

LEADING

ITEM NUMBER	14.1
SUBJECT	Outcome of Public Exhibition of Planning Proposal and draft VPA - 87 Church Street & 6 Great Western Highway, Parramatta
REFERENCE	RZ/21/2014 - D06064821
REPORT OF	Project Officer Land Use
APPLICANT	Dyldam
LANDOWNER	WFM Motors Pty Ltd
PURPOSE:	

To report to the Council the outcome of the public exhibition of a planning proposal to amend Parramatta Local Environmental Plan 2011, and a Voluntary Planning Agreement (VPA) as it applies to land at 87 Church Street and 6 Great Western Highway, Parramatta. The planning proposal seeks to increase the maximum building height from 28m (9 storeys) to 180 m (55 storeys) and increase the maximum floor space ratio from 3.5:1 to 10:1 (11.5: 1 including design excellence).

RECOMMENDATION

- (a) **That** Council receives and notes the submissions at **Attachment 1** made during the public exhibition of the planning proposal and draft voluntary planning agreement (VPA) for 87 Church Street and 6 Great Western Highway, Parramatta.
- (b) **That** Council endorse the planning proposal at **Attachment 2**;
- (c) **That** Council endorse the draft VPA contained at **Attachment 4**, with minor amendments related to the indicative location of the proposed pedestrian bridge and clarification of the description of the Planning Proposal as it relates to non-residential floor space requirements;
- (d) **That** Council advise the Department of Planning and Environment (DPE) that it will not be exercising its plan making delegations due to the issues raised by government agencies;
- (e) **That** Council forward the planning proposal to the DPE for finalisation;
- (f) **That**, upon sending the planning proposal to the DPE, a request be made that the Department proceed with processing the planning proposal, but that the final notification in the Government Gazette (which will legally bring the LEP changes into force) only be undertaken once Council confirms that the draft VPA have been finalised.
- (g) **Further, that** Council authorise the Acting Chief Executive Officer (CEO) to make any minor amendments and corrections of a non-policy and administrative nature that may arise during the plan amendment process, relating to the Planning Proposal and VPA.

THE SITE

1. The subject site is located on the north western corner of the intersection of Church Street and Great Western Highway. The site is known as 87 Church Street and 6 Great Western Highway, Parramatta, see Figure 1. The legal description is Lots 1 and 2 DP 1009227. The site has a total area of 3,306m².
2. The site is currently occupied by a motor vehicle showroom and servicing facility.

