PLANNING
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CITY PLAN SERVICES

INDEPENDENT ASSESSMENT OF PLANNING PROPOSAL

(AS AMENDED ON 28 MARCH 2013)

"ASPIRE PARRAMATTA"

160-182 CHURCH STREET

On behalf of Parramatta City Council

2 April 2013

PLANNING
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EXECUTIVE SUMMARY

This report has been commissioned by Parramatta City Council to provide an independent assessment of an amended Planning Proposal (PP) for 160 – 182 Church Street, Parramatta which seeks to increase the maximum building height limit on the site to 306m and permit the development of the 'Aspire Parramatta' building, a mixed use (retail, hotel and residential) building with a Gross Floor Area (GFA) of up to 70,000m^2 (excluding communal atrium and circulation spaces, winter gardens and balconies) on the site.

This report should be read in conjunction with City Plan Strategy and Development's Assessment Report of 30 November 2012 which provided an independent assessment of the original Planning Proposal for the site which in itself, sought to increase the maximum building limit in the site from 200m up to 280m, to remove the maximum Floor Space Ratio (FSR) limitation from the site and to increase the permissible GFA of the site (excluding communal areas and private open space areas) to 70,000[1]m^2 with 5,000m^2 of private open space in the form of winter gardens and 20,000m^2 of central communal circulation and atrium spaces, all subject to the provision of a publicly accessible tourist and visitor facility with 1,500m^2 of floor space.

The current amendment seeks to alter the original PP by:

- Increasing the permissible height on the site to 306m (increase of an additional 26m on the original PP);
- Increasing the GFA of traditional floor space from 50,000m^2 (erroneously stated as 70,000m^2 in the original PP) to 70,000m^2 (increase of an additional 20,000m^2 on what was intended under the original PP); and
- Removing the requirement for development on the site to comply with **Clause 29E**[2] of the Parramatta City Centre LEP (PCCLEP) 2007.

As before, the PP complies with the requirements of Section 55 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Guidelines issued by the Department of Planning and Infrastructure (DoPI): a *Guide to preparing Planning Proposals*. It is also generally consistent with the goals and objectives of the Metropolitan Plan for Sydney 2036, the Draft Sydney Central West Sub-Regional Strategy and local planning framework documents such as the Parramatta City Centre Local Environmental Plan 2007 and the Parramatta City Centre Plan Vision.

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[1] An error in the original PP resulted in the total 'traditional' GFA being stated as 70,000m^2 when in fact this figure should have been 50,000m^2. Therefore, although the increase in height and floor space resulting from the current amendment to the PP will result in an additional 20,000m^2 of floor space onto that originally envisaged, the total GFA of the site (excluding communal areas and private open space areas) is now 70,000m^2.

[2] **Clause 29E Sun access of the Parramatta City Centre LEP 2007**

(1) The objective of this clause is to protect public open space in the vicinity of the Civic Place site, the Lancer Barracks site and Jubilee Park from overshadowing.

(2) Despite any provision of Part 4, development is prohibited on land to which this Plan applies if the development results in any part of a building projecting above the sun access plane controls established for that land by the City Centre Development Control Plan.

The aim of the amended PP is to secure the development of the Aspire Parramatta Tower. It is acknowledged that the construction of the Aspire Tower will:

- Ensure the delivery of a landmark tower to cement Parramatta's role of Sydney's second CBD;
- Secure the provision of a tourist and visitor facility for Parramatta;
- Provide high quality high density housing in a central CBD location;
- Deliver new employment generating floor space; and
- Stimulate the future development of Parramatta CBD in terms of bringing substantial investment into the area, triggering economic and residential regeneration of Civic Place and setting a new standard for the urban form and built environment of Parramatta.

The increase in the height limit of the structure to 306m will result in an increase in overshadowing of Jubliee Park between 1.30pm and 2pm in winter months, (hence the necessity to exclude the application of Clause 29E from the site). At winter solstice, 70% of the park will overshadowed during this popular lunchtime period (an increase of 48% on the current level of overshadowing). However, this degree of overshadowing decreases as the summer progresses, such that by July 21, the maximum percentage of the park overshadowed will be 54%. There will be no additional overshadowing as a result of the amended PP at the Spring Equinox or Summer Solstice. It is considered that the extent of additional overshadowing of Jubilee Park, taking into account the limited period of the year in which it is relevant, and that fact that a percentage of the park will still be available to lunchtime park users, is outweighed by the additional benefits to be gained in facilitating the development (as outlined above).

However, an assessment of the potential increase in overshadowing of other lands (public open spaces, existing dwellings and their private amenity space) and any subsequent loss of amenity should to be carried out to allow for a full assessment of the overshadowing impacts of the increase in height that would be enabled by the amended PP. This shadow analysis should consider the additional impact created by the proposed height increase over that permitted under the existing controls (220m) between 9am and 3pm midwinter and equinoxes.

Normally, this analysis should be carried out prior to the re-exhibition of the PP and exhibited with the amended PP. However a Development Application (DA) for the development of the Aspire Tower was submitted to Council on 28 March 2013. It is anticipated that the necessary overshadowing study, to determine the full extent of overshadowing arising from the development, has been prepared and submitted as part of this DA and will be placed on public exhibition with the DA. In the event that the required overshadowing studies have not been submitted with the DA, or are considered inadequate, Council should require same to be prepared and placed on exhibition with either the PP or the DA.

In addition, the potential increase in height on the subject site has implications for Airspace Protection at Bankstown Airport. To determine the impact of the PP on the Prescribed Airspace at Bankstown Airport, it is necessary for a Safety Assessment of the proposed development to be undertaken by the Bankstown Airport Operator. As part of the consultation process, the amended PP should be referred to Bankstown Airport Ltd for comment and consultation should be undertaken with the Civil Aviation Services Authority (CASA) and Airservices Australia.

