

Greater Sydney, Place and Infrastructure

IRF20/2128

Plan finalisation report

Local government area: Parramatta

1. NAME OF DRAFT LEP

Parramatta Local Environmental Plan 2011 (Amendment No. 46)

2. SITE DESCRIPTION

The planning proposal applies to land at Lot 10 DP128882, Lot 13 DP1077402, Lot 14 DP1077402 and Lot 2 DP128524, also known as 14-20 Parkes Street, Harris Park (Figure 1).

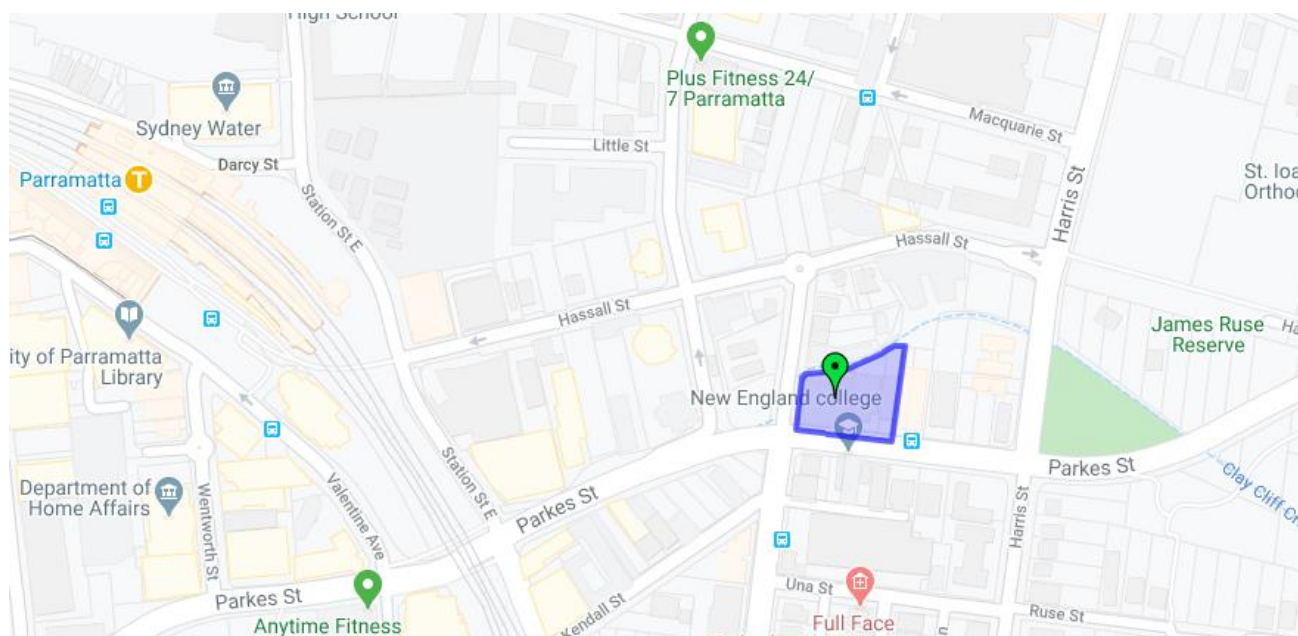


Figure 1: Location of 14-20 Parkes Street, Harris Park

The site has an area of approximately 2,800m² and is irregular in shape. The site is currently occupied by two commercial buildings at 14-18 Parkes Street (5 storeys) and 20 Parkes Street (2 storeys) with at grade and basement car parking.

The site is located approximately 400 metres from Parramatta Railway Station and within 550 metres from Harris Park Railway Station.

Clay Cliff Creek is an open channel that runs along the northern boundary of the site. The properties within the immediate vicinity of the site range from two storeys to approximately 15 storeys.

The entire site is inundated in the Probable Maximum Flood (PMF) event, affected by the 100 year Flood event, and partly affected by the 20 year Flood event. Part of the site is subject to high flood hazard, with remainder being low hazard.