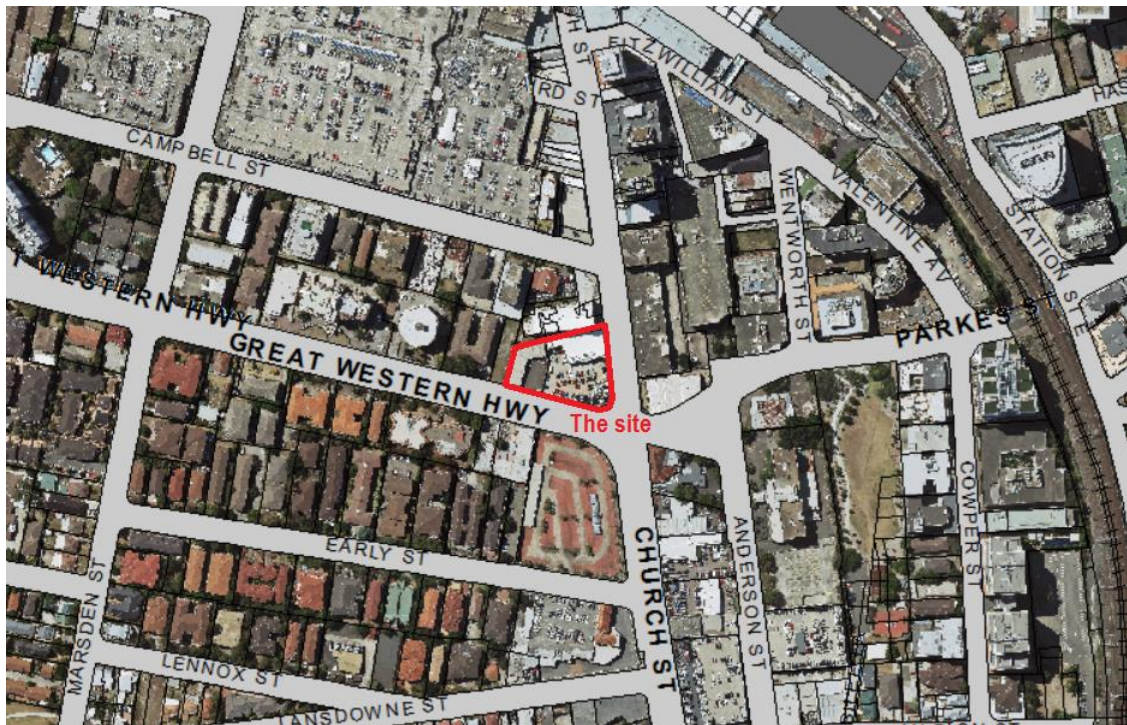


Figure 1: Location map

CURRENT PLANNING CONTROLS

3. Under Parramatta Local Environmental Plan (PLEP) 2011, the site is zoned B4 Mixed Use, has a maximum height of 28 metres (approx. 9 storeys), and a maximum floor space ratio (FSR) of 3.5:1. See Figures 2 and 3.