Subject to the outcome of the overshadowing analysis (either that submitted as part of the DA or additional studies carried out as part of this PP) demonstrating that the amended PP will not result in a detrimentally significant increase in additional overshadowing or associated loss of amenity, it is recommended that Council support the amended PP and resolve to forward it to the Department of Planning and Infrastructure for Gateway Determination in accordance with the EP&A Act 1979, subject to the recommendations outlined in **Section 7** of this report.

1.0 INTRODUCTION

This report has been prepared to assess a proposed amendment to the PP for 160 – 182 Church Street, Parramatta (F2012/03460) which was on public exhibition from 27 February 2013 to 29 March 2013. This assessment relates to a review of the amended PP prepared by JBA Planning as amended in March 2013, the Aspire Tower Overshadowing Jubliee Park Study prepared by Grimshaw Architects on 25 March 2013 and the Overshadowing of Jubilee Park – Additional Assessment prepared by JBA Planning dated 25 March 2013.

1.1 Background to the PP

The original PP sought to amend the Parramatta City Centre LEP 2007 to facilitate the lodgement of a Development Application for the architectural design competition winning proposal by Grimshaw Architects for the site of 160 – 182 Church Street, Parramatta. A full history of the background to the design competition and the evolution of the PP is site out in the Independent Assessment of the PP by City Plan Strategy & Development (CPSD) dated 30 November 2013.

The PP was presented to Council on 17 December 2012 with the recommendation that it be supported and forwarded to the Department of Planning and Infrastructure (DoPI) for Gateway determination. Council voted unanimously to endorse the PP subject to four recommendations (relating to the indicative timeline of the PP, inclusion of the PP in the LEP, additional studies which were required to be undertaken and consultation) and to forward it to the DPI for Gateway determination. It was also resolved that further to the Gateway determination that the PP be publicly exhibited and a report on any submissions received be put to Council for consideration.

A Gateway Determination was issued by the Director General on 25 January 2013 which determined that the PP should proceed subject to the following conditions:

1. *Prior to undertaking public exhibition, Council is to amend the planning proposal to include headings 'statement of objectives' and 'explanation of provisions', consistent with the department's A Guide to preparing Planning Proposals.*

2. *Community Consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:*
    a. *The planning proposal must be made publicly available for 28 days; and*
    b. *The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with the planning proposals as identified in section 5.5.2 of A Guide to preparing LEPs (Department of Planning and Infrastructure 2012).*

3. *Consultation is required with the following public authorities under Section 56(2)(d) of the EP&A Act:*
    - *Transport for NSW;*
    - *Office of Environment and Transport;*
    - *Energy Australia/Endeavour Energy;*
    - *Sydney Water;*

- *Railcorp;*
- *Holroyd city Council;*
- *Urban Growth NSW; and*
- *Roads and Maritime Services (RMS).*

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will requote additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. *A public hearing is not required to be held in to the matter by any person or body under Section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation ot may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).*

5. *The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.*

Following receipt of the Section 56(2) Notice, the PP was amended as recommended by the Director General and placed on public exhibition from 27 February 2013 to 29 March 2013. It was also referred to the designated public authorities for comment as required by the Gateway Determination.

Notwithstanding the original PP having been exhibited, the proponents now seek an amendment to that PP.

2.0 THE AMENDED PLANNING PROPOSAL

In simple terms, the amended PP seeks to increase the maximum building height limit to 306m and permit a development of a mixed use (retail, hotel and residential) building with a Gross Floor Area of up to 70,000m^2 (excluding communal atrium and circulation spaces (approximately 20,000m^2 GFA), winter gardens and balconies (approximately 5,000m^2 GFA)) on the site at 160-182 Church. The current PP would enable the construction of a 90-storey mixed use tower with approximately 700 residential apartments, a 150-room hotel, approximately 1,000m^2 of ground-floor retail and a two-storey public viewing platform and 'visitor experience centre' at roof level.

There are two key objectives to the PP, which remain unchanged from those in the original PP:

- "*to provide suitable height and floor space incentives for developments which achieve design excellence, are the winner of an architectural design competition and provide an identified public benefit; and*
- *permit the enclosure of private balconies, communal open space areas and common circulation areas which are located above ground level in order to provide suitable wind protection of these spaces*."

The PP suggests that to achieve these objectives, the following provision (proposed amendments are underlined for emphasis) should be included in the Parramatta City Centre LEP 2007:-

"1) This clause applies to Lot 1 DP 514282, part Lot 1 DP 731780 and part Lot 1 and 2 DP 1158833, and part Lot 1 DP 791300, known as 160-182 Church Street, Parramatta.

2) This clause applies to development where:
   a) the design of the building or alteration is the result of an architectural design competition; and
   b) the consent authority is of the opinion that the development exhibits design excellence with regards to the criteria specified at clause 22B(3); and
   c) the consent authority is of the opinion that the development provides an appropriate public benefit in the form of a publicly accessible tourist and visitor facility.

3) Development to which this clause applies may not exceed:
   a) a maximum building height of <u>306</u> metres above natural ground level; and
   b) a maximum gross floor area of <u>70,000</u>m^2, excluding any floor space used only for private balconies, communal open space or common circulation spaces (whether enclosed or unenclosed); and
   c) a maximum gross floor area of 25,000m^2 for the purpose of communal and private open space and common circulation areas.

4) Development to which this clause applies must provide a minimum of 1,500m^2 of gross floor area for the purpose of a publicly accessible tourist and visitor facility, which is part of the GFA calculations at subclause 3.

