

## Greater Sydney, Place and Infrastructure

IRF19/410

### Plan finalisation report

Local government area: City of Parramatta

#### 1. NAME OF DRAFT LEP

Parramatta Local Environmental Plan 2011 (Amendment No 39)

#### 2. SITE DESCRIPTION

The subject site (**Figure 1**) consists of 21 allotments of land bound by Parramatta Road, Albert Street, Victoria Road and the Western Railway line and is legally described as follows:

- Lot 1 in DP 615141 (187 – 189 Parramatta Road)
- Lot 1 in DP 504298 (181 – 185 Parramatta Road)
- Lot 2 in DP 89526 (181 – 185 Parramatta Road)
- Lot 1 in DP 79102 (181 – 185 Parramatta Road)
- Lot 1 in DP 76924 (181 – 185 Parramatta Road)
- Lot 1 in DP 89526 (173 Parramatta Road)
- Lot 1 DP 81084 (171 Parramatta Road)
- Lot X in DP 163366 (64 Victoria Street)
- Lot A in DP 160406 (60 Victoria Street)
- Lot 58 in DP 869379 (58 Victoria Street)
- SP 47140 (167 Parramatta Road)
- Lot 1 in DP 13530 (56 Victoria Street)
- Lot 2 in DP 13530 (54 Victoria Street)
- Lot 3 in DP 13530 (52 Victoria Street)
- Lot 4 in DP 13530 (50 Victoria Street)
- Lot 5 in DP 13530 (48 Victoria Street)
- Lot 6 in DP 13530 (46 Victoria Street)
- Lot 7 in DP 13530 (44 Victoria Street)
- Lot 8 in DP 13530 (42 Victoria Street)
- Lot 1 DP 744840 (40 Victoria Street)
- Lot B DP 151899 (38 Victoria Street)





**Figure 1** – Subject site (shown red) (Source: Planning Proposal)

The site has a combined area of 14,215m<sup>2</sup> with a 157m frontage to Parramatta Road, a northern boundary of 240 metres to Victoria Road, an eastern boundary of 74 metres to Albert Street, and a western boundary of 96 metres along the railway line.

Granville railway station is located 390m to the south east, Harris Park railway station is located 450m to the north west and Parramatta railway station is located 700m to the north west.

The site currently comprises of a mix of land uses and built form. The Parramatta Road frontage comprises furniture retail warehouses and a two-storey business premise on the corner of Albert Street. The allotments facing Victoria Road predominantly include low density detached housing. There is also a large, vacant portion of land in the north western corner of the site adjacent to the railway line.

### 3. GATEWAY DETERMINATION AND ALTERATIONS

In September 2015, UrbanGrowth placed the draft Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) on exhibition. The draft Strategy recommended a mixed-use precinct for the site with a proposed building height of between 14 and 25 storeys (82 metres). No specific FSR was identified for the site.

Council endorsed the planning proposal to be sent to the Department for a Gateway determination to rezone the site to B4 mixed use with a proposed FSR of 6:1 and maximum height of 82m.

The Gateway determination issued on 15 June 2016 (**Attachment B**) determined that the proposal should proceed subject to conditions. The planning proposal, when submitted for a gateway determination, only applied to part of the subject site. In order to enable the potential for an improved whole of block urban design outcome, the gateway determination required that the planning proposal be expanded to include the additional allotments (Condition 1(a)). **Figure 2** identifies the area subject to the original planning proposal

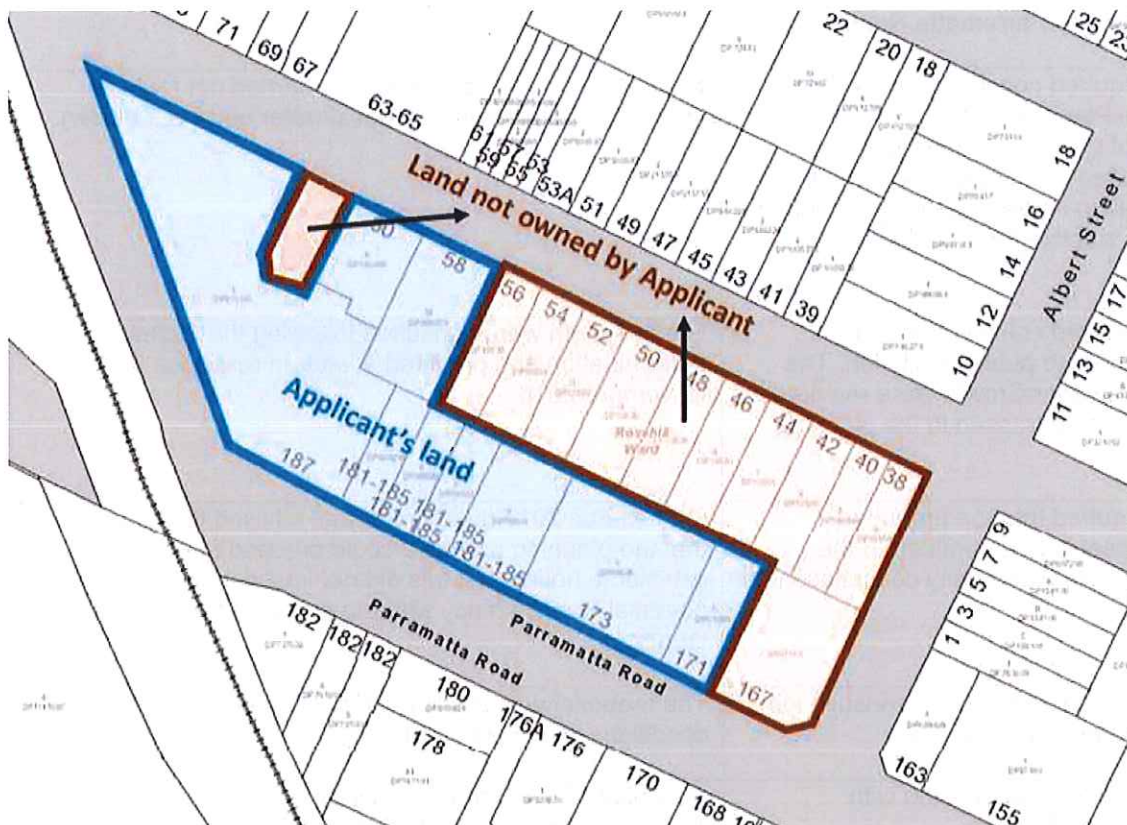


(shown red) and the additional land required to be included by a condition at Gateway (shown blue).