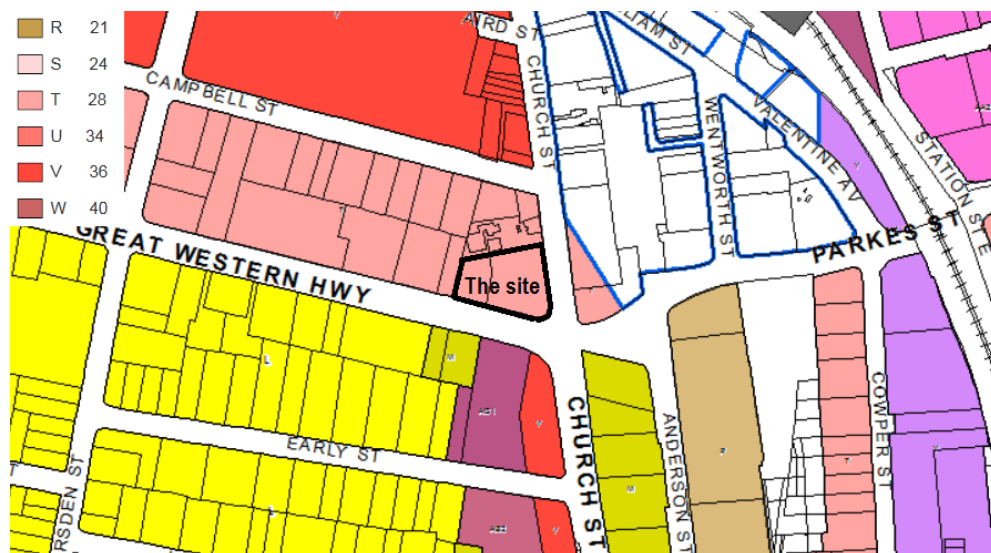


Figure 2: Height map

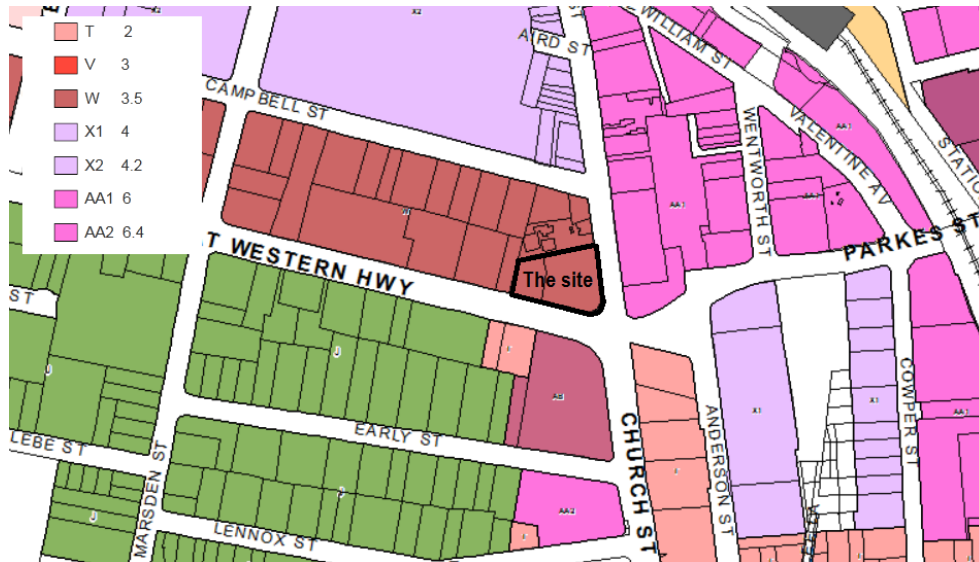


Figure 3: Floor space ratio map

3. The subject site is located in an archaeologically significant locality. It is categorised as possessing local archaeological significance and moderate archaeological research potential. The site is identified as Parramatta Archaeological Management Unit 3060 on the State Heritage Inventory. The site has potential structural and other archaeological remains associated with the occupation of these allotments since 1844.
4. The site contains Class 5 acid sulfate soils and has a long established history as a motor show room and auto repairs centre which necessitates further investigation into potential contamination impacts on the site for any future development application relating to a more sensitive land use.
5. The site does not contain a heritage item and is not flood prone.

BACKGROUND

Planning Proposal

6. On 21 November 2014, Council received a Planning Proposal from Hamptons Property Services Pty Ltd and accompanying documentation on behalf of the landowner, WFM Motors Pty Ltd.
7. The Planning Proposal sought to amend the then Parramatta City Centre Local Environmental Plan (PCCLEP) 2007 to:
 - Increase the maximum building height from 28m (approx. 9 storeys) to 227m (approx. 70 storeys); and
 - Increase the maximum FSR from 3.5:1 to 23.5:1

Note: the PCCLEP 2007 was repealed on 18 December 2015, with the relevant controls transferring to the Parramatta Local Environmental Plan (PLEP) 2011. As a consequence, the Planning Proposal would instead amend the comparable controls of PLEP 2011.

8. Following discussions with Council, a revised Proposal was submitted on 29 September 2015 seeking to increase the maximum FSR to 13.9:1 (+10% design excellence) and height to 180m (approx. 55 storeys).

9. The amended Proposal was presented at a Councillor workshop on 16 November 2015, and resulted in a further amendment to the Proposal whereby the proposed residential uses in the podium levels were removed and a provision was proposed that would require a total of 20% of the total floor space to be provided as non-residential uses (approx. 10,100sqm at an FSR of 13.9:1 + design excellence).
10. Council at its meeting of 14 December 2015 considered a report on a Planning Proposal for the site, with a Council Officer recommendation seeking to increase height and density from 3.5:1 and 28m to 10:1 (up to 11.5:1 with design excellence) and a maximum height to be determined through the submission of an amended reference design. At this meeting Council resolved the following:

(a) ***That*** Council endorse the planning proposal contained at Attachment 1 for land at 87 Church Street and 6 Great Western Highway, Parramatta subject to it being modified to:

- *Provide a maximum FSR of 10:1 (+1.5:1 design excellence);*
- *Apply a maximum building height to be determined through provision of an amended reference design;*
- *Contain a site specific clause requiring 1:1 of gross floor area to be provided on the site as non-residential uses. Additional non-residential floor space may be provided but will not consistent FSR;*
- *That until such a time as serviced apartments are prohibited in the B4 Mixed Use zone, the applicant may propose serviced apartments;*
- *That in the event that the Phase 2 Value Sharing Mechanism is not adopted under the CBD Planning Strategy, the proponent be provided with the opportunity to revisit the higher floor space ratio originally proposed for the planning proposal;*
- *That in the event that a floor space greater than 10:1 is achieved for the site, car parking is limited to reflect a 10:1 floor space ratio.*

(b) ***That*** the applicant provide an amended reference design consistent with the above requirements and that demonstrates compliance with SEPP 65 Apartment Design Guide (ADG). In particular, it must demonstrate an indicative layout that complies with cross ventilation requirements of the ADG. If the reference design proposes a height greater than 156AHD the reference design will need to be supported by an Aeronautical Study to address the relevant Section 117 Direction.

(c) ***That*** the CEO be authorised to consider the reference design provided by the applicant and determine the exact height that will be included in the Planning Proposal prior to it being forwarded to the Department of Planning and Environment seeking a Gateway determination.

(d) ***That*** Council advises the NSW Department of Planning and Environment that the CEO will be exercising the plan-making delegations for this planning proposal as authorised by Council on 26 November 2012.