5) *Clause 21*[3] *and Clause 22*[4] *do not apply on land to which this clause applies.*

6) *Clause 24*[5] *and Clause 22B(6)*[6] *do not apply to development to which this clause applies.*

7) *Clause 29E*[7] *does not apply on land to which this clause applies"*

2.1 The Proponent's justification for the amendment

The proponents state that, following further design development and analysis of the proposed tower, it was determined that an increase in both the height and floor space were warranted.

As outlined in Section 3.0 of the PP, this amendment is based on "*both market feedback and feasibility testing, which has determined the right 'product' mix for the site that will be attractive for a prospective developer to build and deliver the building. This includes the location of the experience centre and the penthouse units, with increased height and outlook as well as providing a necessary threshold and quantum of residential apartments that are available for sale."*

It is further stated that "*whilst not purely a planning consideration, the product offer and feasibility of the project is crucial to the redevelopment of Parramatta Square, which has suffered over a decade in delays for a complex number of reasons since the adoption the 2003 Civic Place master plan. The proposed increase in height and GFA therefore has relevance when considering the objects of the EP&A Act in terms of achieving the 'orderly and economic use and development of land'. The Aspire project is one of the first projects within Parramatta Square and is expected to act as a catalyst and provide confidence for future stages to progress."*

No detailed information has been provided of the market feedback or feasibility testing referred to above.

[3] Clause 21 of the Parramatta City Centre LEP 2007 relates to the maximum building height
[4] Clause 22 relates to the maximum FSR
[5] Clause 24 relates to exceptions to development standards
[6] Subclause 22B(6) relates to an addition of up to 10% which may be permitted on the maximum height or FSR where the design is the result of an architectural design competition and has the concurrence of the Director-General.
[7] Clause 29E relates to restrictions of development which results in overshadowing of Civic Place site, the Lancer Barracks site or Jubilee Park

3.0 LEGISLATIVE REQUIREMENTS

As before, the amended PP must be supported by the Relevant Planning Authority (RPA) who must resolve to place it on public exhibit. It must be demonstrated that the amended PP complies with Clause 55 of the EP&A Act 1979 and the DoPI Guidelines: *A guide to preparing Planning Proposals*.

To, comply with the requirements of the EP&A Act 1979 and the Guidelines, a PP must include:-

- A statement of the objectives or intended outcomes of the proposed instrument;
- An explanation of the provisions that are to be included in the proposed instrument;
- The justification for those objectives, outcomes and provisions and the process for their implementation;
- Maps, where relevant, to identify the text of the PP and the area to which it applies;
- Details of the community consultation that is to be undertaken on the proposed instrument.
- Specific matters which must be addressed in the justification of the PP;
- A project timeline to detail the anticipated timeframe for the plan making process for each PP.

An assessment of the compliance of the original PP with the Guidelines information checklist was set out in **Tables 1** and **2** in **Appendix A** of the original CPSD report (November 2012) and discussed in **Section 6** of same. The amendments to the PP do not alter the compliance of the PP with these requirements, and the amended PP which includes a number of recommendations identified in the Gateway Determination of 25 January 2013, meets all these requirements.

4.0 PLANNING AND DEVELOPMENT FRAMEWORK

4.1 Strategic Regional and Subregional Planning Frameworks

The proposed amendment to the PP does not change the fundamental objectives of the PP which are:

- "*to provide suitable height and floor space incentives for developments which achieve design excellence, are the winner of an architectural design competition and provide an identified public benefit; and*
- *permit the enclosure of private balconies, communal open space areas and common circulation areas which are located above ground level in order to provide suitable wind protection of these spaces*."

It is therefore considered, that as with the original PP, the amended PP is consistent with the goals and objectives of the strategic planning framework documents guiding the development of Parramatta, namely:

- The Metropolitan Plan for Sydney 2036
- Draft Sydney Central West Subregional Strategy

In addition to fulfilling the objective of the Draft Sydney Central West Subregional Strategy to improve the tourism precincts in Sydney, the amended PP will secure the development of a mixed use development at a key location which will act as an impetus for further development in accordance with the key directions of the subregional strategy.

4.2 Local Planning Framework

The Local Planning framework documents which influence and control the development of Parramatta and the site in particular are:

- Parramatta City Centre Vision Plan 2007 (Draft);
- Parramatta Economic Strategy 2011 – 2016;
- Parramatta City Centre Local Environmental Plan (LEP) 2007;
- Civic Place Master Plan 2003; and
- Draft Parramatta Square DCP.

The proposed increase in the permissible height on the site from 200m to 306m and the increase in the allowable traditional GFA (excluding circulation areas, winter gardens, atriums, etc) to 70,000m^2, a variation of 26m in height and 25,000m^2 in floor space from the original PP, does not generally impact on the consistency of the PP with the objectives and aims of the local planning framework documents (Though the issue of potential overshadowing needs to be investigated further – Refer to **Section 6** for more details of this).

As before the PP requires that **Clauses 21** (Maximum Building Height), **22** (Maximum FSR), **24** (exceptions to development standards) and **22B(6)** (additional bonuses in height and FSR which may be awarded as the result of an architectural design competition) be nullified on the site.

However the increase in the height, which would result in the top of the proposed Aspire Tower projecting above the Sun Access Plane controls established for the site (in terms of potential overshadowing of Jubliee Park) also requires that **Clause 29E** be disregarded as a control applicable to the site. The implications of this are discussed in more detail in **Section 5**.

5.0 ASSESSMENT

5.1 Compliance with the legislative requirements.

As outlined in **Section 3**, the amended PP is in compliance with the legislative requirements of Section 55 of the EP&A Act 1979 and the guidelines issued by the DoPI.

