

Greater Sydney, Place and Infrastructure

Plan finalisation report

Local government area: City of Parramatta

1. NAME OF DRAFT LEP

Parramatta Local Environmental Plan 2011 (Amendment No 51)

2. SITE DESCRIPTION AND HISTORY

The planning proposal (**Attachment A**) applies to land at 189 Macquarie Street, Parramatta. The site (**Figure 1**) is legally known as Lot 1 DP 1214839 and has a site area of 5,214.2m² and is irregular in shape. The site has road frontages to Macquarie Street and Hassall Street.



Figure 1 – Location of site (Source: Planning Proposal)

Macquarie Street accommodates the route of the Parramatta Light Rail (stage 1) which is currently under construction. The closest stop is planned for the corner of Harris Street and Macquarie Street.

Council previously owned the entire site and entered into an agreement that allowed the applicant to develop the site subject to delivery of a public carpark (on-site) and transferring it to the ownership of Council.

The site has previously been subject to a planning proposal which resulted in the insertion of Clause 7.9 into Parramatta LEP (PLEP) 2011 in 2015 through Amendment 12 (**Attachment B**).

A development application for a mixed-use building with 425 apartments, three levels of residential basement car parking and seven levels of public car parking, was approved on 15 April 2015 by the Joint Regional Planning Panel based on Clause 7.9 of PLEP 2011. The building is currently under construction.

Council sold its interest in the site (i.e. primarily the ownership of the car park) to the proponent on 24 May 2019.

3. PURPOSE OF PLAN

The draft LEP seeks to amend the existing clause which relates to the site being 7.9 – *Development on land at 189 Macquarie Street, Parramatta* (**Attachment B**) of the Parramatta LEP 2011 to:

- increase the maximum permissible building height from 91.3m to 167m;
- increase the maximum permissible gross floor area from 36,000 square metres to 60,000 square metres;
- inclusion of maximum parking rates; and
- removal of the words ‘communal open space’ and replacement with the words ‘enclosed communal areas’ (within existing clauses 2(e) & (f)) and removal of the interpretation of those words from existing clause (3) and the addition of the interpretation of the words ‘enclosed communal areas’.

The draft LEP excludes any additional uplift through the design excellence process as the additional height and FSR permitted by design excellence process is factored into the draft LEP.

The planning proposal is supported by an urban design report (**Attachment C**) indicating that an additional 280 dwellings can be provided above what existing Clause 7.9 of the Parramatta LEP 2011 would allow.

At its meeting on 14 April 2020 Council endorsed the planning proposal to finalise the LEP. Council requested that the planning proposal not be finalised until the Voluntary Planning Agreement (VPA) was executed. The VPA was executed on 13 July 2020 (**Attachment D**).

4. 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.
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NSW Government reportable political donation: A political donation disclosure statement has been provided OR there are no donations or gifts.
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5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 15 November 2016 (**Attachment E1**) determined that the proposal should proceed subject to conditions. The Gateway determination was amended on 4 August 2017 (**Attachment E2**) to alter condition 5 to require maximum parking rates to be applied to the planning proposal. Three separate alterations to provide extensions for the time to complete the LEP were issued on 25 May 2018, 16 January 2019 and 14 November 2019 (**Attachments E3 - E5**).

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(a) – required cumulative overshadowing diagrams be included in the planning proposal to allow consideration of overshadowing of heritage items and open space in the locality.

Development of the site has the potential to overshadow sensitive areas including heritage items, heritage conservation areas and public open space in the locality. Further, there are low density residential dwellings and other high-density developments in the locality which may be impacted.

Council have advised that the planning proposal was held in abeyance pending a cumulative shadow analysis which was required to be carried out as part of the Parramatta CBD Planning Proposal. The overshadowing analysis has been carried out and the CBD Planning Proposal makes recommendations to protect sensitive areas on the periphery of the CBD. It is noted that the Parramatta CBD Planning Proposal has been endorsed for exhibition by the Department of Planning, Industry and Environment.