3. PURPOSE OF PLAN

The planning proposal seeks to facilitate redevelopment of the site for a mixed use building of 35 storeys. To achieve this, the planning proposal seeks to amend Parramatta LEP 2011 as follows:

1. increase the maximum building height on the Height of Buildings Map (Sheet HOB_010) from 54 metres to 110 metres (35 storeys), plus design excellence;
2. increase the maximum FSR on the Floor Space Ratio Map (Sheet FSR_010) from 4:1 to a base FSR of 8:1, plus design excellence;
3. apply a maximum car parking rate provision that is in accordance with the CBD Strategic Transport study based on the following:
 - a) residential parking rates:

Type of Apartment	Spaces/unit
3-bedroom	1 space/unit
2-bedroom	0.7 spaces/unit
1-bedroom	0.3 spaces/unit
Studio	0.1 spaces/unit

- b) commercial parking rates:

If the FSR > 3.5:1

$M = (G * A) / (50 * T)$ where:

M = maximum number of parking spaces;

G = GFA of all office/business premises in the building (m²);

A = Site Area (m²);

T = Total GFA of all buildings on the site (m²), and

- 4. introduce a site-specific clause requiring a flood refuge area and other flood planning considerations. This clause is a post-exhibition change proposed by the Department and addressed further below.

The draft LEP maps are provided at **Attachment Maps** and the draft LEP is provided at **Attachment LEP**. The draft LEP does not intend to alter the existing B4 Mixed Use zoning for the site under the Parramatta LEP 2011.

The planning proposal is supported by an urban design report (**Attachment F**) indicating that the site can accommodate approximately 255 dwellings within a residential flat building with 600m² of commercial space.

At its meeting on 16 December 2019 Council endorsed the planning proposal to finalise the LEP. Council requested that the planning proposal not be finalised until the site-specific Development Control Plan (DCP) was endorsed and the local Voluntary Planning Agreement (VPA) was executed. The DCP and VPA were endorsed by Council on 11 May 2020 and the VPA has been executed.

4. DEVELOPMENT APPLICATION

A development application (DA/179/2020) is currently being considered by Council for the construction of a 39-storey mixed use development comprising of a total of 294 residential units with ground floor commercial space and a total of 205 car parking spaces provided across four basement levels and four above ground levels. The application is based upon

the planning proposal's controls. The application includes the design excellence bonus for both height and FSR and the plans identify a 9.2:1 FSR and a building height of 126 metres.

The application has previously undergone a design competition (Figure 2), in which design excellence was awarded to a concept with a maximum building height of 138 metres and an FSR of 11.5:1, noting that Council had previously endorsed controls of a 10:1 FSR and 122.5 metres building height, but this was reduced during consideration of the Gateway determination. The proposed development application contains a revised design excellence scheme, reflecting the controls supported by the Gateway Determination of 29 November 2016.



Figure 2: Photomontage of proposed development from the lodged DA (Source: City of Parramatta)

Due to the capital investment value of the proposed development, the application will be determined by the Sydney Central City Planning Panel.

5. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Parramatta State Electorate. Dr Geoff Lee MP is the State Member for Parramatta.

The site falls within the Parramatta Federal Electorate. Julie Owens MP is the Federal Member.

To the planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

6. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 17 June 2016 (**Attachment B**) determined that the proposal should proceed subject to conditions. Notably, the Gateway determination originally conditioned an amendment to the proposal to apply a reduced FSR of 6:1 and height of 79 metres, plus design excellence. The Gateway determination was altered on three separate occasions (**Attachments C1 to C3**). The alterations are discussed below:

- Alteration 1 (**Attachment C1**) – 15 August 2016 – Amendment to remove the need for concurrent exhibition and notification of several planning proposals which council were progressing at similar times;
- Alteration 2 (**Attachment C2**) – 29 November 2016 – Amendment to allow a maximum FSR to 8:1 and a maximum building height of 110 metres (plus design excellence) proposed by the planning proposal. This amendment was the result of a Gateway Review requested by the applicant and additional site-specific evidence; and
- Alteration 3 (**Attachment C3**) – 21 September 2017 – Amendment to require the planning proposal to be consistent with the maximum parking rate in accordance with the CBD Strategic Transport Study.

The Gateway determination required several matters to be considered and the planning proposal to be amended, to address concerns. Some of the key matters which required further consideration are:

- Condition 1 (e) – required removal of provisions relating to ‘Value Sharing/Funding Mechanism and Design Excellence’ from Part 2 – Explanation of Provision.
- Condition 6 - required a maximum car parking rate in accordance with the Parramatta CBD Strategic Transport Study.

The planning proposal was amended to address these conditions. The Department is satisfied that Council has met the conditions of the Gateway determination and the draft LEP is suitable for finalisation.

7. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 12 March to 12 April 2019. Two community submissions were received during the exhibition process.

Council has satisfactorily addressed comments made in the community submissions in its report to the Local Planning Panel (**Attachment G**) and submission summary table (**Attachment H**). The key issues raised, and Council’s responses are summarised below:

Maximum building height should be maintained at 54 metres

In response to comments raising concern with the development reducing the amenity of surrounding properties, blocking views and reducing light infiltration, Council considered the submission in the context of developing the planning controls for the Parramatta CBD.

Council noted that this proposal is concurrently proceeding alongside the endorsed Parramatta CBD planning proposal, which seeks a maximum height of 130 metres and as such, a proposed height of 110 metres is consistent with the desired future character.

Council identified that the impacts of the development are largely managed by the development controls within Parramatta DCP 2011 and the Apartment Design Guide (SEPP 65).

The concept plan supporting the proposal demonstrates that the development of the site would not unreasonably compromise the potential future development of adjoining sites,

however, this is subject to DA assessment. It is noted that while the planning proposal is generally consistent with the CBD planning proposal and has demonstrated sufficient site specific merit to proceed to finalisation.

Inconsistency with streetscape and surrounding development

A community submission raised concern about the proposed development being inconsistent with the overall design and current look of the city, due to the surrounding existing towers being much smaller. Council identified that the proposed design includes measures to reduce the visual impact on the street including the above ground car parking being sleeved with 4 levels of active uses. The design concept indicates an acceptable level of compliance with SEPP 65 and the apartment design guide to enable the planning proposal to proceed.

Council notes that a future development application will need to consider the impacts on amenity of adjoining uses, bolstered by the site-specific DCP.

Local Planning Panel

On 3 December 2019, the Local Planning Panel considered an assessment report for the finalisation of the planning proposal and advised Council that the plan should be made **(Attachment G)**.

8. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the Environment, Energy and Science Group (formerly Office of Environment and Heritage); Heritage NSW; Department of Education and Communities' Transport for NSW – Ferries, Sydney Trains, and Roads and Maritime Services; Telstra; Sydney Water; Endeavour Energy; and State Emergency Service in accordance with the Gateway determination.

Submissions were received from six public agencies during the exhibition period. Council addressed the public agency comments within their report to the Local Planning Panel **(Attachment G)** and submission summary table **(Attachment H)** in a satisfactory manner. A summary of each submission is provided below:

Environment, Energy and Science Group (EES)

EES provided comments that dealt with Aboriginal heritage, sustainability, site landscaping and flooding. The comments are summarised below.

Aboriginal Heritage

EES have indicated that the site is in an area of high Aboriginal archaeological sensitivity and have suggested that an Aboriginal assessment should be undertaken to inform the planning proposal.

Council notes that the Aboriginal sensitivity information, informed by the outcome of the Parramatta Aboriginal Cultural Heritage Study 2014, identifies the site as having low sensitivity. Council identified that an Aboriginal or Archaeological assessment would be more useful in informing the amended design competition and development application for the site and will be conducted at the development application stage. This is considered appropriate given the site is already developed.

Sustainability

EES suggested the proposal include provisions relating to sustainability including water sensitive urban design, urban tree canopy and green cover to assist in improving the liveability of the surrounding area. EES recommended that these provisions and controls should be included in a VPA or site specific DCP for the site.

In response, Council highlighted that the existing DCP contains sustainability measures and BASIX will also be applied. Council notes that the inclusion of sustainability measures including water sensitive urban design and planting should be further considered during assessment of the DA for the site.

Site Landscaping

EES recommended that a riparian corridor be provided along Clay Cliff Creek to improve biodiversity. EES also noted that a diversity of local native plants should be provided which incorporate a diversity of local native plants.

Council indicated that the proposed development is setback 6 metres from Clay Cliff Creek which should enable this area to be appropriately vegetated whilst preserving the option of establishing a vegetated riparian corridor. Additionally, Council notes that the landscaping and incorporation of native vegetation will be further addressed at the DA stage.

Flood Risk Management

EES recommends that the development incorporate several measures to manage flood risk, as part of the site is subject to flood inundation.

In response, Council addressed this advice through the preparation of a site specific DCP, containing a number of flood risk management measures for the site. Council have identified that the DCP will ensure these issues are considered in the future DA for the site.