5.2 Justification for the PP

As noted in the proponent's justification for the PP, the increase in height and allowable floor space is not simply a planning consideration. Whilst it can be argued that the increase in height will enhance the prominence of the Aspire Tower, cement its role as Parramatta's landmark structure and secure more expansive publicly accessible views, adding to the visitor facilities in Parramatta, the proposed amendment is also an economically driven one. The Civic Place Master plan, adopted in 2003, has in the ten years since its adoption failed to deliver its vision.

The vision for the Parramatta city centre, set out in the Parramatta Vision Plan 2007 (Draft) involved, inter alia:-

- *"Creating a liveable and desirability city;*
- *Shaping the city form (including concentrating future developments in the city centre which will create an elegant and flowing city skyline);*
- *Improving the quality of urban design;*
- *Achieving greater sustainability; and*
- *Developing Civic Place (which is seen as an opportunity to reposition Parramatta as Sydney's second CBD and a centre for business, tourism, culture and heritage)":*

As stated in the Parramatta Economic Strategy 2011 – 2016, "*Council is a major player in the Parramatta property market, not only because it, like all Councils, regulates development, but because it owns significant tracts of developable land in the central CBD and intends to convert them to valuable residential, commercial and public open space in the next 5 – 10 years."* These sites include Civic Place. The Strategy continues to affirm that "*Council is in an optimum position to drive outstanding urban design and development outcomes for the city centre and activate a flagging commercial property sector still languishing in the after-effects of the Global Financial Crisis*."

It is recognised that the redevelopment of Parramatta Square will not necessarily be driven by planning controls, but is subject to economic considerations such as the feasibility of the project, the attractiveness of the product offer and the potential return on investment. It is therefore important to assess the proposed amendment in terms of its potential impacts (both negative and positive) and to consider whether the proposed increase in height and floor space is both acceptable and justified in this case. (An assessment of the potential impacts of the amendment is set out below in **Section 5.3**).

This will involve weighing the positive impacts (increased residential and employment generating floor space, securing a landmark building for Parramatta CBD, etc) against the potential negative impacts (overshadowing of public open space, visual impact of the development, etc.) and

determining that the proposed PP would be in the public interest. In the interests of transparency, where there are considerable negative impacts, the necessity for the additional height and floor space may need to be subject to further scrutiny.

5.3 Impacts of the proposed amendment.

As stated in the assessment of the original PP, while it is the PP which is being assessed, **not** the 'Aspire Parramatta' development which could potentially be accommodated on the site as a result of the PP, the two are not exclusive. And in the light of the proposed amendments to the PP, this is even more relevant now than it had been previously.

The original PP was a direct result of the noncompliance of the winning Aspire Tower design with the relevant height and FSR controls for the subject site. Without an increase to the height and floor space controls governing to the site (as per the PCCLEP 2007), the opportunity to construct what could be an iconic statement building for Parramatta CBD could be lost. The current amendment is a further extension of this. Whilst the original PP was framed to support the design that resulted from the architectural design competition for the site, the current amendment derives from the need to provide controls which allow for a purported "viable" development on the site.

Therefore, in the analysis of the appropriateness of the proposed amendment and in assessing the justification and acceptability of same, it is necessary to refer to the particulars of the 'Aspire Parramatta' building and its revised design.

5.3.1 Height

The original PP sought to increase the specified maximum building height of 200m on the site to facilitate the development of the Aspire Tower, the result of an architectural design competition and which, in the opinion of the consent authority (Council), exhibited design excellence and provided an appropriate public benefit in the form of a publicly accessible tourist and visitor centre.

As the proposed design could have benefitted from an additional height bonus of 10% as a result of the design competition, the actual increase in the allowable building height on the site was from 220m to 280m. It was argued that the increase in height would allow for a distinction between what would be a recognisable landmark building for Parramatta CBD and the adjacent buildings, presenting a more interesting skyline. It was also argued that the proposed increase in height would be imperceptible from street level.

This argument was considered reasonable. The proposed redistribution of the height would allow for a variation in the height of the tall buildings which are permissible in Parramatta Square and would reduce the perception of a 'wall' of buildings.

The question now arises as to the impact, if any, of an additional 26m. It is stated that the 306m height limit will incorporate an architectural roof feature, whereby the maximum residential level will be 290m, the height to the top of the building will be 302m and the height to the top of the architectural feature will be 306m.

The PP asserts that this further increase in the height and floor space remains justifiable in that the Aspire Parramatta site "*is one of the most central and consolidated parcels of land within the CBD, is identified as a gateway/landmark site near the station and in Parramatta Square and that the centre of the Parramatta CBD, and thus a higher height and floor space amount can be reasonably accommodated* "

The PP justifies the increase in height from an urban design perspective by asserting that "*the tower will have an immediate and perceivable impact on the Parramatta CBD skyline by virtue of its sheer scale. This will occur irrespective of whether the height of the tower is 306 metres or 280 metres (as per the initial Planning Proposal), with the difference between the two schemes not readily perceivable to a casual observer".*

To counter any argument with regard to the appropriateness of this scale of height relative to the existing cityscape, the PP states that "*the redevelopment for the landmark tower needs to be viewed in the context of the fact that Parramatta Square and the CBD are in transition, as development applications and redevelopment of the Square and the CBD for commercial, residential and civic uses will progressively take place and replace the existing building stock."* The PP notes that a number of developments have been approved, under the PCCLEP 2007 and under Part 3A of the EP&A Act 1079, that move Parramatta towards the city skyline envisaged in the PCCLEP 2007 and that the Aspire Tower with a height of 306 metres will represent a landmark tower, but as the desired future character of the LEP is achieved it will form the key landmark building at the centre of the CBD and part of a coherent CBD skyline.