Figure 2 – Original planning proposal site and additional land (Source: Original planning proposal)

**Figure 3** identifies the land in the control of the proponent (shown blue) and the land owned by others (shown brown).



The Gateway determination was amended on four occasions (20 March 2017, 4 August 2017, 22 March 2018 and 30 November 2018) to provide extensions for the time to complete the LEP (**Attachment C1-C4**).

Each of the conditions on the gateway determination are addressed below:

Condition	Comment
Condition 1(a) required the planning proposal to be amended to include all land within the block located between Parramatta Road, Victoria Street, Albert Street and the rail corridor	The planning proposal has been amended to be consistent with this condition.
Condition 1(b)(i) required the planning proposal be amended be consistent with the draft Parramatta Road Urban Transformation Strategy prepared by UrbanGrowth NSW to indicate that a design excellence process will not enable any bonus height or FSR.	This was addressed in the planning proposal.
Condition 1(b)(ii) required the planning proposal apply a maximum building height of 82m (25 storeys) for the majority of the site, consistent with the draft Strategy.	The planning proposal seeks to apply a maximum building height of 82m (25 storeys) across the entire site, which is assessed in further detail in this report.
Condition 1(b)(iii) required the planning proposal to be amended to apply a maximum FSR which is consistent with achieving the vision, principles and desired built form outcomes with the Draft Parramatta Road Urban Design Guidelines	The planning proposal was exhibited with two FSR outcomes, as discussed in Section 5 of this report.
Condition 1(c) required the inclusion of a Satisfactory Arrangements Clause for contributions to designated state public infrastructure identifies as part of the draft or final strategy for the Parramatta Road corridor.	The planning proposal identifies a Satisfactory Arrangements Clause which is consistent with this condition.
Condition 2 required consideration of State Environmental Planning Policy 55 – Remediation of Land. Specifically, the condition required the preparation of an initial site contamination investigation to demonstrate that the site is suitable for rezoning to the proposed zone.	Stage 1 assessments have been carried out for land subject to the planning proposal (refer section 9 below).
Condition 3 required consultation with UrbanGrowth prior to public exhibition. The comments from UrbanGrowth were required to be considered an addressed in the planning proposal.	UrbanGrowth were consulted following the Gateway determination and provided a letter in response on 21 November 2016.
Condition 4 required that the amended planning proposal to be submitted to the Department prior to community consultation for approval.	On 7 March 2017 the Department advised the Council that the planning proposal could proceed to public exhibition, noting that this did not imply approval of any potential inconsistency with the final Parramatta Road strategy.
Condition 5 required community consultation for a minimum period of 28 days.	The proposal was exhibited in accordance with this condition (refer Section 5).
Condition 6 required consultation with numerous public authorities.	Consultation occurred in accordance with the condition. The results of the consultation are discussed in Section 6.

Condition 7 required that planning proposal be amended to ensure consistency with the Parramatta Road Urban Transformation Strategy and the associated Urban Design Guidelines at finalisation	The PRCUTS was released in November 2016 and recommends a maximum FSR of 4.5:1 and a maximum height of 52m (18 storeys) (refer section 9 below).
Condition 8 identified that a public hearing was not required	Noted
Condition 9 established a timeframe for completion of the LEP, which was amended a number of times	The finalisation date was March 2019. The planning proposal was submitted for finalisation on 29 November 2018.

#### 4. PARRAMATTA ROAD CORRIDOR URBAN TRANSFORMATION STRATEGY

At the time of Gateway determination, the Council supported a planning proposal with an FSR of 6:1, noting that the draft PRCUTS has indicated a maximum height of 82m and this FSR was assessed as being reasonable for the site after urban design testing. When the PRCUTS was finalised in November 2016 the proposed planning controls for the site were identified as a maximum FSR of 4.5:1 and a maximum height of 52m, noting that this would be subject to a future planning proposal to support this outcome.

The Strategy was given statutory weight by Ministerial Direction 7.3 *Parramatta Road Corridor Urban Transformation Strategy*. In order to implement the Ministerial Directions, the Department, along with Transport agencies and Cumberland and Parramatta Councils undertook to prepare a Precinct Traffic Study to enable the identification of infrastructure required to support the intended land use planning outcomes.

This traffic study is currently being completed, however, it was recognised that any planning proposal that had already received a gateway determination prior to the release of the Ministerial Direction should be able to proceed on merit, provided the site was appropriately 'future proofed' and appropriate arrangements had been made to ensure that any land required for infrastructure was safeguarded.

The Ministerial Direction also identifies that a planning proposal may be inconsistent with the Direction if it is justified by a study that clearly demonstrates a better planning outcome, having regard to the vision and objectives of the Strategy.

#### 5. PUBLIC EXHIBITION

On 10 July 2017, Council authorised the exhibition of the planning proposal with two potential design outcomes for the site. The resolution outlined that the applicant could submit a design option with an FSR of 6:1, provided it included a justification as to why it represented a better planning outcome, consistent with the Ministerial Direction. The second option to be exhibited was consistent with PRCUTS.

The planning proposal was exhibited from 1 November 2017 – 2 February 2018 and the two design options are outlined below:

##### 5.1 Exhibited Design Option 1

Design Option 1 proposed the following land use planning outcomes:

- Rezone the site to B4 Mixed Use;
- maximum FSR of 6:1;
- maximum height of 82m;
- provision of a 3,200m<sup>2</sup> public park fronting Victoria Street; and
- dedication of land along Parramatta Road.