Council are satisfied that the reference design in the urban design report indicates that should the height be distributed according to the “preferred option”, there will be no overshadowing of Experiment Farm Cottage. Further, there will be no overshadowing of Robin Thomas Reserve between 9am and 3pm in winter or summer. There is, however, the potential for some additional overshadowing of the Rowland Hassall School between 2pm and 3pm. Detailed analysis of the overshadowing issue will be undertaken as part of the design competition and development application assessment.

- Condition 1(b) – required an addendum letter relating to flooding to be included in the planning proposal.

This site is identified as flood prone land under the Lower Parramatta River Flood Management Study. A site-specific flood study was not prepared for this planning proposal with the flood modelling conducted for the previous planning proposal used to inform the current planning proposal. The Gateway conditions an addendum letter to be submitted by the proponent relating to flooding. The letter contains advice that the conclusions of the flood study from the previous planning proposal (prepared 13 May 2014) at the site remains valid for this proposal.

The overall supporting flood advice indicates that the development of the site can be designed consistently with the Floodplain Development Manual 2005 and relevant Council flood planning controls contained in the Parramatta Local Environmental Plan 2011 and Parramatta Development Control Plan 2011.

- Condition 5 - required a maximum car parking rate in accordance with the Parramatta CBD Strategic Transport Study.

The planning proposal has been amended to include maximum parking rates:

- (2A) *Despite clause 7.3, the maximum number of car parking spaces for residential accommodation in a building on land to which this clause applies is as follows—*
- (a) *0.1 space per studio apartment,*
 - (b) *0.3 space per 1 bedroom apartment,*
 - (c) *0.7 space per 2 bedroom apartment,*
 - (d) *1 space per 3 bedroom apartment.*
- (2B) *Despite clause 7.3, if a building on land to which this clause applies has a floor space ratio less than or equal to 3.5:1, the maximum number of car parking spaces for commercial premises in the building is as follows—*
- (i) *for office premises or business premises—1 space for every 175 square metres of gross floor area,*
 - (ii) *for retail premises—1 space for every 90 square metres of gross floor area.*
- (2C) *Despite clause 7.3, if a building on land to which this clause applies has a floor space ratio greater than 3.5:1, the maximum number of car parking spaces for commercial premises in the building is to be calculated using the following formula—*
- $$M = (G \times A) \div (50 \times T)$$
- where—*
- M** *is the maximum number of parking spaces.*
- G** *is the gross floor area of all commercial premises in the building in square metres.*
- A** *is the site area in square metres.*
- T** *is the total gross floor area of all buildings on the site in square metres.*

The Department is satisfied that Council has met the conditions of the Gateway determination and the draft LEP is suitable for finalisation.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 8 May 2019 to 7 June 2019. Council received nine submissions in response to the exhibition of the planning proposal. The submissions can broadly be described as having concerns with the likely impacts associated with an increase in density on the site including overshadowing impacts and impacts on adjacent heritage items, oversupply of apartments within the locality, excessive and inconsistent built form with the locality, traffic and parking issues, impacts on privacy and, safety and security concerns for future and existing residents.

Council engaged an independent consultant to address the submissions due to their past ownership of the site. The report (**Attachment F**) prepared by the independent consultant noted that many the issues are consistent with urban development and uplift and can be managed with any future development application lodged over the site.

The comments are satisfactory with the issues raised being matters to be addressed through a future development application. No further assessment is required by the Department.

The Local Planning Panel supported the progression of the proposal on 12 December 2019 (**Attachment H**).

7. ADVICE FROM PUBLIC AUTHORITIES

The Gateway determination required Council to refer the planning proposal to Office of Environment and Heritage – Heritage Division (OEH), Department of Education and Communities, Transport for NSW – Sydney Trains, Transport for NSW – Ferries, Roads and Maritime Services (RMS), Department of Infrastructure and Regional Development, Civil Aviation Safety Authority, Telstra, Sydney Water and Endeavour Energy. Council has consulted these authorities.