- (e) ***That*** Council invite the proponent to make an offer of a Voluntary Planning Agreement (VPA) in relation to the planning proposal to deliver a public benefit.
- (f) ***That*** delegated authority be given to the CEO to negotiate the VPA on behalf of Council and that the outcome of negotiations be reported back to Council prior to its public exhibition.
- (g) ***Further, that*** Council authorise the CEO to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan amendment process.
11. Consistent with the Council resolution, Council Officers continued to work with the Proponent to develop an amended reference design, including demonstrated compliance with SEPP 65 and the Apartment Design Guide, and confirmation of maximum building height. The resulting amended reference design that was provided to Council demonstrated ADG compliance could be achieved on the site at a maximum building height of 180m and an FSR of 10:1 (11.5:1 with design excellence).
12. The Planning Proposal was subsequently forwarded to the Department of Planning & Environment (DP&E) on 7 July 2016.
13. A Gateway Determination was issued by DP&E on 12 September 2016, endorsing the Planning Proposal for public exhibition subject to a number of conditions. Of note, Council was required to amend the Planning Proposal to include an assessment of Section 117 Direction 2.3 Heritage Conservation, and to consult with the Department of Infrastructure and Regional Development (DIRD) as required by Section 117 Direction 3.5 Development Near Licensed Aerodromes.
14. On 7 August 2017, the DP&E issued an amending Gateway Determination to require that the Planning Proposal be further amended to include a draft site-specific clause requiring maximum car parking rates in accordance with the Parramatta CBD Strategic Transport Study.
15. A second amending Gateway Determination was issued on 8 September 2017 to address an error in the Gateway Determination of 7 August 2017, which referenced the wrong condition to be amended in relation to maximum parking rates.
16. A third amending Gateway Determination was issued on 21 March 2018 to allow additional time to complete the Planning Proposal. This was required to allow Council additional time to resolve outstanding agency issues (discussed further in this report).

Pre-Exhibition amendments to Planning Proposal

17. The Planning Proposal was forwarded to DIRD on 23 September 2016. Feedback was received on 20 October 2016 requesting that the Civil Aviation Safety Authority (CASA), Airservices Australia and the local airports be notified of the public exhibition. In response, the agencies not already required to be notified by the Gateway Determination of 12 September 2016 were included in the notification mail out.

18. As required by the Gateway Determination of 12 September 2016, the Planning Proposal was amended to include an assessment of Section 117 Direction 2.3 Heritage Conservation.
19. In response to the amending Gateway Determination of 7 August 2017, the Planning Proposal was further amended to include for a site specific clause that provided for maximum parking rates to apply to the site.
20. A further amendment to the Planning Proposal documentation that had been forwarded to the DP&E for assessment was made which corrected a drafting error in the section of the document that explains the intended effects of amending the LEP (Part 2). The error retained wording that would have provided for 20% of the floor space to be provided as non-residential, which was inconsistent with the Council resolution of 19 December 2015 that resolved to allow for 1:1 FSR of the 10:1 to be provided as non-residential floor space, with additional non-residential floor space not counted as FSR.
21. A copy of the exhibited Planning Proposal is provided at **Attachment 2**.

Draft Voluntary Planning Agreement

22. A draft VPA letter of offer was made by the applicant on 14 November 2016, which provided for the payment of a monetary contribution at a rate of \$150.00 p/sqm of value uplift between the existing FSR permitted on the site (3.5:1) to the proposed FSR (10:1), being 6.5:1, for a total contribution of \$3,223,350.
23. Council on 19 December 2016 considered a report seeking endorsement to publicly exhibit the draft VPA. The report assessed the draft VPA offer, as well as recommending that an additional clause be inserted that provided for an easement to enable the delivery of a future north-south pedestrian bridge over the Great Western Highway.
24. In summary, it was identified by Council Officers that there was a need to also provide for an easement on the subject site to respond to a DA consent that had been issued by the former Sydney West Joint Regional Planning Panel (JRPP) in relation to a development on the southern side of the Great Western Highway. The site, known and referred to as the "Former Heartland Holden" (FHH) site, was subject to a development approval by the JRPP on 29 June 2016 with a requirement that, as part of the redevelopment of the FHH site, the developer also provide a pedestrian bridge over the Great Western Highway. This bridge would effectively link the Former Heartland Holden site with the subject site.
25. It was identified that a better urban design outcome could be achieved if the Planning Proposal for the subject site allowed for the bridge to land on, and be integrated into the design of a new development on the subject site.
26. **Figure 4** below describes the location of the two sites and indicative location of the proposed bridge.

