a particular – the scheme is the best detailed design

outcome of the site. And this phase is really just about testing that capacity to make sure that the – any proposed – any future development on this site as a residential and a high-density use is actually appropriate. And I think in the testing that's been done and even in the Department's analysis, it's – it's really down to that fine-tuning of  
5 well, there's a future many south-facing apartments. But I can tell you as a – an architect as well, well you just put some larger apartments kind of on the south side and the smaller apartments on the north side and, all of a sudden, you change that mix and you're able to get that compliance.

10 If we move to the next slide. What I'd say is there's a series of agreed design principles which, funnily enough, don't actually form part of this Gateway proposal, considering the amount of effort that's gone into the master-planning on this site. And that's about establishing an identity of place for the site, creating a well-defined precinct that anchors into the rest of Regent Park, and has that ability to extend kind  
15 of future development out to the north, and creating a defined kind of public space there; looking at that connectivity and how the interior of the site connects to the outside and creating that network of public places of the park that we create in our site, the park that's on the site opposite, and how they join together.

20 And looking at the built form and the scale, kind of, the development and making sure that's appropriate for the context, with the higher buildings being located along the railway edge and the development actually stepping down as it gets closer to the low density zone. Looking at the open space amenity: there's been a lot of work done to make sure that the width of that open space and size of that open space and  
25 scale of the buildings around that and the heights proposed, kind of, in this LEP amendment are appropriate so that you can have consolidated space for recreation, for enhancing the ecology, for tree canopy and so forth as well. And then the emphasis on environment performance, kind of making sure that we can maximise the solar access, not just to the private spaces in the future, but also kind of to the  
30 new public space as well. And I'd say that across the board, both council, kind of, DPIE and ourselves are all in agreement that these are valid principles kind of to carry forward.

If we can move to the next one. And so in that review done by council and DPIE, the  
35 concerns and issues raised can be resolved at detailed design. And there's many options available to the future designer to solve that. And there's also quite a number of other development controls outside floor space to ensure that you get a good amenity outcome. You've got the whole of the kind of SEPP 65, and there's design principles and the Apartment Design Guide. Plus, I'm sure there will be a  
40 development control plan, plus also council's step – council's standard development control plan that would apply to the site.

But, in particular, looking at the buildings overshadowing each other, you can  
45 resolve and test that with a detail, and locate the height where it overshadows the rail line that minimises impact on individual buildings. And these are just some of the things that we looked at when we did the review, and we made some adjustments kind of to the plan and to the massing. And we were able to achieve kind of the 2.4

to 1 across the site by doing that. Looking – as I said, looking at the south-facing apartments. And, look, there's options. There's the different apartment floor plate designs.

5 And I've also noted, I've been unable to actually replicate kind of the DPIE calculations for their south-facing apartments. It seems that the ADG design criteria that they're referring to is about apartments that don't receive sun kind of during mid-winter, like kind of June 21. So it's about the absence of sun being received to the apartment. But it appears that in their calculation, they've just looked at the plans and said, "Okay. These apartments have a south-facing orientation. Irrespective of whether they receive sun, some of them also have an east and west orientation." And we haven't been able to get a clarification on exactly how they came to their conclusion on that.

15 Another criticism was about the deep floor plates. But as I said, that we looked at adjusting the number of buildings and the spacing. It's a very large site, so there's, like, plenty of options there available which can be tested. And it's appropriate that that testing happens, kind of, at that next design development phase. You – and lower floor space efficiencies. So there's a reference in the DPIE recommendation to the rule of thumb in the Apartment Design Guide of a 75 per cent efficiency of envelope. And I stress that is a rule of thumb, because it's a rule of thumb that seems to change, depending on what publication. I note that in the Residential Design Guide – Design Code that's preceded the Apartment Design Guide, that rule of thumb at the time was 80 per cent; kind of not 75 per cent.

