

## INNOVATIVE

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<b>ITEM NUMBER</b>	18.7
<b>SUBJECT</b>	FOR APPROVAL: Post Exhibition - Planning Proposal, draft Development Control Plan and draft Planning Agreement - 2 O'Connell St, Parramatta
<b>REFERENCE</b>	RZ/2/2017 - D07357862
<b>REPORT OF</b>	Acting Team Leader Land Use Planning
<b>LANDOWNER</b>	The Owners of Strata Plan 20716
<b>APPLICANT</b>	Think Planners

### DEVELOPMENT APPLICATIONS DETERMINED BY THE SYDNEY CENTRAL CITY PLANNING PANEL: None

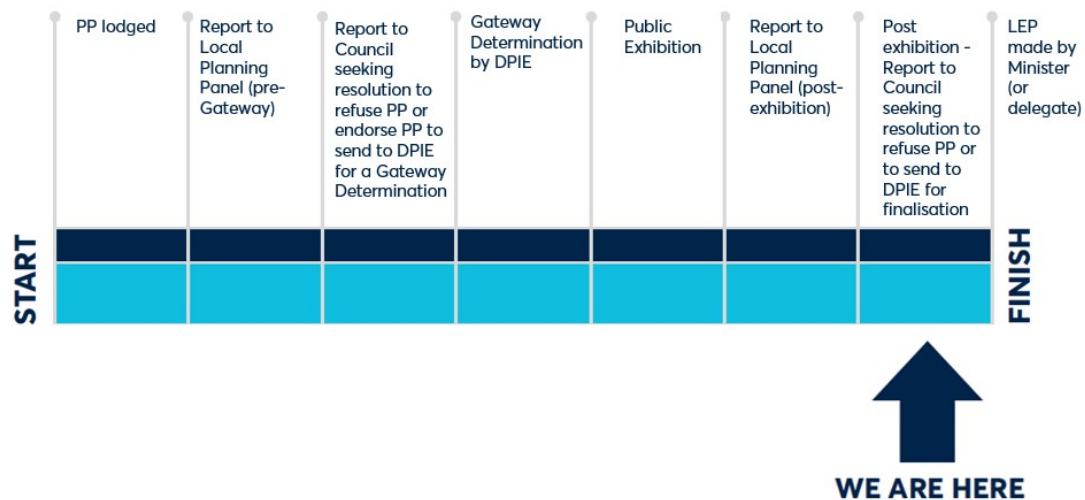
#### PURPOSE:

To allow Council to consider the progression of a Planning Proposal, draft Development Control Plan and draft Planning Agreement for 2 O'Connell St, Parramatta, following public exhibition of these documents.

#### RECOMMENDATION

- (a) **That** Council receives and notes the submissions made during the public exhibition of the Planning Proposal, draft site-specific Development Control Plan (DCP) and draft Planning Agreement.
- (b) **That** Council endorse for finalisation the Planning Proposal for land at 2 O'Connell Street, Parramatta provided at **Attachment 1** of **Attachment 1**, which seeks to amend the Parramatta LEP 2011 as follows:
  - i. An increase in the maximum Height of Buildings from 36 metres to 217 metres (inclusive of design excellence bonus);
  - ii. An increase in the maximum FSR from 4.2:1 to 16.2:1 (including all bonuses, opportunity site provisions and additional non-residential floor space);
  - iii. Introduction of site-specific provisions that outline the requirements for achieving the maximum FSR, require an appropriate transition to heritage items or conservation areas, introduce maximum parking rates, and ensure that issues pertaining to airspace operations and satisfactory arrangements for State infrastructure are addressed.
- (c) **That** Council forward the Planning Proposal to the Department of Planning, Industry and Environment (DPIE) to prepare for finalisation, but request the final notification on the relevant Government website only be undertaken once:
  - i. Council confirms that the Planning Agreement has been signed and entered into; and
  - ii. The site-specific DCP has been publicly exhibited and endorsed by Council for finalisation.