The reference design submitted with this option (**Figure 4** and **Attachment F1**) suggests that 957 dwellings can be achieved across four buildings and 4,190m<sup>2</sup> of commercial floor space provided which may generate up to 174 jobs. The better planning outcome identified the potential for a park, however, in this design outcome it is recognised there was no mechanism for the proponent to deliver the park. The individual landowners whose land was affected by the proposed park also objected to this option.

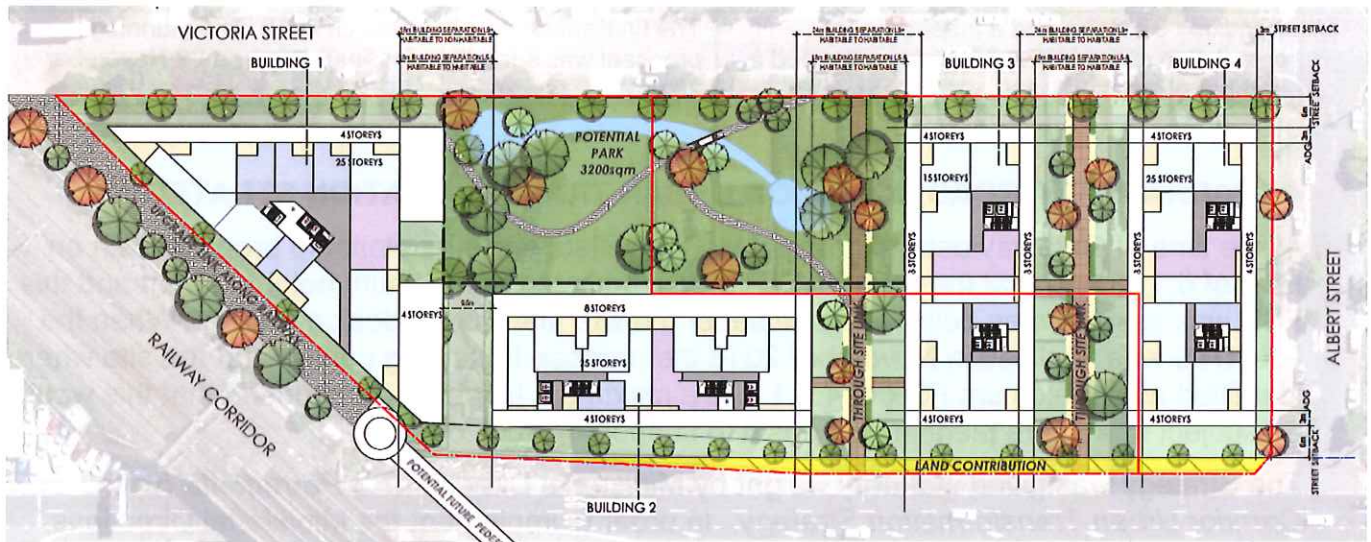


Figure 4 – Building Massing Option 1 (Source: Building Massing Study)

Council did not consider this to be a viable option following the conclusion of the community consultation as there was no ability to require individual landowners to enter into a Voluntary Planning Agreement (VPA) and it was not considered acceptable to apply a FSR of 6:1 to sites that are not seeking to provide community benefit (**Attachment 6 to Local Planning Panel report 16 October 2018 - Attachment G**).

## 5.2 Exhibited Design Option 2

Design Option 2 proposed the following land use planning outcomes:

- rezone the site to B4 Mixed Use;
- maximum FSR 4.5:1;
- maximum height of 52m;
- no dedication of land along Parramatta Road

The reference design submitted with this option (**Figure 5** and **Attachment F2**) suggests that 618 dwellings can be achieved and 10,821m<sup>2</sup> of commercial floor space provided which may generate up to 495 jobs. The proponent identified that there was an increase in commercial yield under this scenario due to the larger floorplates. This is discussed further in Section 9 of this report.





Figure 5 – Building Massing Option 2 (Source: Building Massing Study)

### 5.3 Exhibited Design Option 3

As a result of submissions and objections raised by individual land owners from the first exhibition, the proponent reviewed the development options, noting that unless there was a mechanism for the delivery of the proposed better planning outcomes, which include the public park, a 6:1 FSR on the site would not be supported.

In June 2018 the proponent submitted an amended package of material with up to 12 different design options on the site. Following negotiation with Council, the proponent identified preferred Option 3, as follows:

#### Option 3

- part maximum FSR 4.5:1;
- part maximum FSR 6:1 (primarily on land owned by the proponent);
- maximum height of 82 across the whole site;
- provision of a 3,200m<sup>2</sup> public park on land wholly owned by the proponent;
- land dedication along Parramatta Road.

The reference design submitted with this option (**Figure 6** and **Attachment F3**) suggests that 845 dwellings can be achieved and 4,675m<sup>2</sup> of commercial floor space provided which may generate up to 194 jobs.

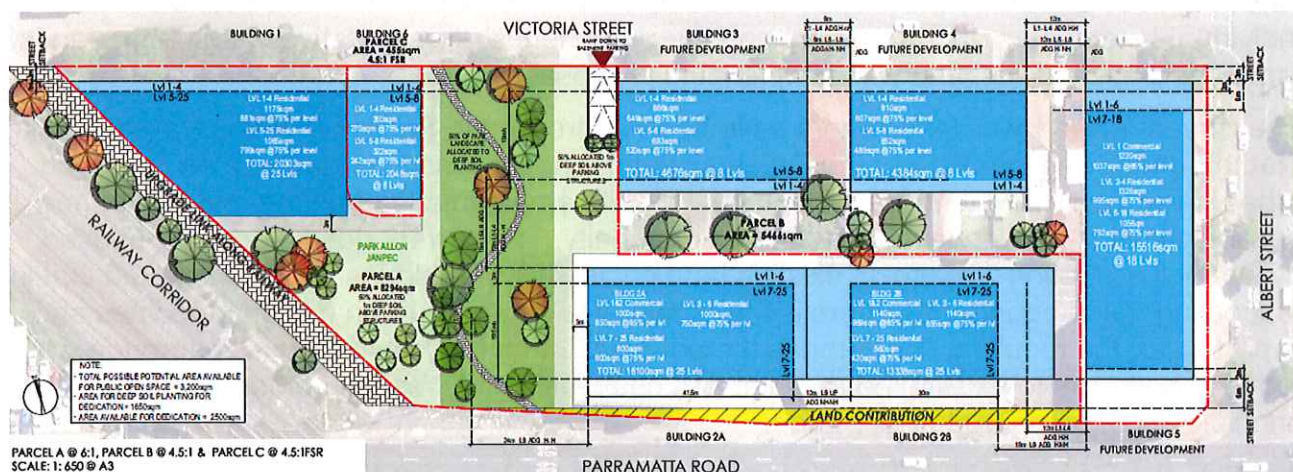


Figure 6 – Building Massing Option 3 (Source: Building Massing Study)