Submissions were received from Office of Environment and Heritage – Heritage Division, Transport for NSW, Department of Infrastructure and Regional Development, Civil Aviation Safety Authority, Sydney Water, Endeavour Energy, Transport for NSW and the Roads and Maritime Services. These submissions are addressed below.

Roads and Maritime Services

RMS considered the planning proposal and raised no objections on the basis that maximum parking rates in accordance with the Gateway determination and the Parramatta CBD Strategic Transport Study are proposed by the planning proposal (**Attachment G1**).

RMS noted that Council should be satisfied that a suitable funding mechanism is in place to obtain developer contributions on an equitable basis towards regional transport infrastructure upgrades to support future growth associated with the multiple planning proposals across the Parramatta CBD.

The planning proposal predates the release of the Greater Parramatta Interim Land Use and Infrastructure Implementation Plan which identified that a Special Infrastructure Contribution (SIC) program. As such the proposal does not propose to include a Satisfactory Arrangement Clause and a SIC is yet to be developed for the Greater Parramatta Area. Council notes that a VPA has been executed which is to provide a monetary contribution to support infrastructure provision within the Parramatta CBD

Transport for NSW (and Great River City Light Rail)

Transport for NSW provided no objection and provided preliminary comment regarding the Parramatta Light Rail Network and the need for future development applications to address State Environmental Planning Policy Infrastructure (which requires referral to the rail authority for concurrence prior to consent) (**Attachment G2**). This will enable any specific design issues to be resolved prior to any development application being approved.

Great River City Light Rail (who will operate the light rail services) raised concerns with the proposed density and the impact it may have upon the operation of the light rail network due to vehicle and pedestrian movements (**Attachment G3**).

Council's staff report (**Attachment H1**) noted that they consulted further with Transport for NSW who advised that they were the statutory authority responsible for responding to planning proposals and that they had no objections to the proposed planning control amendments. It is noted that pedestrian and vehicular movements can be further considered through the development application process.

Heritage NSW

The site does not contain a heritage time nor is it within a Heritage Conservation Area. The Gateway assessment noted that site is within the vicinity of local and state listed heritage items including Experiment Farm Cottage, Hambledon House, Robin Thomas Archaeological site, Elizabeth Farm, the Gasworks Bridge and Tara (also known as Ellengowan).

Heritage NSW (**Attachment G4**) noted that the heritage assessment prepared as part of the proposal suggested that there would be little additional impact on the values of local heritage items in vicinity of the site. The report identified that the overshadowing of nearby items will be dependent on the eventual built form on the subject site. Refinement of the design would be part of any development application process for the subject site. Heritage NSW suggested that design refinements should minimise overshadowing/solar access and visual impacts on heritage items and conservation areas in the vicinity of the site. This position is supported but is not subject to consideration as part of the draft LEP.

Heritage NSW are concerned with the cumulative impacts of this and other planning proposals on the heritage values of individual heritage items and broader heritage character of the conservation areas, in particular overshadowing/solar access and visual impacts in the locality. Heritage NSW have suggested that the CBD Planning Proposal should be resolved prior to further consideration of individual site proposals seeking increases in density.

A Gateway determination of the CBD proposal required additional analysis to be undertaken and possible refinement of heights to mitigate excessive overshadowing. The site and surrounding areas have undergone a detailed overshadowing analysis as part of the Parramatta CBD Planning Proposal. It is noted that the Parramatta CBD Planning Proposal has been endorsed for exhibition and this proposal is generally consistent with the CBD proposal.

The Department notes the concerns of Heritage NSW but also recognises the ability for site specific planning proposals to be considered on their merits. The design details and any potential impacts can be considered as part of any future development assessment process.

Department of Infrastructure and Regional Development and Civil Aviation Safety Authority

Neither Department of Infrastructure and Regional Development (**Attachment G5**) or the Civil Aviation Safety Authority (**Attachment G6**) raised concerns with anticipated heights of the buildings.

Endeavour Energy and Sydney Water

Endeavour Energy (**Attachment G7**) and Sydney Water (**Attachment G8**) provided general comments regarding the future servicing of the site. The comments made can be addressed by a development application should this plan be made.