Once again, it is reasonable to conclude that a 26m increase in height, whilst significant in terms of a street level development, would not be readily perceivable to an observer at ground level in the vicinity of the site. In the wider viewing context, whilst an increase in height of 26m will likely be perceptible in the skyline, we would consider that such an increase would not be measurable.

A building height of 306m will represent a significant escalation in height over the existing Parramatta skyline. However as stated in the PP, Parramatta is, or should be, a city in transition. It is anticipated that the regeneration of the area, once activated, will result in a general increase in building heights across the CBD area graduating down to the outer lying areas. At 306m, the Aspire Tower would dominate the adjacent buildings, even when built to their full height limit (200m), but this additional 26m may not have a significant impact on the height differential in the wider viewing context (Refer to **Figures 1** and **2** over).

By its very definition, a "landmark"[8] building; a structure that signals the importance of a place (in this case Parramatta's role as Sydney's second CBD); should be clearly distinguishable in the cityscape.

[8] Landmark - an object or feature of a landscape or town that is easily seen and recognized from a distance, especially one that enables someone to establish their location; oxforddictionaries.com

Figure 1 : Photomontage of the architectural design-competition winning scheme Source: PP (Graphic supplied by Grimshaw Architects/JBA Planning

Figure 2 : '**Amended**' Photomontage of the architectural design-competition winning scheme incorporating additional height (The additional height is not to scale –purely for illustrative purposes) Source: PP (as amended by CDSP)

5.3.2 Airspace Protection

The visual impact of the height increase is not the only factor to consider in terms of the height increase on the site.

The protection of airspace surrounding airports is a critical component of maintaining a safe environment for both the current and future traffic types and levels, and consequently it is often necessary to restrict some types of development and landuses in the vicinity of airports.

The Bankstown Airport Master plan 2005 (Part C Airspace Protection) identifies a prescribed airspace is to ensure that Bankstown Airport is not adversely affected by the building of structures in the area used by arriving and departing aircraft. The Master plan identifies an Obstacle Limitation Surface (OLS) and a 'Procedures for Air Navigational Services – Aircraft Operations (PANS-OP)' Surface[9], both of which may have implications for the PP in terms of the appropriate permissible height on the subject site.

The subject site is located within the Outer Horizontal surface of the OLS map which has a height limit of 156m AHD[10] and is located between the 300m and 350m height limit of the PANS-OP Surface Map. To ensure that the amended PP does not have an adverse impact on the Bankstown Airport Airspace, it is necessary that the PP be referred to Bankstown Airport Ltd, who can carry out a Safety Assessment relative to the OLS and PANS-OP Surface.

It is therefore recommended that Council consult with Bankstown Airport Ltd, the Civil Aviation Safety Authority (CASA) and Airservices Australia as part of the PP consultation process.

3.5.3 Overshadowing

As identified in the amended PP, the revised height limit of 306m would result in the Aspire Tower breaching the Jubilee Sun Plane Access, and as such, would give rise to additional overshadowing of Jubliee Park (Refer to **Figure 3** below for the location of Jubilee Park relative to the subject site).

The park has an area of approximately 1.1ha, which includes large expanses of open grassed areas, outdoor seating, band hall and a childcare centre. The park is a mixture of open spaces, trees and walkways and is used by office workers for lunchtime strolls and eating lunch. The park is classified as a local park and is small in comparison to other Parramatta LGA and CBD parks, though it exceeds the DoPI minimum recommended standard of 0.5ha for a public park.

As part of the revised PP, overshadowing analysis of the proposal has been undertaken by Grimshaw Architects and JBA Planning. These reports demonstrate that the Aspire development, as amended, would cause additional overshadowing of Jubilee Park on 22 June for a 30 minute period between 1.30pm and 2pm. In this period, the percentage of the park which is overshadowed will increase by up to 48.1%, such that at 1.45pm the level of overshadowing will increase from 22.3% to 70.4% (worst case scenario).

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[9] The OLS is generally the lowest surface and is designed to provide protection for aircraft flying into or out if the airport when the pilot is flying by sight. The PANS-OP surface is generally above the OLS and is designed to safeguard an aircraft from collision with obstacles when the aircraft's flight may be guided solely by instruments, in conditions of poor visibility.

[10] Australian Height Datum

However further analysis by Grimshaw Architects show that the percentage of true additional overshadowing (reduced due to the distance of the subject site from the Park) is actually less than this (27.6% at 1.30pm, 43.8% at 1.45pm and 4% at 2pm). There is no additional overshadowing outside of this half hour timeframe. The increase in overshadowing on 21 July is also restricted to 1.30pm to 2pm when the extent of additional overshadowing is a maximum of 35.2%, resulting in 54.2% of the park being overshadowed at 1.45pm. There is no additional overshadowing of the Park during the equinoxes or the summer solstice as a result of the proposed amendment.