Option 3 is the scenario that has been supported by Council for finalisation. The finalisation package is accompanied by a Statement of Better Planning Outcome (**Attachment I**) to

account for the inconsistencies with the Parramatta Road Corridor Urban Transformation Strategy (which is discussed below in section 9). The better planning outcome is focused on the delivery of the proposed park.

Council held a workshop on Design Option 3 on 24 August 2018 and all landowners were invited to attend. Following this meeting, all affected landowners were provided with 28 days to provide a submission on Design Option 3 which occurred from 3 September 2018 to 2 October 2018.

#### **5.4 Response to Public Exhibition**

During the initial exhibition period of Option 1 and 2, 66 submissions from the community were received, which included 18 submissions from 6 households within the development site, 18 submissions from 13 households outside the development site, 5 submissions where the address was not provided and 25 copies of a form letter. The submissions raised a number of key issues with the planning proposal, including how the park would be delivered, but it is also noted that there was significant support for:

- the provision of a new park/open space within the site (more than 10 submissions);
- support for a design excellence process (with no bonus); and
- support for ensuring contributions to State public infrastructure.

The community did express concern about overdevelopment, impacts on local infrastructure and amenity and impacts on traffic, all of which are addressed in this report.

It is noted that the second exhibition period was targeted at the affected landowners within the development site only and seven submissions were received in response to the second exhibition period. The seven submissions were unanimous in objecting to Option 3 and the Department has subsequently received a number of submissions from the affected individual landowners along Victoria Road requesting that the whole block should have an FSR of 4.5:1 due to concerns about the proposed setbacks of the proposed buildings along Parramatta Road and the potential proximity to their rear boundary of 3m. The individual landowner on the corner of Parramatta Road and Albert Street has requested an FSR of 6:1 for land fronting Parramatta Road, so that it is consistent with the whole of the Parramatta Road frontage.

The Department (**Attachment L1**) has considered Council's response to submissions (**Attachment L2**) and notes the substantial community interest generated by the individual landowners impacted by the proposed development. The Department has met with the individual landowners, the proponent and the proponent's representatives and understands the complexities associated with the planning proposal.

The issues raised by all landowners have been addressed in Section 9 of this Report, noting that the underlying intention of the Gateway determination was to encourage an improved urban design outcome through the potential for site amalgamation and the creation of new public spaces for the benefit of the future community. The current design option proposed by Council as Option 3 respects existing land ownership boundaries. It is considered that in respecting these boundaries, there is the potential to diminish urban design outcomes and in particular, the resulting FSR erodes the potential for high quality urban form through reduced setbacks to existing boundaries and could ultimately result in orderly development principles being triggered at DA stage.

As such, the Department, in their assessment of the planning proposal, is recommending an alternative development outcome for the site, which is discussed in the remainder of this report. It is considered that the drafting of the LEP includes appropriate mechanisms to ensure that the site is developed in an appropriate manner and has regard for the existing and future community.



Should the site not be amalgamated in the future, it is also considered that there are appropriate mechanisms in place to ensure the amenity and development rights of all landowners within the site are protected. This includes the creation of a site specific DCP to guide development and the need for a design excellence at DA stage. The design excellence provisions specifically require consideration of matters such as the relationship of the proposed development with other development on the same site or neighbouring site in terms of separation, setbacks, amenity and urban form. As such, it is considered that the draft LEP includes appropriate planning controls to guide the future development of the site in a fair and equitable manner.

## **6. PUBLIC AUTHORITY SUBMISSIONS**

In accordance with the Gateway determination Council consulted with Office of Environment and Heritage – Heritage Division, Department of Education and Communities, Department of Health, Transport for NSW – RMS, Transport for NSW – Sydney Trains, Sydney Water and Integral Energy.

Responses from Sydney Water and Endeavour Energy were received noting that future infrastructure upgrades would be required to meet the needs of the future population. The upgrade requirements can be considered as part of any subsequent development application process.

Responses were also received from Transport for NSW (TfNSW) and Roads and Maritime Services (RMS) raising concern with the ability of the existing road network to support the proposed densities. A meeting was held between TfNSW and RMS, Council and the proponent to discuss the concerns. As a result of the meeting Transport for NSW (TfNSW) and Roads and Maritime Services (RMS) prepared joint comments requesting additional traffic analysis (raising specific technical issues). The proponent responded requirements raised by the agencies with an additional traffic report (**Attachment J**).

The draft LEP is seeking to proceed ahead of the precinct wide traffic study, noting that the site may also generate the need for road improvements to mitigate impacts resulting from the proposal. Advice from RMS/Transport for NSW (**Attachment K**) indicates that the required improvements may include an additional lane, turning lane and footpath widening but are not yet confirmed and will ultimately be informed by the precinct traffic study and any subsequent site specific studies prepared as part of a future development application.

The application of a Satisfactory Arrangements Clause (SAC) will ensure that any development application is required to demonstrate to the Department that the appropriate infrastructure is provided to ensure that the road network is appropriately designed to accommodate the future population.