- (d) **That** an amended DCP is re-exhibited and the outcomes of this exhibition are reported to Council. The amendments to be made to the DCP prior to re-exhibition are as follows:
- i. Removal of the 3.5 metres setback to O'Connell Street (as Transport for NSW has indicated this is no longer required for road widening purposes) and resulting adjustments to relevant controls including but not limited to changes to the building and tower setbacks;
  - ii. Addition of a section on heritage that refers to the LEP provision relating to heritage transition and impacts. The new DCP controls will ensure clear criteria for assessing the transition of any development on this site to the adjoining heritage item; and
  - iii. Addition of a control outlining that materials selection is to minimise reflectivity and glare impacts.
- (e) **That**, with regards to the Planning Agreement:
- i. That an administrative amendment is undertaken to the draft Planning Agreement provided at **Attachment 4** of **Attachment 1** to accurately describe the instrument change sought under the Planning Proposal (noting that this does not change the contribution or any other terms of the Planning Agreement);
  - ii. That Council enter into this amended Planning Agreement;
  - iii. The Chief Executive Officer be delegated authority to sign the Planning Agreement on behalf of Council;
  - iv. Council (in accordance with its statutory obligations) forward the Planning Agreement to DPIE once it comes into force.
- (f) **That** Council authorise the Chief Executive Officer to make any minor amendments and corrections of a non-policy and administrative nature that may arise during the plan amendment process relating to the Planning Proposal, DCP and Planning Agreement.
- (g) **Further, that** Council note the advice of the Local Planning Panel of 21 April 2020 at **Attachment 2** is consistent with the Council Officer's Recommendation in this report.



## BACKGROUND

1. The subject site is located at 2 O'Connell Street, Parramatta and is also known as St John's Terrace, 5 Aird Street. The legal description of the site is Strata Plan 20716. The site area is 3,283 square metres and contains a two and three-storey commercial building occupied by a number of strata subdivided office suites. The site has frontages to O'Connell Street (West), Aird Street (North) and Campbell Street (South) and slopes substantially from south to north. An aerial photo of the site is shown below in Figure 1.



**Figure 1: Site location (Source: City of Parramatta GIS)**

2. The site is located towards the western edge of the Parramatta CBD within the B4 Mixed Use zone. To the north of the site is the Westfield shopping complex, immediately to the east two newly-constructed residential towers, and opposite

the site to the west, the State Heritage-listed St John's Cemetery. With regards to flooding issues, this site is outside of the area affected by the 1-in-100-year Average Recurrence Interval (ARI).

3. At its meeting on 10 July 2017, Council considered a report on a Planning Proposal for the subject site and resolved to endorse the Planning Proposal for the purposes of seeking a Gateway determination, which seeks changes to *Parramatta LEP 2011 (PLEP 2011)* consistent with the Parramatta CBD Planning Proposal, as outlined in the table below. Council also resolved at that time to prepare a draft Development Control Plan (DCP) and enter negotiation on a Planning Agreement, and to report both to Council for endorsement prior to their concurrent exhibition with the Planning Proposal.

**Table 1. Comparison of controls for the subject site between Parramatta LEP 2011, the Parramatta CBD Planning Proposal, and the exhibited planning proposal**

	<i>Parramatta LEP 2011</i>	Parramatta CBD Planning Proposal	Planning Proposal
<b>Zoning</b>	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use
<b>Maximum HOB</b>	36m (approximately 10 storeys)	RL 243m (approximately 217m when converted to height above ground level – 66 storeys)	217m (inclusive of Design Excellence – 66 storeys)
<b>Maximum FSR</b>	4.2:1	15:1 FSR (including all bonuses) with the potential for additional non-residential FSR	15:1 FSR (including all bonuses) + 1.2:1 additional non-residential FSR
<b>Approximate yields</b>		3,283 m <sup>2</sup> (mandatory 1:1 commercial, with potential for additional non-residential FSR)  575 dwellings (at 80 m <sup>2</sup> per dwelling)	3,283 m <sup>2</sup> mandatory 1:1 commercial  45,962 m <sup>2</sup> residential (14:1 residential) 575 dwellings (at 80 m <sup>2</sup> per dwelling)  Additional 3,939 m <sup>2</sup> additional commercial floorspace

4. At Council's meeting on 26 February 2018, a further report was considered which sought to respond to advice from the then-Department of Planning and Environment (now referred to as the Department of Planning, Industry and Environment, or DPIE). DPIE's advice was to restructure the format and mechanism of the proposed FSR controls to more closely align with the format of *PLEP 2011*, while still achieving development density outcomes in line with Parramatta CBD Planning Proposal (as were previously endorsed by Council). In response to this report, Council resolved to restructure the Planning Proposal in accordance with DPIE's advice, and also resolved to consider a further report on the heritage impacts of the Planning Proposal on St John's Cemetery.
5. Council considered the further report on 9 April 2018. Council resolved to endorse the Planning Proposal without changes and also included the following additional resolutions:
  - a. That the public domain landscaping on the eastern side of O'Connell Street is enhanced. This is achieved within the draft DCP through controls to require retention of existing trees and provision of new street trees.
  - b. That the northern edge of the new development to Aird Street considers the existing axial views from the cemetery path. This is

interpreted within the draft DCP to provide for the protection of the view corridor along Aird Street when looking east from the cemetery entrance gates, and is achieved through the setback controls from Aird Street which provide for a 6 metre tower setback and a 1.2 metre ground level setback.