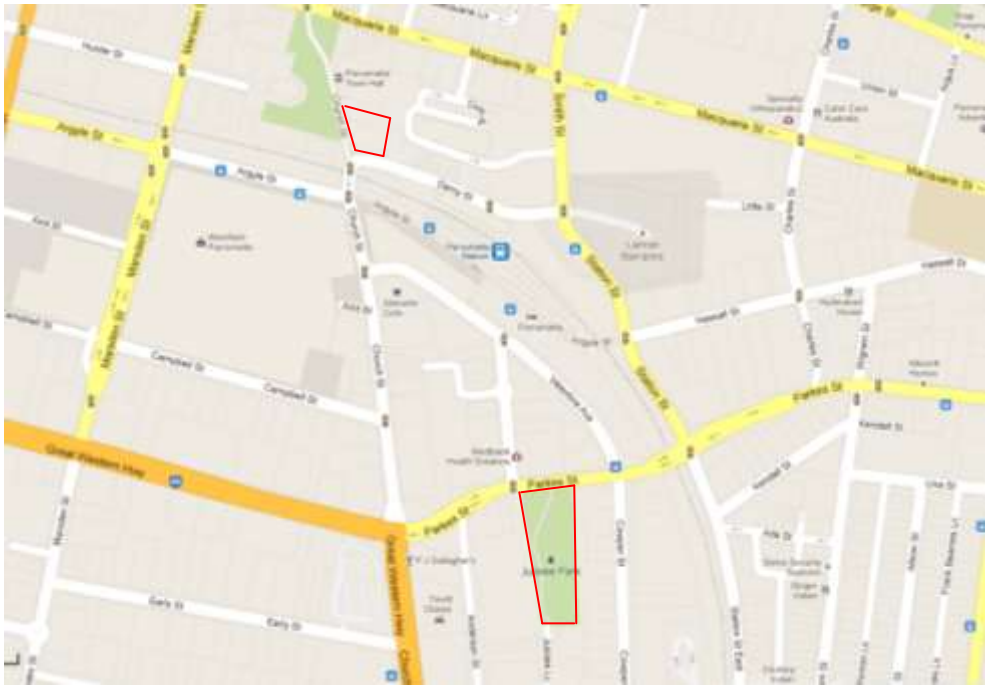

Figure 3 : PP site relative to Jubliee Park Source: Google maps

The overshadowing analysis prepared by JBA Planning (having regard to the overshadowing study undertaken by Grimshaw Architects) puts forward a case that this level of overshadowing is acceptable, having regard to:

- The significant open space and public domain benefits of the Aspire development;
- The role and junction of Jubliee Park in the CBD's open space hierarchy; and
- The extent of affection which still allows lunch time solar access to a notable portion of the park and given the extent of overshadowing further reduces throughout the year and winter period.

The JBA Planning Overshadowing Analysis claims that Parramatta has an unusually large amount of Open Space by international standards, and that a significant amount of park space within Parramatta CBD will continue to function with solar access during the lunch time period on June 22 (though there does not appear to have been any analysis of open space areas other than Jubilee Park undertaken).

The report also asserts that Parramatta's Open Space is predominantly turfed park with less than 1% of the open space in the CBD offering activated plaza space related to the city core or its buildings. This allows for the argument that the Parramatta Square redevelopment, to which the

Aspire project will contribute, will address this shortfall in active and passive plaza space in the Parramatta CBD. It is noted that the overshadowing analysis, states that the additional overshadowing of Jubilee Park will be compensated for, by the active public spaces created in the future Parramatta Square development.

The amended PP requests that the benefits that would arise from the PP (provision of a landmark tower for Parramatta CBD, provision of a tourist/visitor facility at no cost to the Council (and thereby implied to the taxpayer either), improvement in the built form, provision of residential and employment generating floor space and new services, and the catalytic effect that the Aspire Tower development could have on the further development of Parramatta) be weighed against the anticipated increase in overshadowing.

Given that the extent of additional overshadowing is limited to winter at which time, approximately 29.6% of the park between 1.30pm and 2pm and up to 75% at other times will remain unaffected by overshadowing and that during the equinoxes and summer, when demand for outdoor use of the park is more likely to be greater, there will be no additional increase in overshadowing as a result of the PP, it would appear that weighing the economic, environmental and social impacts of the amended PP, that the intermittent degree of overshadowing of Jubliee Park can be justified.

The current overshadowing analysis acknowledges that Jubilee Park includes a childcare facility but there has been no analysis of the loss, if any, of solar access to the facility or the recreational areas associated with same. The issue of overshadowing of other public spaces, existing properties and private amenity spaces also has not been addressed. Whilst the overshadowing diagrams prepared by Grimshaw Architects give an indication of the extent of additional overshadowing, further analysis is required to determine the land uses affected and whether they are sensitive uses.

The assessment of the original PP identified the need to address potential overshadowing impacts and it recommended that any overshadowing studies which were undertaken in the design of the 'Aspire Parramatta' building or in the preparation of the original PP be included in the supporting documentation placed on public exhibition. Where such studies were not undertaken, it was recommended that they would be undertaken post-Gateway determination. Since it was a recommendation that the post gateway exhibition of the PP coincide with the exhibition of the DA (whether concept or detailed), it was conceded that the additional overshadowing studies could reasonably be submitted with the DA.

Whilst it is noted that there were no overshadowing studies or analysis exhibited with the original PP, a DA for the development of the Aspire Tower has subsequently been lodged with Council. It is anticipated that this DA (which was submitted to Council on 28 March 2013) contains detailed overshadowing analysis which would be sufficient to allow for a determination of the potential overshadowing impact. (**Note**: We have not seen nor assessed any such analysis).

In the event that detailed overshadowing analysis has not been submitted with the DA, or is deemed inadequate to determine the extent of additional overshadowing on public open spaces and residential properties and the impact of same on residential amenity, it is recommended that such studies be carried out prior to the re-exhibition of the amended PP and placed on exhibition with the PP.

Other than Clause 29E (which relates specifically to Lancer barracks and Jubilee Park), the PCCLEP 2007 does not have specific controls in relation to sun access. The PCCDCP 2007, in Part 2, refers to sun access to public spaces, which again specifically identifies the key public spaces of Civic Place site (now Parramatta Square), Lancer Barracks site and Jubilee Park with Sun Access Plane maps provided for Lancer Barracks and Jubilee Park. The residential development controls in Part 6 of the PCCDCP 2007, state that Parts 2 and 3 of the Residential Flat Design Code associated with SEPP No 65 – Design Quality of Residential Flat Development are to be applied to the city centre and as such include provisions for Daylight access. It is therefore considered appropriate that the overshadowing analysis (submitted and exhibited as either part of the DA or in support of the amended PP) look at the potential increase in overshadowing from 9am to 3pm at mid-winter and the equinoxes.