## **7. COUNCIL RESOLUTION**

The planning proposal intends to facilitate a mixed-use development on the subject site. Council has resolved to support the following land-use planning outcomes for the site:

- rezoning the land from part B6 Enterprise Corridor / part R3 Medium Density Residential to B4 Mixed Use;
- For the land identified as 171-187 Parramatta Road and 58-60 Victoria Street, Granville, increase the 6:1 and increase the height to 82m (approx. 25 storeys) (**Figure 2** - shown edged red);

- For the land identified as 167 Parramatta Road, 38 to 56 Victoria Street and 64 Victoria Street, Granville, increase the FSR to 4.5:1 and increase the height to 82m (approx. 25 storeys) (**Figure 2** shown edged blue);
- Introduce a Design Excellence Clause, requiring any development on these blocks to complete an architectural design competition with the winning scheme not receiving a height or FSR bonus; and
- Include a satisfactory arrangements provision for contributions to designated state public infrastructure identified as part of the Parramatta Road Corridor Urban Transformation Strategy and supporting documents.

Council have requested that the draft LEP not be made until a Voluntary Planning Agreement (VPA) is executed and signed by all land owners. The VPA offered by the developer only applies to the land which is under their control shown blue in **Figure 3** and includes:

- Upgrading of link along the railway (not formed Duke Street);
- The dedication of a new 3,200sq.m north facing public park;
- The dedication of a 3 metre wide land contribution along Parramatta Road for future road widening; and
- Three (3) site through links.

The VPA offered by the proponent applies to the land under their control only (**Figure 3**) and has not yet been executed. No VPA offer has been made by the individual landowners and the individual landowners are not willing to enter into any form of planning agreement.

Council have resolved to prepare a VPA and are currently preparing this document (**Attachment M**) for exhibition.

Council have requested that the draft LEP not be made until Development Control Plan (DCP) is endorsed by Council.

## 8. 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 for Parramatta.

To the regional 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.

## 9. ASSESSMENT

The underlying intent of the LEP has merit as it enables the redevelopment of land in a locality that has been identified for urban renewal. The key matter to resolve in implementing the draft LEP is the most appropriate land use planning controls for the site, taking into account whether it would deliver a better planning outcome than that identified in PRCUTS and whether appropriate mechanisms are in place to ensure infrastructure delivery and high-quality built form outcomes for the site. The following sections of this



report assess the consistency of the planning proposal with the relevant strategic framework and the site-specific merits of the proposal.

### **9.1 Premier's Priorities**

Following the 2019 State elections, the Premier has announced a number of government priorities, two of which are relevant to this site and include priorities to increase the proportion of homes in urban areas within 10 minutes walk of quality green, open and public space by 10 per cent by 2023 and improving the urban tree canopy by planting one million trees by 2022.

The proposed better planning outcome in the planning proposal seeks to introduce a 3,200m<sup>2</sup> public park to supplement the planned public open spaces in the Granville Precinct under PRCUTS, the closest of which is a proposed new park in the vicinity of Albert and Prince Street, approximately 200m from the subject site.

The provision of a park on the development site, along with through site links, improves connectivity and the legibility of the public domain. It is considered that the provision of a public park on this site should be supported as the proposed density of development means that public spaces will have greater value to the future community. Further, this outcome will ensure that public open space is provided for the future community immediately on completion of the development. This is particularly important as there is currently no guarantee regarding when the identified public open spaces in the PRCUTS will be delivered as the rezoning of the broader precinct has not yet commenced.

The renewal of the site will also enable site remediation and the greening of the site through the planting of trees and landscaping.

### **9.2 Central City District Plan**

The Central City District Plan applies to the site. The plan identifies Granville as an urban renewal precinct as part of the Parramatta Road Urban Transformation Corridor.

The planning proposal is consistent with the plan as it:

- provides additional housing supply with access to jobs and services via a 21,650 five-year housing supply target for Parramatta (Planning Priority C5);
- enables creating and renewing places and local centres, and respecting the district's heritage (Planning Priority C6);
- provides capacity for jobs growth and growing Parramatta as a metropolitan centre to create a stronger and more competitive Greater Parramatta (Planning Priority C7);
- has the potential to improve tree canopies and deliver green grid links to improve connectivity in the Parramatta Road Corridor (Planning Priority C16); and
- has the potential to deliver high quality open space to enhance the character of the neighbourhood and support active and healthy lifestyles (Planning Priority C17).

It is considered that the planning proposal gives effect to the District Plan in accordance with the strategic vision for the redevelopment of the whole of the Parramatta Road corridor. It is recognised that there is a need to resolve land use planning outcomes in terms of height and density and ensure that there is a mechanism to deliver required infrastructure to support the future population.

### **9.3 Section 9.1 Directions**

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

The Gateway assessment determined that any inconsistency with Directions 4.1 Acid Sulphate Soils and 6.3 Site Specific Provisions is of minor significance and no further consideration is required.

As previously discussed, section 9.1 Direction 7.3 *Parramatta Road Corridor Urban Transformation Strategy* was released subsequent to the gateway determination but is required to be addressed as it gives strategic weight to the suite of documents known as the Parramatta Road Corridor Urban Transformation Strategy. The gateway conditions required the planning proposal to be consistent with this Strategy at finalisation.

In assessing the planning proposal for finalisation, there is a requirement to consider the gateway conditions and assess whether they have been appropriately addressed, but there is an ability to carry out a further assessment of the merits of the planning proposal at finalisation. The only gateway conditions that must be complied with and cannot be varied in the final consideration are those relating to community consultation. As such, there is an ability to consider the site-specific merits of the proposal, including the community and public benefit that may be generated as a result of the plan making process and make alternative recommendations, if there is a merit argument to support this outcome. This is addressed in further detail below.

#### *9.3.1 Direction 7.3 Parramatta Road Corridor Urban Transformation Strategy*

PRCUTS seeks to deliver 27,000 new homes and 50,000 new jobs within eight key precincts of the Parramatta Road Corridor, supported by improvements to transport, open space and amenity. The recommendations of the PRCUTS are to be delivered through the plan making process.

The draft LEP seeks to adopt a B4 Mixed Use zone which is consistent with the Strategy.

The strategy identified a height of 52m for the locality. However, the gateway determination recommended that a height of 82m (which was consistent with the exhibited draft) be adopted, and the draft LEP is consistent with the recommendations with the Gateway determination in seeking 82m. Furthermore, council have concluded that a height of 82m allows for better urban design potential than a 52m height as it allows taller, more slender buildings and less building site coverage.