25 And that also is dependent on what the envelopes are defining. In many circumstances, the envelopes are – if you take a typical suburban block which might be 30 metres wide by kind of 40/50 metres deep, quite often that envelope is a six metre setbacks from the side boundary. And what is left then also requires some substantial cut-outs to get building separation between separate buildings or kind of cut-outs to enable light and ventilation kind of into that space. What McGregor Coxall have done with their building envelopes and also subsequent in the future is to have building envelopes that are very defined, that indicate exactly where the footprint of the building would sit.

35 So from – in my experience, with that approach, you can have a much higher level of efficiency because you've already broken the buildings up. You've already created the gaps between the buildings as you can see in the masterplans here. And so all you're – the efficiency is really just taking into account the things that are excluded from DFA, such as lift cores and fire stairs and smaller indentations in the building plan, rather than some of those larger factors which you would have in a more traditional building envelope kind of circumstance as well.

45 So move to the next one. So we do have an alternate solution that hasn't been flagged previously kind of with the Department or with council. And we note that Bankstown Council do have a design excellence clause that applies to any particular sites in the Bankstown LEP area. And I've done a bit of work on the design review

panel kind of for the Gosford kind of town centre where, in their design excellence clause, they essentially allow a process where if you are engaged with a design review panel and can achieve certain design principles that are related kind of to your site, then there is some flexibility or some bonuses provided in terms of the – the  
5 floor space and exceedance of that minimum floor space.

And if we just move to the next kind of one. So I think it's safe to say that council and DPIE are quite concerned that the floor space that we're seeking of 2.4 to 1 may not guarantee kind of good amenity. Now, that's not a view that I hold. I think there  
10 is potential for that and floor space isn't the given. It's a maximum. And if you can't achieve the other controls which are there to protect the amenity, then there's no guarantee you will get the floor space. But I guess, quite validly, they're concerned that if they put a particular floor space on the site, then they may – then that will provide pressure to give a consent to something that may be varying those  
15 other controls.

A high density can deliver kind of that – can – can deliver excellent amenity, particularly if you've got the right processes in place and the right controls in place. And so this – I see there's potential for a design excellence incentive clause that  
20 could enable the base FSR on the site – being 1 at council and DPIE that I'm happy with. But then awarding an additional FSR, but only if those concerns kind of around the amenity, kind of, of council and DPIE are actually achieved. So some – I've taken the liberty of potential – to ask a potential clause here that looks at the – a process where, through the design review panel that Canterbury-Bankstown already  
25 have established, there is a review carried out on this development by the submission of the application, that the consent authority is required to take into account the findings kind of that design review panel.

And that in addition to the standard design excellence clauses, there would be  
30 specific elements that are needed to be achieved on this site in order to gain that extra bonus floor space. Such that the large area of communal open space kind of is provided with that minimum area, which is something again that has been kind of agreed kind of throughout the process. Because I find it odd that with all this discussion about kind of the communal open space, none of this has actually been  
35 locked down as part of this planning proposal. We're really only talking about FSR at height. And if there wasn't that large communal open space, you could more than – you could achieve more than the 2.4 to 1 kind of by adding an extra building kind of into where that park is going at the moment.

But also that that park should receive a minimum amount of sunlight for solar access. Again, something that is agreed is important. And then also that the design review panel be looking at the building layout to ensure that the solar access is maximised. Now, that's just optimised on the – for the number of apartments. And that's really  
40 just taking the design criteria and the objective of the Apartment Design Guide and elevating that kind of a bit further than what it would normally do. If we move to the  
45 next. But it's – yes, that was fine.

So I think there's – in my view, there's – there's – the analysis that I've undertaken on the site demonstrates that there is capacity, but it actually comes down to the challenge of the person who is tasked with the actual design, to ensure they're able to meet that capacity – well, in the applicant's perspective, being able to meet that  
5 capacity and comply with all the other controls. And it's not as if the floor space ratio is the only control that is governing kind of how the site is actually made out. There is a squeak of those controls.