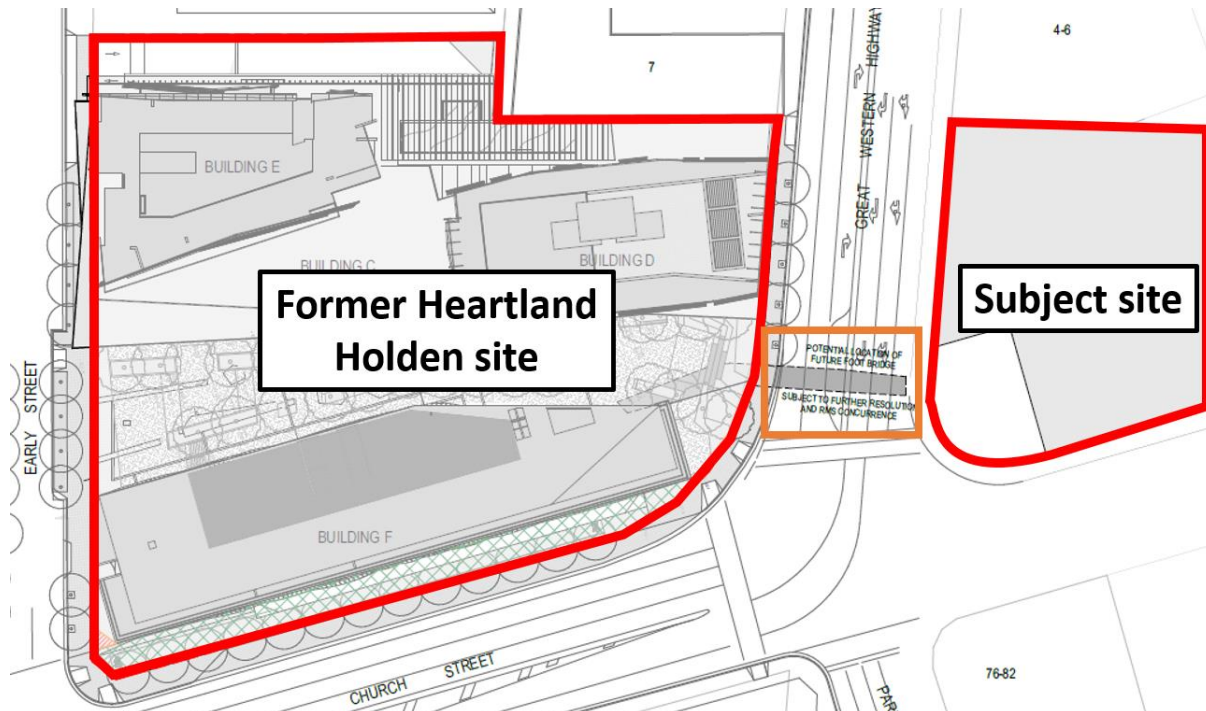


Figure 4: Location of Former Heartland Holden site, indicative location of future pedestrian bridge (in orange – subject to future DA and RMS approval), and subject site.

27. In response to the issues identified above, and in considering the draft VPA offer and Council Officer assessment (**Attachment 3**), it was resolved:

(a) **That** the applicant be advised that:-

- Preference is that provision be made, in the draft VPA being negotiated for land at 87 Church Street, Parramatta for a pedestrian bridge between the subject site and a site on the opposite side of the Great Western Highway to be integrated into the design of any new development proposed for the subject site; and
- That subject to provision for the pedestrian bridge being incorporated into the draft VPA the monetary component specified in the draft letter of offer detailed in Attachment 1 is accepted in principle.

(b) **That** the Roads and Maritime Services (RMS) and owners of the subject site (who it is also noted own the former Heartland Holden site opposite the subject site) be advised that:-

- Council supports in principle the Joint Regional Planning Panel's proposal to promote pedestrian connectivity but question whether a pedestrian bridge is necessary.
- Council is willing to incorporate where appropriate controls in planning policies and Voluntary Planning Agreements to help put in place mechanisms to assist in the delivery of the bridge.
- However, Council does not accept any responsibility for funding, managing the construction or maintenance of the bridge. Any funding and construction arrangements must be resolved between the RMS and the landowner.