The strategy identifies an FSR of 4.5:1 for the locality. The draft LEP was submitted for finalisation with a FSR ranging from 4.5:1 to 6:1. The range in FSR accounts for ownership patterns with the higher FSR being applicable to the proponent's land. The strategy allows for inconsistencies provided a better planning outcome is achieved. The finalisation package is accompanied by a Statement of Better Planning Outcome (**Attachment I**).

#### *Statement of Better Planning Outcome*

The proponent has suggested a better planning outcome is achieved through the provision of the following public benefits (**Attachment I**):

- Upgrading of link along railway (not formed Duke Street);
- The dedication of a new 3,200sq.m north facing public park;
- The dedication of a 3 metre wide land contribution along Parramatta Road for future road widening; and
- Three (3) site through links.

It is considered that the delivery of a public park and through site links, along with the dedication of land for road widening will deliver a better public outcome on the site, and for the broader community, through the creation of social infrastructure to support the new



community. The better planning outcome must demonstrate consistency with the vision and objectives of the Strategy, which are:

1. Housing Choice and affordability;
2. Diverse and resilient economy;
3. Accessible and connected;
4. Vibrant community places;
5. Green spaces and links;
6. Sustainability and resilience; and
7. Delivery.

In order to assess whether a better planning outcome has been achieved, it is necessary to consider a number of site-specific matters that impact on the suitability of the proposed outcome. This includes consideration of matters such as built form, site amalgamation, traffic and transport and whether appropriate mechanisms are put in place to achieve the desired outcomes. As will be discussed below, it is considered that a site-specific mechanism can be established through the plan making process to achieve a better planning outcome on the site and support the potential for a FSR of 6:1 across the whole site.

Each of the proposed better planning outcomes are addressed below having regard to whether they embody the Vision of PRCUTS and the proposed mechanism for delivery:

#### *Provision of a Public Park*

The Department favours a design outcome where the whole block is considered as a single amalgamated site. In order to achieve this, it is appropriate to increase the potential for site amalgamation through land use planning controls. In this instance, it is proposed to map the whole site with a 4.5:1 FSR, but allow an increase in FSR to 6:1 where a public park of at least 3,200m<sup>2</sup> is provided on the development site. This has the potential to enable an outcome where buildings can be aligned to maximise solar access and provide the park in the most suitable location, with the greatest public benefit. In this respect, development similar to that proposed in Design Option 1 above, may be able to be achieved.

If site amalgamation cannot occur, there is still the potential to deliver the park, however, alternative design outcomes would need to be explored and orderly development issues resolved, noting that the FSR is a maximum development standard and not a development right.

Council did not consider Option 1 viable as it could not be delivered without entering into VPA's with individual landowners. The Council report identifies that the landowners are seeking equity in how FSR is applied across the site. The Department supports this view, however, notes that the proposed mechanism to deliver the public open space will result in uplift only if this community benefit is provided, and this would be extended to any other property on the site if it contributes to the community benefit. The provision of a public park is considered a good public domain outcome for the site and is therefore supported.

The Department notes that it cannot force amalgamation of property and this is subject to market forces, however, it is hoped that through incentivising this outcome, there is an increased chance for the delivery of improved urban design outcomes across the whole block.

The Department notes that the proponent has also provided a letter of offer for the provision of the Park. The associated VPA has not been executed, however Council have resolved to prepare a VPA, with further detail regarding the future requirements for the park set out in

the VPA. The proposed drafting of the instrument enables the planning proposal to proceed ahead of the VPA execution as it puts in place appropriate mechanisms to achieve the public park. If a public park is not provided, the site will revert to a 4.5:1 FSR in accordance with PRCUTS.

It is considered that the provision of a public park on the site satisfies the PRCUTS vision in terms of improving accessibility and connectivity; vibrant community places; green spaces and links; and delivery.

#### *Future Proofing Parramatta Road*

To inform and support the development of the Parramatta Corridor strategy, a Transport Report (November 2016) was prepared which provided an assessment of existing traffic and transport conditions at the corridor level. The report also details the future strategic transport network and identifies a need for further local and network-wide traffic modelling of preferred options for each precinct to determine appropriate mitigation and improvement measures for local and state roads.

The need for a precinct-wide traffic study was then identified in the final PRCUTS Implementation Plan 2016-2023. The plan also specifies that this was to be prepared prior to any site specific or precinct wide rezoning commencing and identify the necessary road improvements and upgrades required to be delivered as part of any proposed renewal in the precinct.

The subject planning proposal had commenced before the release of the PRCUTS and it was considered appropriate that the proposal be progressed prior to the completion of the traffic study for the full precinct. This approach for existing planning proposals was endorsed by UrbanGrowth NSW in a letter to all councils within the corridor (**Attachment G**). The Department and the then Roads and Maritime Service agreed that only those planning proposals lodged with the Department prior to the finalisation of the PRCUTS would proceed on a site-specific basis.

The Department, in collaboration with Cumberland and City of Parramatta Councils, RMS and TfNSW, is currently progressing the precinct-wide traffic study covering the Granville and Auburn precincts. This study will identify the upgrades to the traffic and transport network required to support the future population and enable consideration of the rezoning of the broader precinct. These upgrades may then be included in a future 7.11 contribution plan and delivered through the precinct's renewal.

As the precinct wide study is currently being prepared, additional traffic modelling and localised mitigation measures have been recommended for the site which results in a future-proofing solution that has been determined in collaboration with Transport for NSW. This includes the need for land dedication along Parramatta Road to allow for future road-widening or alternative traffic mitigation measures to be implemented.

The proponent has identified land dedication along the section of Parramatta Road that is under their control. Transport for NSW have identified the potential need for a left turn slip lane from Parramatta Road into Albert Street. The draft LEP includes a Satisfactory Arrangements Clause which will facilitate the identification of the required road reserve at the development Application stage and ensure there is a mechanism for the delivery of road reserves to support the proposed development and future proof the site to support development in the wider precinct.