3.5.4 FSR

As set out in the assessment of the original PP, the innovative design of the Aspire Tower (enclosure of the balconies to render them useable in all conditions and offer wind protection, provision of communal and private open space within the vertical development to provide useable space to foster community interaction and a sense of local ownership and to allow for passive cross-ventilation of the building) was not achievable if the development was to comply with the current FSR standards in the PCCLEP 2007.

The PP sought to amend the definition of the GFA to exclude private and semi-private amenity space and community space on this site and to set out GFA limits for the site (50,000m^2 of traditional floor space, 20,000m^2 of central communal circulation and atrium spaces and 5,000m^2 of private open space in the form of balconies and winter gardens) rather than FSR controls. (As noted earlier in this report, the original PP erroneously stated the area of 'traditional' floor space as 70,000m^2 when this in fact should have been 50,000m^2).

It was argued in the original PP that the need for the changes in how the floor space was measured was the result of a need to secure the delivery of these amenity spaces rather than the result of a significant increase in activity generating floor space.

The amended PP seeks to further increase the traditional floor space counted as GFA to 70,000m^2 (an increase of 20,000m^2). It is stated that this increase in GFA is not simply a result of the increase in height (from 78 storeys under the original PP to 90 storeys under this amended PP), but can be attributed to a number of factors including:

- "*Further structural and services work which has determined that the floor to floor heights could be lowered without a corresponding decrease in residential amenity (i.e. 2.7 metre ceiling heights are still achieved);*
- *Balconies in the hotel component have been reduced in width (from 600mmm to 360mm) thereby increasing internal floor space;*
- *Balconies in the apartment component have been reduced in width (from 2100mm to 1800mm) thereby increasing internal floor space;*

- *Rationalisation and resolution of the hospitality and retail components, apartment planning and access which has resulted in other increases in floor area*."

It would appear from the above justification of the floor space increase, that the reduction in the balcony areas in the hotel and apartment components of the development (which it now seems is included in the traditional floor space amount and account partially for its increase) compensates for the additional private amenity space (winter gardens) provided on the new upper levels. (There is no increase in the floor space allocated to winter gardens – 5,000m^2).

As before, there are no real concerns with regard to the additional increase in floor space on the site. The *Metropolitan Plan for Sydney 2036* and the *Draft Sydney Central West Subregional Strategy* both identify Parramatta as a housing and employment growth centre. The removal of the FSR limit from the site in this circumstance and the provision of a control expressed in terms of GFA, which will allow for 70,000m^2 of traditionally defined floor space, may ensure the economic viability of delivering the Aspire Tower. In this regard, it is considered that this provision of the amended PP, and the building it will facilitate, is still consistent with the objectives of the B4 Mixed Use Zone in which the site is located, which are:

- *"To provide a mixture of compatible land uses;*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling;*
- *To create opportunities to improve the public domain and pedestrian links within the Mixed Use Zone;*
- *To support the higher order Commercial Core Zone while providing for the daily commercial needs of the locality, including:*
    - *commercial and retail development,*
    - *cultural and entertainment facilities that cater for a range of arts and cultural activity, including events, festivals, markets and outdoor dining,*
    - *tourism, leisure and recreation facilities,*
    - *social, education and health services,*
    - *high density residential development; and*
- *To protect and enhance the unique qualities and character of special areas within the Parramatta city centre."*

5.4 Public Benefit

It was previously stated in our earlier report (November 2012) that the increase in the permissible height and gross floor area on the site was predicated on the provision of a significant public benefit being a "visitor experience centre" and viewing platform/facility with a minimum area of 1,500m^2 which would offer the best views from the development to the community.

Under the amended PP, the size of this publicly accessible viewing platform, experience centre and function rooms are to remain as per the original PP (1,500m^2). However, as a result of the proposed increase in height, the proposed public viewing facility will be at a greater height thereby potentially offering more expansive views of the Greater Sydney area.

In the assessment of the revised PP, a key question which we had to consider was whether the delivery of this tourist/visitor facility hinges on the additional height and floor space, and if so whether the public benefit to be gained from the delivery of the facility outweighs any potential negative impacts of the amendment.

The amended PP states that the increase in height and floor space is a result of "*market feedback and feasibility testing, which has determined the right 'product' mix for the site that will be attractive for a prospective developer to build and deliver the building*" and that this "*includes the location of the experience centre and the penthouse units, with increased height and outlook as well as providing a necessary threshold and quantum of residential apartments that are available for sale*." In this regard, it is acknowledged that the feasibility of the project, which in addition to providing a tourist/visitor facility, would act as a catalyst for the redevelopment of Parramatta Square, is a determining factor.

In terms of impacts, as outlined earlier, it is considered that the visual impact of the increase in height from both a street level and wider regional context is negligible at this height (an additional 26m in the context of a 280m structure in a designated CBD).

The overshadowing of Jubliee Park, which may be considered a loss of public amenity by reducing the amenity value of a public park needs to be weighed against the public benefit to be gained from the provision of the public viewing area and active open space which may be associated with, or facilitated by, the development. Having regard to the conclusions of the overshadowing studies by JBA Planning which concludes, that the degree of additional overshadowing will be confined to a half hour in winter and will reduce, though not remove, all available unshaded areas at lunchtime, it is considered that the overshadowing of Jubilee park is a reasonable "trade-off" for the public benefit to be gained by a publicly accessible viewing facility and the active open space generated by the development.