In finalising the planning proposal, the Department considers it appropriate to include a site-specific clause to address flood risk management, consistent with the site-specific clause introduced for an adjoining property. This is addressed further in this report as a post-exhibition amendment.

Heritage NSW

Heritage NSW provided comments which question the cumulative impacts on surrounding state and local heritage items, as well as conservation areas surrounding the subject site. Specifically, the comment referenced '113-115 Wigram Street', '23-25 Hassall Street', 'Robyn Thomas Reserve', 'Experiment Farm Cottage', 'Hambledon cottage', 'Harris Park Conservation Area' and 'Experiment Farm Conservation Area'.

The Heritage NSW recommended that the proposal and specialist studies be further refined to address these heritage items and the impact of the development upon them prior to finalisation. Heritage NSW also recommended that the Parramatta CBD Planning Proposal be resolved prior to the finalisation of this proposal due to concerns about the number of proposals seeking density increases.

The Department notes that the site and surrounding areas have undergone a detailed overshadowing analysis (**Attachment I**) as part of the Parramatta CBD Planning Proposal. The initial CBD proposal did not apply a maximum height control to the site and others in the CBD potentially resulting in significant impact on local and state heritage items, as well heritage conservation areas (HCA). A Gateway determination of the CBD proposal required additional analysis to be undertaken and possible refinement of heights to mitigate excessive overshadowing.

It is noted that while the Parramatta CBD Planning Proposal is yet to be endorsed for exhibition, its analysis demonstrates the controls proposed through the site-specific proposal reach an appropriate balance of development uplift and preservation of amenity for nearby low density HCAs. The subject site is not immediately adjacent to any heritage items. It is also considered that the planning proposal is supported by a site-specific assessment of impacts and that this issue has been appropriately addressed.

Transport for NSW

Transport for NSW had no objections regarding the planning proposal. It was noted that the site-specific provision regarding maximum parking rates is in accordance with the Parramatta CBD Strategic Transport Study.

Roads and Maritime Service (RMS)

RMS considered the planning proposal and raised no objections in principle to the planning proposal, on the basis that the maximum parking rates in accordance with the Parramatta CBD Strategic transport study being included in the LEP.

RMS also highlighted to Council the importance of having suitable funding mechanisms in place to obtain developer contributions. RMS noted that these should be on an equitable basis towards regional transport infrastructure upgrades to support future growth associated with the multiple planning proposals across the Parramatta CBD. Council notes that a VPA has been executed which is to provide a monetary contribution to support infrastructure provision within the Parramatta CBD.

Further comments were provided to Council on matters relating to vehicular access and impacts on bus operations in Parramatta CBD. In response, Council has identified that these concerns will be considered during the assessment of the DA for the site.

Endeavour Energy

Endeavour energy considered the planning proposal and referred to their submission to Council regarding the Development Application DA/1263/2016 for 12A Parkes Street. Endeavor Energy provide information for the electricity supply to the site and noted that distribution substations should not be subject to flood inundation.

Council noted that the these matters of concern will be addressed at the DA stage through detailed design and engineering.

NSW State Emergency Services (SES)

SES raised concerns regarding the potential to increase risk to human life and property. SES noted that the proposal would allow for an increase of almost 700 residents to the site, in which half of the site has been mapped as high hazard. SES advised this will increase the risk to its operations through additional population as well as demand on, and risk to, emergency service volunteers.

SES also indicated that the proposal would be unable to meet to requirements of the Parramatta LEP 2011 in terms of minimising the flood risk to life and property, nor in meeting the criteria for compatible development with the land's flood hazard.

Council identified that the flooding concerns raised by the SES are Parramatta CBD wide. As such, the site-specific DCP, prepared to support the planning proposal, contains flood control measures informed by the Parramatta CBD Planning Proposal. This includes a requirement for the development to have a safe area of refuge above the Probable Maximum Flood Level for all occupants.

The Department notes that Council have commissioned several flood studies as part of the Parramatta CBD Planning Proposal which have recommended a shelter-in-place strategy. A post-exhibition change has also been introduced by the Department, as discussed in Section 9 below.

9. POST-EXHIBITION CHANGES

Council has not proposed any amendments to the planning proposal following public exhibition.

In considering submissions raised by OEH and SES, the Department has proposed to introduce a site-specific provision to address flood risk management. This replicates a similar provision for an adjoining property also subject to flood hazard. Including the provision in the LEP elevates the controls which were proposed within the site-specific development control plan (DCP). An LEP provision is given greater weight compared to the DCP controls which only guides development.