The proposed future-proofing solution also provides flexibility to deliver the final works identified and required through the precinct-wide study. Should further upgrades or mitigation measures be identified beyond the scope of the future proofing solution, these could be delivered through the collection of 7.11 contributions and conditions at the development assessment stage.



### *Site-Specific Development Control Plan*

There has been significant concern raised by land owners along Victoria Street regarding the ability to deliver the urban design outcomes proposed in the Council endorsed development outcome, particularly with regard to the proposed setbacks to existing boundaries of proposed buildings. For example, the development concept proposes a 3m setback for a 25m tall building to an existing boundary. The Department recognises the issues being raised by the landowners and understands this concern, however, it is also noted that there are planning laws in place to ensure the orderly development of land. Unless the whole block is developed at the same time, this could give rise to a number of orderly development issues with regard to development rights and the application of building separation distances under SEPP 65 and the Apartment Design Guide (ADG).

In order to ensure appropriate urban design outcomes and the delivery of through site links, the draft instrument recommends that prior to any DA being approved on the site that a Development Control Plan (DCP) is prepared and adopted in accordance with Clause 6.18 of the Parramatta LEP 2011. This DCP should have regard for a number of factors and identify development controls suitable for the site, including public domain outcomes and site layout. The DCP will not override SEPP 65 and the ADG, however, will provide further guidance on the design principles for the site. In accordance with the existing clause, the DCP is required to address the following matters:

- (a) *design principles drawn from an analysis of the site and its context,*
- (b) *heritage conservation, including both Aboriginal and European heritage,*
- (c) *encouragement of sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision, including integrated options to reduce car use,*
- (d) *impact on, and improvements to, the public domain,*
- (e) *identification and conservation of native flora and fauna habitat and habitat corridors on the site, including any threatened species, populations or ecological communities,*
- (f) *application of the principles of ecologically sustainable development,*
- (g) *identification, extent and management of watercourses, wetlands and riparian lands and any buffer areas,*
- (h) *environmental constraints, including climate change, acid sulfate soils, flooding, contamination and remediation,*
- (i) *opportunities to apply integrated natural water-cycle design and integrated renewable energy design.*

As such, in preparing the DCP, Council is able to provide further guidance on a number of matters, including how the public domain on the site should be implemented.

The requirement to prepare a DCP will also provide Council with the flexibility to determine when to prepare the DCP depending on land use ownership outcomes once the land is rezoned and not delay the finalisation of the planning proposal. Council may also finalise the VPA on the site while the DCP is being prepared.

### *Summary*

As outlined above, the draft LEP facilitates development with improved urban design outcomes by permitting increased building height and FSR on a significant amalgamated development site greater than 5000m<sup>2</sup> near Granville railway station. The draft LEP contributes to the vision of a mixed-use precinct, supported by infrastructure as identified in PRCUTS. As a result of the drafting of the LEP and the introduction of mechanisms to ensure a better planning outcome on the site, and for the broader community, is achieved, it is considered that the planning proposal has appropriately satisfied the section 9.1 Direction and the planning proposal is justifiably inconsistent with the Direction.

## **9.4 State environmental planning policies**

### *SEPP No 55 – Remediation of Land*

The Gateway determination required consideration of State Environmental Planning Policy 55 – Remediation of Land. Specifically, the condition required the preparation of an initial site contamination investigation to demonstrate that the site is suitable for rezoning to the proposed zone.

Stage 1 assessments have been carried out for land subject to the planning proposal. The assessments identify land in varying levels of potential contamination risk from low (the existing residential uses) to high (previous commercial uses).

The extent of the contamination, and the actions required to be taken to remediate the site, will be determined via a stage 2 assessment at the future development application stage.

The planning proposal is consistent with the SEPP as council have identified that:

- the land is contaminated;
- further investigations are required to determine the extent of the contamination; and
- the land will be required to be remediated to ensure it is suited for the proposed use.

### *SEPP No 65 – Design Quality of Residential Apartment Development*

The proposal notes that the urban design concept provided includes non-compliances with the Apartment Design Guide (ADG) that supports SEPP 65. Of particular note are the setbacks identified in the reference schemes and the assumptions that the proponent has made by imposing larger setbacks on adjoining land in order to achieve a higher level of development potential on their land whilst complying with building separation requirements of the ADG.

Some of the landowners of land within the planning proposal boundary have raised concern in their submissions that the concept proposal put forward by the Applicant may limit their opportunity to maximise the development potential on their land. They are concerned that it will lead to inequitable outcomes across the block.

The current reference design has inequities across the site as it relies upon the land of adjoining landowners to support their design (via building separation). Any future development application would need to take into consideration road widening requirements (and the new property boundaries), future ownership patterns, design excellence requirements, land and environment court principles relating to orderly development, the ADG and the Council's DCP.

The SEPP is considered as a guide only at the planning proposal/draft LEP stage. Council have noted that any future development will need to consider the Apartment Design Guidelines further. The site is large enough that an appropriate design response can be development once the draft LEP is made. Further, the site-specific DCP will provide further guidance with regard to the development of the site.

## **9.5 Environmental Impacts – Density**

Density has been addressed previously in this report. It is considered that while the proposed FSR exceeds the PRCUTS recommendations, there is sufficient public benefit attached to the proposed park to warrant enabling an increase in density if this park is provided.

In addition to the existing statutory planning framework that must be taken into account in the assessment of DA's, the draft LEP includes a requirement to prepare a site-specific Development Control Plan, undertake design excellence at the DA stage; and ensure satisfactory arrangements for the provision of infrastructure. As such, it is considered that



there will be sufficient planning controls in place to ensure appropriate rigour is applied to the assessment of the future DAs and promote appropriate urban design and public benefit outcomes to mitigate any impacts arising from the proposed density.

### **9.6 Environmental Impact – Height**

The PRCUTS strategy notes initial urban design testing identified that better design outcomes can be achieved (including better spacing between towers and more area on the ground level for open space) via the introduction of taller buildings. Council have confirmed this position via their own urban design analysis. Retaining the 52m height identified by the strategy will result in shorter and bulkier buildings that create an undesirable and uniform built form outcome. The Gateway determination acknowledged this position and recommended a height of 82m. The draft LEP is consistent with the gateway determination in seeking 82m.