However, the issue of overshadowing of other public areas and the living areas and private amenity spaces of private properties affected by the Aspire Tower must also be considered. The potential reduction of solar access, if any, to not only public spaces, but also existing dwellings must be weighed against the public benefit to be gained from the Aspire Tower and it must be determined if the potential reduction in individual residential amenity is in the public interest.

As outlined earlier, the DA for the Aspire Tower has been lodged with Council and it is anticipated that the supporting documentation submitted with the DA includes the detailed overshadowing analysis which is required to make such a determination.

6.0 CONCLUSION

This amendment to a PP to increase the maximum building height to 306m and the area of traditional floor space to 70,000m^2 and consequently to remove the application of the Jubilee Park Sun Access Plane restriction (**Clause 29E** of the PCCLEP 2007) from the site arises from a need to enhance the 'product' mix and subsequently the viability of the development.

As outlined in the assessment of the original PP, it is considered that the development of the Aspire Tower would be in the interests of the orderly and sustainable development of Parramatta CBD, and that PP to facilitate same should be supported. It is considered that the proposed amendment to the PP is, in principle, acceptable.

However as before, the physical impacts in terms overshadowing, heritage and additional traffic generation needs to be addressed. An assessment should be carried out to determine:

- the potential overshadowing of public spaces, residential areas and associated private amenity space and any subsequent loss of amenity (private or public).
- the potential impact on the World Heritage Old Government House and historic view corridors in the Parramatta City Centre;
- traffic implications of the proposed development in terms of additional traffic generation and traffic management; and.
- the impact on the Bankstown Airport airspace.

It was previously considered that, if the public exhibition of the PP was to occur concurrently with that of either a concept or detailed DA for the Aspire Tower, that the required additional information could be submitted with the DA. As a DA has now been lodged with Council, and these additional studies may have been submitted with the DA (or in the case of the impact on the Bankstown Airport airspace may be determined by way of consultation), these issues may be addressed through the DA process. However, where these issues (overshadowing, visual impact on the World Heritage Old Government House and historic view corridors in the Parramatta City Centre and additional traffic generation and traffic management) have not been addressed in the DA, they should be required to be assessed as the next step in the PP process and exhibited with the amended PP.

Having reviewed the amended PP and assessed the potential impacts of the amendments, it is considered that that Council support the amended PP and resolve to forward it to the DoPI subject to the recommendations outlined in **Section 7**.

7.0 RECOMMENDATIONS

It is recommended that subject to the following recommendations, the amended PP be supported and referred to the DoPI for Gateway Determination in accordance with the EP&A Act 1979.

7.1 Additional studies

1. Where the DA for the Aspire Tower as submitted to Council does not address the issues outlined in (a) to (c) below, additional studies should be undertaken as part of the PP process to assess the potential impacts arising from the amended PP, and such studies should be place on public exhibition with the amended PP.

   (a) It should be demonstrated that the level of overshadowing arising from the increase in building height on the site is acceptable. This analysis should look at the overshadowing that would be generated between 9am and 3pm on June 22, September 22 and December 22.

   Whilst the overshadowing diagrams prepared by Grimshaw Architects in support of the amended PP give an indication of the extent of additional overshadowing which would result from the amended PP, further analysis is required to determine the land uses affected and whether they are sensitive uses (public open spaces, living rooms or private amenity space associated with residential units, childcare recreational amenity areas, etc). The overshadowing analysis should also clearly distinguish between the shadows deriving from a development permissible under the current LEP controls and those which could be generated as a result of the amended PP (or Aspire Tower).

   (b) The visual impact, if any, that the Aspire Tower (as permitted by the amended PP) would have on the World Heritage listed Old Government House in Parramatta Park.

   (c) The impact of the additional height and floor space on traffic generation and traffic management in the area. This traffic study should also have particular regard to any traffic management issues that would arise from the development of the public visitor / tourist facility on the site.

2. The Council's decision to support the amended PP should be the result of the positive impacts of the Aspire Tower outweighing the potential negative impacts arising from the development of same. However, where the outcome of the additional studies required in **Section 7.1** (which may be submitted with the DA for the Aspire Tower) indicate that there may be significant adverse impacts resulting from the amended PP (significant overshadowing, impact of heritage views, etc) which are not mitigated by the public benefits of the proposal, and the Council resolves to proceed with the amended PP regardless, it is important that further analysis be undertaken of the necessity for the increase in height and floor space. This will ensure that, the increase in height and floor space, where it results in adverse impacts, can be justified.

7.2 Consultation

1. It is recommended that the revised PP be placed on public exhibition for a minimum of 14 days, or as otherwise required by the DoPI.

2. Consultation should be undertaken in accordance with the consultation requirements of the Gateway Determination dated 25 January 2013. In addition to the bodies prescribed therein by the DoPI, consultation should be undertaken with Bankstown Airport Ltd, CASA and Airservices Australia.

7.3 Height differential

1. It is recommended that the maximum height of the residential/habitable element of any future development on the site be limited to 290m and that the maximum building height to the top of the building be 302m. Any architectural roof feature on the building should not exceed 306m.

2. It is recommended that the RPA make provisions to ensure that the increase in height does not set a precedent for wide scale height increases across the CBD.

   As acknowledged in the PP, the increase in height of the Aspire Tower over adjacent buildings will allow for greater diversity in the built form along Darcy Street. (Developing to the height controls under the current LEP has the potential to result in a monolithic block feature on the skyline). Therefore, as with the original design of the Aspire Tower which proposed to break up the blocks along Darcy Street and introduce variety and interest in the skyline profile by adjusting the height parameters along this street, it is important that this height differential is maintained. This will protect the status of this site as a 'landmark' building site and ensure that future development in Parramatta City Centre is deferential to the site in terms of relative height.