6. DPIE issued a Gateway determination on 5 October 2018 which required certain amendments to be made to the Planning Proposal, and that an amended Planning Proposal be forwarded to DPIE for their endorsement prior to exhibition. The amendments are outlined in more detail in Paragraph 8 of the LPP report (**Attachment 1**). Notably, the Gateway determination required an amendment to the reference design for the Planning Proposal to include a 3.5 metre setback for the purposes of road widening, as was then required by Roads and Maritime Services (RMS).
7. On 11 November 2019, Council considered a draft DCP and draft Planning Agreement, and resolved to exhibit these documents concurrently with the Planning Proposal. The exhibited draft DCP and draft Planning Agreement are discussed in more detail in the LPP report (**Attachment 1**), with key points summarised below:
  - a. The DCP seeks to achieve the following objectives:
    - i. Contribute to a high quality public domain at ground level with activated edges to the streets and street walls that create legible, safe, functional and attractive streets;
    - ii. Provide for slender, elegant towers that are setback above the street walls to allow for daylight penetration to the street, views to the sky and privacy; and
    - iii. Protect, frame and enhance the axial view corridor from the entry gate to St John's Cemetery along Aird Street.
  - b. The draft Planning Agreement makes provision for a monetary contribution of \$6,549,585, and aligns with Council's policy framework for community infrastructure contributions in the Parramatta CBD.

## PUBLIC EXHIBITION SUMMARY

8. The Planning Proposal, draft DCP and draft Planning Agreement were publicly exhibited from 11 December 2019 to 31 January 2020 (to account for the Christmas and New Year's period). An advertisement was placed in the local newspaper, and relevant material was made available on Council's website and in hard copy format at Council's Administration Building and Parramatta Central Library. Letters were sent to land owners and occupiers in the vicinity of the subject site. Public authorities were consulted as per the Gateway determination.
9. During exhibition, five submissions were received from public authorities, 11 from nearby residents and one from the owners of Westfield. The issues raised across these submissions are discussed in the LPP report (**Attachment 1**), and addressed by Council officers in detail at **Attachment 5 of Attachment 1**.
10. In summary, Council officers did not consider that any of the issues raised in the public exhibition period require any post-exhibition amendments to the Planning Proposal. However, the results of the post-exhibition period and further issues identified by Council Officers during the exhibition period do

necessitate some changes to the DCP. The outcomes of the exhibition are discussed further below.

### **Public Authority submissions**

11. Submissions were received from the Department of Infrastructure, Transport, Cities and Regional Development (DIRD), the Civil Aviation Safety Authority (CASA), Heritage NSW, Endeavour Energy, and Transport for NSW (TfNSW).
12. Heritage NSW raised concern about potential overshadowing of St John's Cemetery and the South Parramatta HCA; these two issues are addressed in more detail in paragraph 24 of the LPP report included in **Attachment 1**. In summary detailed analysis undertaken during the preparation of this Planning proposal and the CBD Planning Proposal has concluded that:
  - a. the impact of overshadowing impacts on St John's Cemetery does not warrant any amendment to the Planning Proposal; and
  - b. the overshadowing impact from this site on the South Parramatta HCA is negligible given the distance of this property from the HCA.
13. TfNSW's submission advised that, notwithstanding RMS' prior recommendation for a 3.5 metre setback along O'Connell Street to allow for future potential road widening, TfNSW has no current plans or funding in its forward work program for this section of O'Connell St and the 3.5 metre setback is not a requirement of TfNSW. In response to this advice, Council staff reconsidered the issue of the 3.5 metre setback. Council officers are satisfied that it is not required from a traffic or active transport perspective, and also conclude that removing the setback could potentially result in urban design improvements (which are discussed in more detail in paragraph 26 of the LPP report at **Attachment 1**).
14. As a result of the above consideration, Council officers support removal of the 3.5 metre road widening setback. As this setback is not part of the proposed controls of the Planning Proposal, no changes are required to the Planning Proposal. However, removal of the setback does have implications for amending the draft site-specific DCP as follows:
  - a. There are references to the 3.5 metre road widening in the current draft DCP that need to be removed and / or reworded.
  - b. There are resulting adjustments to the development controls for the building form and layout that can be undertaken as a result (i.e. in order to achieve the improved urban design outcomes noted above).
15. Council officers recommend that these changes should be made to the draft DCP, and that it should be re-exhibited and reconsidered by Council prior to notification of the Planning Proposal.