The use of tall slender towers will allow more opportunity for spacing between buildings which will contribute to the urban design outcomes for Granville. The buildings will be required to go through a design excellence process to ensure that the outcomes are as high quality as possible to enhance the built form outcomes for Granville.

The use of taller narrower buildings allows for fast moving shadows to be created as opposed to short squat buildings that have static shadows due to their building mass. The use of taller narrower buildings allow for greater separation possibility resulting in better amenity (for issues such as acoustic and visual privacy) for future residents. Any future building design will be required to comply with Environmental Planning Policy No. 65 and the Apartment Design Guide which addresses these issues.

### **9.7 Environmental Impact – Traffic and Transport**

A Satisfactory Arrangements Clause has been imposed to ensure that any future road widening that may be required on the site can be provided prior to any Development Applications being issued. As such, it is considered that the site is appropriately future proofed and may proceed.

### **9.8 Economic Impacts**

The PRCUTS identifies an aim of delivering 7,200 new jobs by 2050. The draft LEP will deliver the possibility of additional commercial floorspace in a manner which is consistent with PRCUTS which will in turn lead to the potential for the creation of jobs. The construction of the buildings will also deliver temporary construction employment within the locality.

### **9.9 Social Impacts and Community Benefits**

The PRCUTS identifies the aim of creating 5,400 new homes and 7,200 jobs by 2050. The draft LEP contains provisions for the delivery of public infrastructure, including open space, through site links and roads.

### **9.10 Infrastructure Provision**

The proponent has sought to enter into a Voluntary Planning Agreement (VPA) with Council for the delivery of road widening (amongst other items).

The extent of road widening will not be known until the precinct wide traffic study is complete and the density outcome on the site is known. T

To ensure that the required road widening is delivered in the locality a Satisfactory Arrangements Clause (SAC) is recommended to be used in the draft LEP. The clause will allow development to occur subject to consultation with the state government for the delivery of road widening to account for the uplift in density on the site and locality in general.

## **10. POST-EXHIBITION CHANGES**

Amendment has been made to the draft LEP post-exhibition resulting from:

- consultation with the Legal team and PCO drafting;
- community comments resulting from exhibition of the planning proposal; and
- agency comment.

### Key Sites Map

In order to identify the site, the Key Sites Map Special Provisions Map Sun Access Protection Map is to be amended to identify an additional Key Site (with reference to the clause of the LEP that applies) known as key site "C".

### FSR Enabling Clause

The requested FSR of part 4.5:1 and part 6:1 across the site is not supported due to several factors including uncertainty relating to road widening, multiple land owners, community concern and inconsistency with the Apartment Design Guidelines.

An FSR of 4.5:1 is to be supported across the site. However, an FSR enabling clause will allow an FSR of up to 6:1 across the site if development of the site occurs in a consolidate manner and a recreation area is dedicated to council for a public purpose. This outcome also has the potential to facilitate site amalgamation through enabling additional density.

### DCP Clause

The request for finalisation from council seeks to defer the finalisation until a Development Control Plan (DCP) is made.

To allow the finalisation to progress it is proposed that the draft instrument have a clause included to require the preparation of a DCP for the subject site. The clause will require the DCP to consider a range of matters including (but not limited to) design principles, consolidation, improvements to public domain, land dedication and the like.

### Design Excellence

Council requested that a design excellence clause be included in the draft LEP. The clause requires that any development on these blocks to complete an architectural design competition with the winning scheme not receiving a height or FSR bonus.

### Satisfactory Arrangements Clause

As discussed throughout this report, a Satisfactory Arrangements Clause has been introduced to ensure the site is future proofed for future infrastructure provision.

### VPA

Council requested that the Department not finalise the draft LEP until they have entered into a Voluntary Planning Agreement with all owner's subject to the planning proposal.

The Department intends to finalise the draft LEP without a VPA having been agreed to between the owners and council. As discussed in Section 9 of this report, the proposed FSR enabling clause and DCP clause are able to deliver the items offered by the proponent in their VPA. Council have requested that the draft LEP not be made until the VPA is executed, however, this is not supported as Council has resolved to enter into a VPA with the proponent and there is opportunity to execute this VPA prior to the DCP being adopted by Council.

The changes allow the draft LEP to be made and respond to the concerns raised in community and public agency consultation. Furthermore, the changes allow the concerns of the Department to be addressed whilst achieving the aims of the District plan.



It is not considered that the change warrants re-exhibition of the draft LEP as it does not propose an outcome that has not been previously exhibited on the site.

## 11. MAPPING

The draft LEP seeks to amend or create new mapping where appropriate:

- Land Zoning Map (Sheet LZN\_010);
- Floor Space Ratio Map (Sheet FSR\_010);
- Height of Buildings Map (Sheet HOB\_10);
- Key Sites Map Special Provisions Map Sun Access Protection Map (Sheet CL1\_010);
- Intensive Urban Development Area Map (Sheet IUD\_010); and
- Design Excellence Map (Sheet DEX\_010).

The mapping (**Attachment Maps**) have been examined by GIS staff and meet the relevant technical requirements.

## 12. CONSULTATION 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 E**). Council confirmed on 12 September 2019 that they were satisfied with the intent of the draft LEP, however, requested that the draft LEP not be made until the VPA had been adopted and the public benefits secured. While Council's concerns are noted, Council has the opportunity to finalise the VPA in conjunction with the DCP and it is considered that this is an acceptable outcome.

## PARLIAMENTARY COUNSEL OPINION

On 12 September, 2019 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 13. 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:

- The planning proposal will enable urban renewal of a large site in Granville, consistent with the desired future character of the Precinct;
- The planning proposal gives effect to the Central City District Plan; and
- There are appropriate mechanisms built into the draft instrument to enable a better planning outcome on the site through the delivery of new public open space to support the future population and the future proofing of required road infrastructure.

Noted  
BW 30/9/19