And I think by providing that, by having those protection measures, I think that  
10 council and DPIE are probably being slightly over concerned about the analysis that's been undertaken on what is a very preliminary proposal and the minor non-compliances that they have identified kind of in that preliminary proposal, and have then drawn the conclusion, "Well, you – you can't resolve those. You can't move the apartments around. So, of course, the floor space must be less than what's  
15 actually proposed."

MS LEESON: Thank you. Is that – is that the end from you, Peter?

MR SMITH: Yes, that's the end from me, I think.  
20

MS LEESON: Are there other comments or presentations that you want to make from other members of the proponent's group? No? Okay. I – I do have a couple of questions then. And it ..... is that slide there. So you're recommending or seeking maximum building height controls of 25 metres for six, 31 for eight, 41 for 12.  
25 Forty-one for 12 aligns with the Department's recommendation. And I'll leave the issue aside of it being a recommendation. Can you explain why you're advocating 25 metres for six, when I think the Department was recommending 23, and similarly 31 for eight when the Department was recommending 29? I'd like to understand what that extra two metres is going to – what it's needed for. You're on mute, I'm  
30 sorry, Peter.

MR SMITH: Something came up on my screen and told me so. So the sections that we prepared as part of our submission, we've looked at the topography, the – the  
35 existing kind of ground levels across the site, where those building heights would be and where there would be some adjustment to those levels to be able to get a – an easing communal open space. So that was one small minor factor that accounted probably for half a metre or so, kind of, of that extra height. But the other was the – because of the direction that this concept plan was taking with the centralised, kind of, more public open space in the middle, we saw that there was value to still have  
40 some more private communal open space on the rooftop.

And the – by adding that private communal open space onto the rooftop, that, by virtue, adds another, kind of, 3.8 metres, kind of, to the height of the building. By the time you take a lift overrun, kind of have the stairs going up and maybe a small  
45 kind of communal space with a – a barbecue area or something on the top there as well. And given we're going to all this effort to put in a planning proposal to modify the heights, it seemed only sensible that if we were seeking to have the ability for a

communal open space up on the roof, it would be a real pity to then lodge a development application with a 4.6 that sought to exceed the height limit by, kind of, three metres just because we wanted to provide communal space up on the roof. And that it would be a more efficient use of the planning system to get that additional height approved now, rather than go back and seek a variation on the control.

MS LEESON: So leaving aside plant rooms and decorative features for those - - -

MR SMITH: Yes.

MS LEESON: - - - additional height, I – I assume therefore means some kind of structure on those communal open spaces?

MR SMITH: Yes. So the – any – yes. So a pergola structure or a small indoor kind of communal room or something like that, or the – and even the lift core itself kind of rising up is considered to be an exceedence of the height limit. It's only kind of – it's only structures that are just for the purposes of plant. Or if, in the rare circumstance, you can convince the consent authority that your roof is an architectural roof feature, which I'm not sure whether Bankstown have that clause in their LEP or not. I can't remember. It's – typically, whatever the maximum point of your building is, is what the height – is what is measured and included as part of the maximum height of the building. So, yes, it provides that additional flexibility for that space.

MS LEESON: Okay. And when you say “lift core”, that's really for vertical transportation to the roof.

MR SMITH: It is, yes. Yes.

MS LEESON: Okay. Council put to us earlier, I think, that there is a provision at clause 5.6 that would enable lift overruns and things, without the need for a – an extension to the height. That's a matter, I guess, that we can have a look at in a bit more detail in due course. But I – I understand - - -

MR MATTHEWS: Can I just - - -

MS LEESON: Sorry?

MR MATTHEWS: Sorry to – sorry to interrupt. Can I just share my screen now? I can just show you, it's in Pete's submission. That might actually just be helpful to show you how that will work in – in terms of the floor to ceiling and the height.

MS LEESON: Yes.

MR MATTHEWS: Sorry to interrupt. If Matt can just stop sharing a sec.

MR DANIEL: So how do I do that? My computer has gone straight to – I think you can just steal it, can't you? Or?

MR MATTHEWS: No. You cannot share screen while it is a sharing, sorry.

5

MR DANIEL: Yes. I'm going to go – well, sorry.