(c) **That** delegated authority be given to the Interim General Manager to negotiate and finalise the legal drafting of the VPA on behalf of Council and

to endorse the draft VPA for public exhibition subject to the draft VPA complying with (a) above.

*(d) **Further, that** the draft VPA be placed on public exhibition concurrently with the planning proposal for 87 Church Street and 6 Great Western Highway, Parramatta and that a report be put to Council advising the outcome of the public exhibition of the draft VPA before final endorsement.*

28. In responding to this resolution of Council, Officers continued to negotiate with the applicant to finalise an amended draft VPA that provided for a covenant and easement to facilitate the future delivery of a pedestrian bridge over the Great Western Highway. On 10 July 2017 an amended draft VPA was provided to Council, with all parties indicating their support on 20 July 2017. A copy of the draft VPA and explanatory note (as exhibited) is included at **Attachment 4**.
29. With all outstanding matters relating to the Planning Proposal and draft VPA having been addressed, as required by Council resolutions of 14 December 2015 and 19 December 2016, the Planning Proposal and draft VPA were concurrently exhibited from Wednesday 13 September 2017 to Friday 13 October 2017.

OUTCOME OF PUBLIC EXHIBITION AND ASSESSMENT OF ISSUES

30. Eight (8) submissions were received from government agencies. A summary of key submissions and Council Officers' responses is provided below. **Attachment 1** provides a more comprehensive summary of, and response to, all submissions.

Commonwealth Agencies

Civil Aviation Safety Authority (CASA)

31. CASA note that at 203.22m AHD (180m above ground), the proposed maximum building height will impact on the prescribed airspace for Bankstown Airport, and is in the vicinity of the Westmead Hospital Helicopter Landing Sites (HLS). CASA recommended that Bankstown Airport and helicopter operators who use the Westmead Hospital HLS be consulted as part of the public exhibition.

Council Officer response

32. DIRD, in response to the consultation letter sent prior to public exhibition, recommended that Bankstown Airport be consulted. Sydney Metro Airports, the operator of Bankstown Airport, were subsequently notified of the public exhibition and have provided a submission (see below).
33. In relation to Westmead Hospital HLS, Council sought clarification from CASA to determine whether this issue could be addressed at the DA stage. In response, CASA provided further correspondence that advised that Council's position was supportable, on the basis of recent feedback CASA has received from helicopter operators in Parramatta in relation to other (taller) Planning Proposals, which are also located closer to Westmead Hospital than the subject site.
34. Based on this further correspondence, Council is satisfied that the Planning Proposal can proceed. Notwithstanding, in response to the first CASA

submission, Council requested comment from NSW Health – Western Sydney Local Health District, the relevant division responsible for the operation of Westmead Hospital. No submission was received.

Airport Operators

Sydney Metro Airports (Bankstown Airport)

35. The submission notes that at a maximum building height of 180m (203.22m AHD), the building would penetrate the Outer Horizontal of the Obstacle Limitation Surface which is set at 156m. As a result, a future DA would be required to be referred to both Airservices Australia and CASA for review prior to DIRD providing a final determination.
36. Bankstown Airport would also require formal notification to undertake a review at the DA stage. The DA should include an aviation assessment reflecting the final building height proposed.

Council Officer response

37. Council Officers note the submission, and agree that in the event a DA is lodged with a building height above 156m AHD, an aviation assessment supporting the application should be provided.

State Agencies

Office of Environment & Heritage (OEH) – Heritage Division

38. The submission states that as the exhibited Planning Proposal only provides a brief statement of potential heritage impacts relating to archaeology and is not accompanied by a Heritage Impact Statement or Archaeological Assessment, Council should ensure that it is satisfied that the proposed FSR and height will retain the heritage significance of items in the vicinity of the site.
39. As the site is located within Archaeological Management Unit 3060, which is identified as being of local significance with moderate archaeological research potential, it is recommended that an archaeological assessment be required for any future development application.
40. The Heritage Division remains concerned with the number of site specific planning proposals seeking density increases in the Parramatta CBD. At the time of writing, OEH had yet to receive additional heritage information being prepared by Council in support of the CBD Planning Proposal (Hector Abrahams Heritage Interface Study). Further, it has previously been recommended by OED that the CBD Planning Proposal should be resolved prior to further consideration being given to individual site proposals.