The provision will require that a suitable area of refuge is available within the future building which is above the probable maximum flood (PMF) level which is to be connected to emergency electricity and water supply. This will allow for residents and workers to shelter in place in the case of flooding emergency and is in line with the approach proposed under the Parramatta CBD Planning Proposal.

The future development must also be designed to accommodate an emergency access point to the land that is above the 1% annual exceedance probability event, and to be able to withstand the forces of floodwaters, debris and buoyancy resulting from a PMF event.

In preparing this provision, the Department has consulted Council and the proponent to advise of this amendment. Both parties have raised no objection to the inclusion of the provision.

10. ASSESSMENT

10.1 Section 9.1 Directions

The Gateway determination found the proposal to be largely consistent with Section 9.1 directions.

The Gateway determined that any inconsistency with Directions 4.1 Acid Sulphate Soils and 4.3 Flood Prone Land is of minor significance and no further consideration is required. It is noted that the new flood provision will bolster flood hazard mitigation.

10.2 State environmental planning policies

The draft LEP has addressed and is consistent with all relevant SEPP's.

10.3 Central City District Plan

The Greater Sydney Commission released the Central City District Plan on 18 March 2018. The District Plan provides a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is noted that the Gateway determination was issued prior to the release of the District Plan.

The draft LEP is consistent with the Planning Priorities C1 'Planning for a City supported by Infrastructure' and C5 'Providing housing supply, choice and affordability with access to jobs, services and public transport'. The proximity of the site to Harris Park Station, Parramatta Station and a range of bus services ensures the draft LEP will deliver a mix of housing supply in an accessible location to a variety of services and employment opportunities within Greater Parramatta and Sydney CBD.

The draft LEP will also give effect to the priority C7 'Growing a stronger and more competitive Greater Parramatta' as the provision of ground floor commercial floor space will foster a number of jobs on the periphery of the Parramatta CBD.

The priority C9 'Delivering integrated land use and transport planning and a 30-minute city' will also be satisfied as the proposal will facilitate the delivery of new dwellings in proximity to existing public transport, whilst the redevelopment of the site and improved landscaping

of Clay Cliff Creek will encourage a walkable and accessible city, where residents are enabled to walk or cycle to Parramatta CBD and access high-quality open space.

Therefore, the Department is satisfied that the proposal gives effect to the district plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

10.4 Parramatta Local Strategic Planning Statement

Council's Local Strategic Planning Statement: City Plan 2036 (LSPS) outlines Greater Parramatta's 20-year vision for land use planning, population, housing, economic growth and environmental management. It is noted that the Gateway determination was issued prior to the endorsement of Council's LSPS.

The proposal is consistent with the priorities and actions of the LSPS which seek to build the economic focus and liveability of Sydney's second CBD. Specifically, the proposal will facilitate the growth of housing and employment in the GPOP area (Priority 4) and deliver a mix of housing to support the diverse needs of the community (Priority 7) ultimately supporting the Parramatta CBD in becoming increasingly competitive and productive (Priority 11).

Therefore, the Department is satisfied that the proposal gives effect to the local strategic planning statement.

11.MAPPING

The draft LEP seeks to amend the following mapping:

- Height of Buildings Map (Sheet HOB_010);
- Floor Space Ratio Map (Sheet FSR_010); and
- Special Provisions Map (Sheet CL1_010).

These maps (**Attachment Maps**) and supporting map cover sheet (**Attachment MCS**) have been approved by the Department's ePlanning Team and provided to Parliamentary Counsel.

12.CONULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment D**).

Council confirmed on 29 May that it was happy with the draft. Council noted that the plan should not be made until the VPA is executed and site-specific DCP endorsed, which has now occurred (**Attachment E**).

13.PARLIAMENTARY COUNSEL OPINION

On 10 June 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**. No changes have been made to the draft LEP since Parliamentary Counsel opinion was obtained.

14.RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- it will provide additional dwellings and employment (commercial/retail uses) in a location near public transport, employment and services;
- it will support the growth of the Parramatta CBD in accordance with the objectives and priorities of the Central City District Plan and Council LSPS; and

- it includes flood hazard mitigation provisions to provide an area of refuge to allow for sheltering in place in a flood emergency.



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