MR MATTHEWS: I'd love to steal it.

10 MR DANIEL: Oh boy. This is going to be slightly embarrassing, showing my terrible skills.

MS LEESON: Given this is still at planning proposal level and it's not a DA and you're seeking extra metres for flexibility of communal open spaces, pergolas, and perhaps indoor communal rooms, how would Bankstown – how would council be given the confidence that it wasn't going to be for an extra habitable floor – residential floor?

MR SMITH: They could – I would expect a site like this would have some site specific DCP controls. And a DCP control could be that – and it's quite common – that you have your height in metres under the LEP, and then the height in storeys control in the DCP. And that could exclude the – any storey that is just for communal use on the top of those buildings. The other alternative which I have seen in one or two LEPs, which I'd like to see more often, is a height clause in the LEP that either works in a positive or a negative sense, either that access to communal facilities and communal facilities are excluded from the height or that a top portion of the height, and it can only be utilised for things such as communal facilities, plant, and lift over on the stairs, and all those listed pieces, which is more extensive than the existing height standard.

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MS LEESON: Thank you.

MR SMITH: Then you can – then you can – how – how it's been calculated. Then we've allowed kind of a bit of space to elevate that ground floor slightly off the ground to take into account the variation across the site. The 3.1 floor-to-floor to enable kind of the 2.7 ceilings as required by the Apartment Design Guide, and also then kind of that space at the top floor, the communal open space and the lift overrun.

MS LEESON: Can I ask how you're defining "existing ground level"? I mean, I haven't had a chance to look at the site yet, but it's an industrial site. So I'm assuming there's concrete slab or similar there.

MR SMITH: Yes.

45

MS LEESON: Where – where is your existing ground level taken from? Because I see in some drawings that there will be potential for a ground floor development



below existing ground level. Let's call those below existing ground level. I'd like to understand where you're taking that point from.

5 MR SMITH: So I'm taking the existing ground level from the actual surface of any pavement or ground that you can walk on there today.

10 MS LEESON: Okay. Thank you. So that's – that makes it clear for us and we can – we can take that into account. Thank you. I have another question, if I might. I'm mindful of time. And it's around public benefit which you've talked about a couple of times, and what would be offered. And council, I think, was fairly clear in their view that they didn't believe there was sufficient public benefit in this, that the internalisation of that central space. And I accept that you've talked about the potential for the future of a development to the north, which would take that away.

15 But at the moment, their view is it would take that – possibly take that concern away. At the moment, their view is that there's not sufficient public benefit to warrant an increase to 2.4, and the location of this site, its distance from Regents Park, the fact that there's no football – footpath on this site. And I think they'd like pedestrian or cycle route through the middle of it. Can you respond to that view of council about public benefit being inadequate, and what you consider an appropriate public benefit for this level of uplift?

20 MR SMITH: Yes. Well, there's a 3200 square metre park in the middle of the site which, depending on agreement with council about the public use of that, there – if that's not public benefit, I'm not sure what is. It's probably one of the larger parks that would exist in that area. The – Ray and, kind of, James will talk more about any discussions, kind of, they've had with council about that. I – I believe they haven't been keen to date to take ownership, kind of, of that park or the streets which, in my view, is a bit disappointing.

30 But even if it – they weren't taking ownership and there was public access allowed on that – such as which is the case with Central Park, kind of, down there near Central Station, and down near UTS – the – that would still provide – that provides a public benefit without, kind of, council having access. If council decide their position is that we can put a big wall around it and only the people who own property in that space and live in that space can utilise that space, well, that's a different viewpoint. But that's not the approach, I believe, that has been taken with McGregor Coxall masterplan. It's been one about integrating, kind of, this development with the wider context.

40 MS LEESON: Okay.

45 MR DANIEL: Could I make a comment on that? And – and it's probably something that's not there. Like, one of the Gateway amendments that was made to this, what the Department did was actually remove the reference in relation to public benefit in relation to additional items. And their whole focus at the start of this was about that public benefit being the additional open space and providing that

community space for – you know, for the community. We have in – we have – and –  
and then basically getting that, the maximum density for providing that open space  
that way, we – I mean, as Peter has referenced, I mean, we provided council in – in  
the past, you know, opportunity for improving linkages to the – to the Regents Park  
5 Town Centre, upgrading the things. And we also did a whole lot of it.