Council Officer response

41. Council is satisfied that the FSR and height proposed for this site can allow for an appropriate development of the site that retains the heritage significance of items within the vicinity of the site.
42. In relation to the recommendation that an archaeological assessment be prepared to support a future development application, Council notes and agrees with that an archaeological assessment be required at the DA stage.

43. The Parramatta CBD Planning Proposal is supported by two heritage studies: the Urbis Heritage Study (December 2015), which provides a high level review of the impact and issues associated with the scale of density and height increased proposed in the CBD Planning Proposal, with recommendations to satisfactorily address heritage significant items in the CBD; and the Hector Abrahams Heritage Interface Study (July 2017), which considered concerns raised by OEH in relation to those areas of the Parramatta CBD that interface with heritage conservation areas. As previously noted, Council is satisfied that the FSR and height proposed in this Planning Proposal can allow for an appropriate development that retains the heritage significance of items within the vicinity of the site. Further, the site is not located in an identified “interface area” as per the Hector Abrahams Study, therefore it is not considered that the future redevelopment of this site would impact on a heritage conservation area.
44. The concerns raised by OEH in relation to site specific rezonings in the CBD being considered concurrently with the CBD Planning Proposal relate to a broader issue about how the Parramatta CBD can progress and develop into Sydney’s Central City whilst preserving its heritage. Resolution of this issue is beyond the scope and matters for consideration of this site specific Planning Proposal. Whilst taller buildings have impacted upon heritage items, they have been previously accepted as being reasonable considering the future character and form of development likely to occur in Sydney’s second CBD.

Roads and Maritime Services (RMS)

45. Issue: The submission references DA/706/2014, which is a DA approved by the former JRPP for the FHH site, and requests that advice RMS has previously given to Council and the FHH developer on the timing of the completion of the design, approval, and delivery of the pedestrian bridge for RMS approval be reflected in the VPA for the subject site.
46. Council Officer response: The draft VPA for the Planning Proposal on the subject site is not tied to the development of the FHH land, and Council Officers do not consider it appropriate to include the advice RMS describes. While planning for the construction of a pedestrian bridge is an important planning matter that needs to be considered as the two sites develop, the draft VPA does this by providing for an easement within its land to accommodate the bridge when it is eventually delivered. Ultimately, responsibility for the construction of the bridge lies with the owner of the FHH site. Therefore, it is considered that any amendment to the draft VPA for the subject site that ties the subject site to a development consent for another site is inappropriate, and not a relevant matter to be included in the draft VPA. Council raised this issue with RMS in January 2018, and is yet to receive confirmation that this recommendation is no longer required. Council therefore considers this matter to be an unresolved agency objection that should not prevent the Planning Proposal from progressing as the VPA facilitates delivery of the bridge in an appropriate manner.
47. Issue: The submission proposes a number of minor amendments to a Clause in the draft VPA that would make it clear that the easement proposed for the subject site would be required to be wholly within the subject site, and that the provision of the easement would be at no cost to RMS and Council.

48. Council Officer response: Council Officers broadly agree with the changes proposed in the RMS submission, however do not support changes that tie the delivery of the bridge to the VPA for the subject site. A summary of the changes proposed are provided in the Table 1 below:

Clause	RMS amendment (in <i>bold italics</i>)	Council Officer response
6.2(a)(i)	(i) Development Consent DA/706/2014 applying to land on the southern side of the Great Western Highway requires the developer of that land to enter into a Deed with Roads and Maritime Services NSW, to construct a pedestrian overbridge <i>at full cost to the developer</i> at the intersection of the Great Western Highway and Church Street	Not supported. This section of the clause, as it was exhibited in the draft VPA, is for information purposes only. The developer of the FHH site is not a party to the draft VPA for the subject site, and so the RMS amendment is not relevant to the subject site.
6.2(a)(ii)	(ii) if that pedestrian bridge is constructed, the Easement Land, on the northern side of the Great Western Highway, will be required <i>wholly within the subject land</i> to accommodate the pedestrian bridge.	Supported. Additional wording provides greater clarity of the obligation of the landowner of the subject site.
6.2(a)(iii) [new clause proposed]	<i>(iii) provision of the easement land will be at no cost to Roads and Maritime and the Council.</i>	Supported. New clause provides greater clarity of the obligation of the landowner of the subject site.