### **Community submissions**

16. The main concern expressed in community submissions related to the potential for structural damage to adjoining buildings during the construction phase. It is noted that this is a matter for consideration at Development Application stage, and that there are separate processes in place to ensure construction impacts are managed at the Development Application stage. There are also State-wide processes underway to identify high-risk projects, to improve industry standards and practices, and to make designers and builders more accountable on these matters.

17. Concerns about traffic congestion, overshadowing and loss of views were also raised by the community. As a summary response, while it is acknowledged that future development in line with this Planning Proposal will inevitably result in impacts to nearby residents and landowners, Council officers consider that these impacts are not unacceptable given that this Planning Proposal is consistent with the Parramatta CBD Planning Proposal.
18. The submission from Westfield raised some issues relating to the streetscape of Aird St. Council officers consider that the amended draft DCP controls described earlier in this report will address the issues raised relating to active streetscape. This submission suggested that the podium be set back further to Aird St; however, this is not recommended as the footpath width is considered sufficient here and setting the building back further would have undesirable urban design impacts.
19. For reference, the issues raised in these submissions are addressed in further detail in Table 3 of the LPP report (**Attachment 1**), and at **Attachment 5 of Attachment 1**.

#### **Further issues identified by Council officers during public exhibition**

20. During the exhibition phase a number of issues were identified with the content of the exhibition material. The issues and responses are as follows:
  - a. **Clause drafting:** The exhibition material contained a potential draft LEP clause that would be added to the LEP to implement the controls sought in the Planning Proposal. Some technical issues have been identified with the way the draft clause was structured and worded. These issues will be addressed in the drafting of the final clause that will be included in the LEP but none of these issues impact on Council intended planning outcomes.
  - b. **Clarification of height and relationship to Design Excellence bonus:** The documentation exhibited contained inconsistencies on how design excellence would be dealt with. In one part of the exhibition documentation the height of 217m was described as including design excellence. In another part of the documentation it was stated the building would be taller than 217m because the design excellence bonus would allow more height. Final testing has been done and given the setback of 3.5m is not required the 16.2:1 FSR can be achieved within the 217m height with design excellence included. The Planning Proposal will proceed on this basis and the instrument should be amended to ensure this position is consistently represented. Given that one section of the exhibition material suggested a height taller than 217m might be considered and the height is being limited to the lower option of 217m there is no need to re-exhibit the Planning Proposal because the impact is less than what was proposed in the exhibition material.
21. **Additional matters for inclusion in an amended DCP:** The review by Council officers has identified the following issues that can be addressed, and it is recommended that the following amendments be made to the Draft DCP prior to the re-exhibition:
  - a. Addition of a section on heritage that refers to the LEP provision relating to heritage transition and contains controls outlining that a development that complies with the DCP is taken to have provided an appropriate

transition to heritage items, as the building envelope accounts for matters such as the axial view down Aird Street from the Cemetery gates. This section of the amended DCP should also detail that the heritage assessment report otherwise required by the existing controls in *Parramatta DCP 2011* should ensure that the building design and materials take into consideration the relationship of the building and the heritage item.

- b. Controls relating to selecting building materials to minimise reflectivity and glare impacts.

## **LOCAL PLANNING PANEL**

- 22. The Local Planning Panel considered a report on this matter (**Attachment 1**) on 21 April 2020, and their advice (**Attachment 2**) was consistent with the recommendation of Council officers included in this report to Council.

## **CONSULTATION & TIMING**

- 23. It is recommended that an amended draft DCP as discussed in this report is prepared and re-exhibited, and that Council endorse the outcomes of this exhibition and endorses the final DCP prior to the Planning Proposal being finalised.

## **FINANCIAL IMPLICATION FOR COUNCIL**

- 24. As outlined previously in this report, the exhibited draft Planning Agreement makes provision for a monetary contribution of \$6,549,585, and aligns with Council's policy framework for community infrastructure contributions in the Parramatta CBD.

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## **ATTACHMENTS:**

- |   |                                                                         |           |
|---|-------------------------------------------------------------------------|-----------|
| 1 | Item 6.2 Report and Attachments - Local Planning Panel 21 April 2020    | 119 Pages |
| 2 | Extract from Minutes of Local Planning Panel Meeting held 21 April 2020 | 3 Pages   |



## **REFERENCE MATERIAL**