We did a vegetation survey of the – of the general area, looking at what trees need to  
be removed and replaced, and providing opportunities for embellishments of the  
adjoining park and those sort of things that could be attached into the future and that.  
10 But the Department, in their wisdom, took that away from one of the earlier Gateway  
proposals. But, of course, as any applicant that does large urban renewal projects in  
the future and how we do those things, those – those are all open for discussion and  
negotiation as we progress projects.

15 MS LEESON: Right. Okay. Okay.

MR DANIEL: And – and council has a substantial, you know, section 94 plan  
which we can work with as well on that.

20 MS LEESON: Okay. And this is the determination?

MR DANIEL: Yes.

MS LEESON: Okay.  
25

MR MATTHEWS: Yes. And that's just – just for your reference so you will have a  
content of what Matt was talking about there. 1B was the one that removed the  
provision of public benefits to achieve the maximum of the site.

30 MS LEESON: That's clarified that. Thank you.

MR MATTHEWS: Yes.

MR DANIEL: And I think, if I could just add. Again, like, there was a time in this  
35 program where we were working quite collaboratively well with the Department and  
in part with council as well. And at one stage, prior to the amalgamation, the council  
actually recommended this at 2.25 to 1, and actually put it in a – in their – in their  
local planning study and progressed that and even progressed LEP mappings to the –  
to the Department. And, of course, but then after the amalgamation, that – that fell  
40 away. So there's a fair bit of corporate memory that's lost in that. And – and, I  
guess, probably – we're – we're a bit surprised also – and this is reflecting on Peter's  
comments about that there's no real capture for this open space in there, and the  
traditional way of incentivising a supplier of – of development to – to do that.

45 We find – we do a fair number of large urban renewal projects in Western Sydney.  
Well, out where there's a lot of growth going on. And we quite – work quite well  
with councils there and particularly the Department who assist those councils, to put

incentive provisions in EPIs to say, “Look, here’s your density at this level if you get that. But if you provide this additional green open space and things like that, well, then this is the additional density that can be achieved”, and writing that into the instrument. So, you know, if the developer gets hit by a bus, so to speak, and  
5 someone else comes along and buys it, that is – that is – that is there in perpetuity in – in the instrument.

And it just seems to me that whereas the western area of the Department is really skilled at getting those sort of outcomes and working there, the eastern team – you  
10 know, with due respect – hasn’t really taken up that initiation. And I think that was lost because, unfortunate at a stage after the McGregor Coxall, and then identities left the Department and other people were involved, that we got into this adversarial unfortunate process, which we don’t enjoy because it’s not what gets the better outcome. And that sort of – those sort of opportunities were lost. And that’s where  
15 it’s – you know, we’re bringing Peter into it.

Those sort of things implement it back about how do you – how do we get the better outcome. How do we incentivise the land and do these sort of these things and get the open space and that, which we’re all interested in, as is our client, of making sure  
20 that happens. But – and I think that’s what needs to be done to then service back into this collaborative approach with council and as we move forward in the part 4 process and that sort of thing.

MS LEESON: Okay. Thanks. The last issue I’d like to talk about then is setbacks, which is going back to a bit of detail. And I’m sorry to take us backwards. But  
25 council and the Department have both expressed, I think, some concern about proposed setbacks and particularly from the rail line from the northern boundary, all in the name of amenity to both residents in the – the development that will happen and uses particularly to the north. Does – what’s – and I – and, I guess, there’s an  
30 interplay there between setbacks, heights and FSRs.

If you were to apply setbacks that the council is requesting – and they, I think, referenced a preference for about 20 metres from the rail corridor, given its freight use, and I don’t know that that’s a hard and fast thing. It was, you know, just a  
35 number they used. If you applied the council’s setbacks that they’ve recommended, can you still achieve the FSR of 2.4 that you’re looking for, and retain the open space? Have you done any analysis around retention of council’s preferred setbacks?