49. Council Officers have written to RMS to seek clarification on this issue, and at the time of writing have not received a response. The proponent has reviewed the proposed amendments to the clause, and has raised no objections to the amendments. Ultimately, as the delivery of the pedestrian bridge is not the responsibility of the landowner of the subject site, Officers consider that the Planning Proposal should progress, with the RMS issue identified as an “unresolved agency objection”.
50. Issue: The submission suggests that the location of the pedestrian bridge landing and the continuation of the pedestrian desire line to Church Street towards Parramatta train station be considered as part of the design excellence process.
51. Council Officer response: A design competition was facilitated by Council Officers on 21 March 2018. At the time of writing, Council had not awarded design excellence to any scheme, however is continuing to work with two entries to undertake additional work on their schemes which could lead to demonstrate design excellence being awarded. Both of these schemes have been required by the Jury to demonstrate that a future pedestrian bridge can be accommodated on the subject site, and provide public access.
52. Issue: The submission provides general recommendations regarding future vehicle access into and out of the site. It is noted that vehicles turning left onto the Great Western Highway would need to cross two lanes of traffic to then turn right onto Church Street heading southbound, and that additional traffic management responses would be required. It is also recommended that Council consider appropriate noise attenuation measures to mitigate future residential dwellings against traffic noise.

53. Council Officer response: Council notes the recommendations and consider that these matters can be addressed in a future DA. As the subject site adjoins a classified road, RMS will be notified of the DA and be invited to make comment.

PROPOSED AMENDMENT TO THE DRAFT VOLUNTARY PLANNING AGREEMENT

54. In response to submissions received during the exhibition period, it is proposed that Clause 6.2(a)(ii) and (iii) be of the draft VPA be amended in accordance with the RMS submission. The applicant has agreed to accept these changes.
55. It was identified post-exhibition that Annexure A to the draft VPA, which would show an indicative location on a survey plan of the bridge was not include in the exhibition material. Council Officers consider this amendment to be of an administrative nature, and will amend the draft VPA to include Annexure A prior to execution of the Agreement.
56. It was further identified that Schedule 1 of the draft VPA incorrectly described the site specific LEP clause in relation to non-residential floor space provision, which retained wording that was not adopted by Council when the Planning Proposal was endorsed on 14 December 2015. The draft VPA will be amended to ensure it is consistent with the exhibited Planning Proposal in relation to this issue.

SUMMARY & CONCLUSION

57. The planning proposal, and draft VPA relating to 87 Church Street and 6 Great Western Highway, Parramatta have been exhibited in accordance with the provision of the Environment Planning and Assessment Act, 1979 and Gateway Determination.
58. The submissions received have been responded to above and result in minor amendments to the draft VPA to provide greater clarity in the delivery of the future pedestrian bridge over the Great Western Highway, an indicative location of the bridge, and to address a minor error in the description of the Planning Proposal provisions.
59. The Planning Proposal documentation does not require amendment as a result of the exhibition of the documents. The planning proposal is consistent with the endorsed vision for the Parramatta CBD, as per the CBD Planning Proposal.
60. It is therefore recommended that Council endorse the Planning Proposal and draft VPA for finalisation.

NEXT STEPS

61. Subject to Council endorsement, Council Officers will:
- Forward the planning proposal to the Department for finalisation.
 - Draft VPA to be finalised and executed by both parties to ensure it becomes a legally binding agreement.
 - Upon execution of the draft VPA Council officers will advise the Department that the planning proposal previously forwarded to it can now be finalised.

The planning proposal is then legally made with the new planning controls coming into force when formal notice is published on the NSW Legislation website.

Joshua Coy
Project Officer – Land Use Planning

Robert Cologna
A/Service Manager – Land Use Planning

Sue Weatherley
Director – Strategic Outcomes and Development

Sue Coleman
Acting Chief Executive Officer

ATTACHMENTS:

1	Submissions Summary Table	5 Pages
2	Planning Proposal for land at 87 Church Street and 6 Great Western Highway, Parramatta	36 Pages
3	Council report - 12 December 2016 - Endorsement of VPA Letter of Offer	9 Pages
4	Draft VPA	30 Pages

REFERENCE MATERIAL