MR SMITH: From our part, kind of, the council’s preferred setbacks seem to have changed and been of a bit moving target. There is – there is a correlation between –  
40 if you were to take the building footprints as they are, kind of, today, for example, in the McGregor Coxall scheme and you increase a setback that’s going to change kind of the FSR. But you may also then go, “Well, if we’ve got different setbacks, maybe we lay out the buildings differently.” And maybe then there is another way of  
45 achieving that kind of four space ratio with a different building arrangement. But it’s not – we don’t have a small site here. There is lots of opportunities to have different building layouts and different configurations. And it’s – even with a – pulling

together all the varying different controls, I've worked on many sites that are far tighter and more constrained kind of than this one, and increasing a setback even kind of 10 metres on this site wouldn't have the substantial difference kind of to that yield, given the flexibility that's available.

5

MS LEESON: Thank you, Peter. Thank you. I had no further questions or – or issues to raise today. That's been very helpful. Thank you. It's good to hear that that level of detail from you. Is there anything else that you wanted to add? Or are we just about done? It's been a very helpful presentation, as I say. We also have from the Office of the Commission Jane and Lindsey. And I'm not sure if there are any issues that they and I had discussed earlier that have not been canvassed this afternoon. I'm just looking to get a – a nod or a – a nay.

10

MS ANDERSON: I think – I think we've covered all of those issues that you wanted to discuss. I did just have a question about design excellence. Peter, you were talking earlier about the potential for this site to be considered for design excellence, and you drafted a – a clause. I don't know if you've referred to the Bankstown LEP. There is a design excellence clause, but it is limited to certain sites in Bankstown, specifically in the city centre, at North Terrace and the Mall. So I just wondered if – if you saw this site being added to that very limited list, or if – if you saw it more as a blanket clause for the whole LGA.

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MR SMITH: I believe Canterbury-Bankstown have contemplated a blanket clause for more sites in the LGA. But they – it hasn't yet gone to any – kind of into any LEP or amended LEP. But I would just consider this just to be for this site. So it would add to this site to that very small list of sites that are required to achieve design excellence. Yes.

20

MS ANDERSON: Thank you.

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MS LEESON: Thank you.

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MR MATTHEWS: It could even be a – a site specific clause just for – for this site along those lines that are similar to other council's – councils have. But, I guess, the – the – the idea of this was to try and assist you with solutions. It's now a formal documentation that we submitted as part of the Gateway Review that wasn't included. As a – as a team collaboratively working together, we came up with, "Well, how can we assist the Commission with some solutions to achieve better outcomes and demonstrate that?" You know, that we'd – we disagree with the – the Department's urban design report. You know, we agree with McGregor Coxall. So rather than going back and forth for eternity about why we disagree and what we disagree on, let's work about how we can get a solution here.

35

And this was just an idea that we came up. And – and then – and like if council have a bit of confidence and protection that their – the fundamental issue about achieving good amenity can be achieved, and give them some confidence of, "Well, you know, if you – if we – if we can't achieve that level, then we can't achieve that – that FSR,

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even though we think, you know, we can.” So that’s where the idea came from. And it might then – as you mention, it might be a site specific clause just for our site that deals specifically with that, or as a part added to the existing clause.

5 MS LEESON: Thank you. Thank you very much. I think that answers it. Thank  
you for your time and contribution this afternoon. We’ve meet with yourself and, as  
you would have gleaned, with council and the Department. We have a raft of  
material before us to have a look at and a think about. And we’ll take all of that into  
account. We’ll provide our advice to the Department in due course. So with that, I  
10 will formally close the meeting. And thank you very much. Thank you.

MR SMITH: No problems. Thanks very much.

MS ANDERSON: Thank you.  
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MR MATTHEWS: Thank you.

**MATTER ADJOURNED at 5.02 pm INDEFINITELY**