8. POST-EXHIBITION CHANGES

The planning proposal includes the following change post exhibition:

- remove the words 'communal open space' and 'private balcony' and replace with 'enclosed communal areas' and 'enclosed private balcony' respectively within the clause, while providing interpretation of the new words.

The change with respect to the words 'enclosed communal areas' are in response to comments made during consultation and as a result of the independent assessment council had carried out due to their past ownership of the property.

The change with respect to the words 'enclosed private balcony' are in response to comments made through the drafting process. Council raised no objections to the amended wording.

It is not considered that the changes warrant re-exhibition of the draft LEP as they are minor, generally reflect the intended outcome and do not result in greater environmental impact.

9. ASSESSMENT

9.1 Premier's Priorities

Following the 2019 State elections, the Premier has announced a number of government priorities, two of which are relevant 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 draft LEP site within the Parramatta CBD and as a result opportunity for providing green spaces are limited. Notwithstanding, the reference design does identify green areas within the site including smaller trees which can contribute to the achieving the Premiers Priorities.

The proponent and Council have also executed a VPA including a monetary contribution of \$2,424,603 for community infrastructure in the Parramatta CBD. This contribution may enable Council to deliver assets to meet the aims of the Premier. The draft LEP is consistent with the Premier's Priorities.

9.2 Section 9.1 Directions

The Gateway assessment determined that any inconsistency with Direction 3.5 Development near licensed aerodromes is of minor significance and no further consideration is required.

The Gateway assessment determined that the planning proposal was consistent with 9.1 Directions and provided detailed commentary on Directions 4.3 Flood Prone Land and 6.3 Site Specific Provisions.

The Gateway assessment identified that Direction 2.3 Heritage Conservation required further consideration as outlined below.

Direction 2.3 Heritage Conservation

The direction aims to conserve items, objects and place of environmental heritage significance. The site does not contain a heritage item nor is it within a Heritage Conservation Area. However, it is in proximity to a number of items, identified previously.

The Heritage Report (**Attachment J**) prepared to support the planning proposal concludes that the proposal does not adversely and unacceptably impact upon the identified heritage significance of the nearby local heritage items, State Heritage Register listed items, Commonwealth heritage listed places, or National and World Heritage listed properties. This includes any impact resulting from the proposed height and resulting overshadowing on surrounding properties

The reports to the Local Planning Panel (**Attachment H1**) and Council (**Attachment I1**) acknowledged the findings of the Heritage Report and accepted the conclusions. Council are also satisfied that the planning proposal is consistent with the findings of the cumulative shadow analysis prepared by Council to support the Parramatta CBD Planning Proposal. The analysis identifies that this planning proposal can be supported as it is unlikely to have a detrimental impact upon the significance of heritage items/ or conservations areas in the locality. The cumulative shadow analysis has been endorsed by the Department. However, this draft LEP will precede the finalisation of the CBD Planning Proposal.

Council are satisfied that the urban design report has indicated that a design can occur while being consistent with the objectives of the Parramatta CBD in terms of height and solar access impacts.

Any future development application will be required to demonstrate an acceptable outcome on heritage items in the locality via a Statement of Heritage Impact. The statement can be assessed against Clause 5.10 Heritage conservation of the PLEP 2011.

The direction notes that a planning proposal must contain provisions that facilitate the conservation of items, objects and place of environmental heritage significance. Parramatta LEP 2011 contains existing provisions in Clause 5.10 relating to heritage conservation and Clause 7.10 Design Excellence also contains a requirement to consider heritage impacts. There are appropriate existing clauses in the LEP and there is no inconsistency with this direction.

Direction 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan

Since the Gateway determination, Direction 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan was issued on 25 July 2017. The planning proposal notes that it is consistent with the direction. After consideration of this matter it is agreed that the planning proposal is consistent with this direction by providing employment and housing opportunities.

While a special infrastructure contributions (SIC) levy has not been formally announced for Greater Parramatta, it has been identified as part of the Greater Parramatta Interim Land Use and Infrastructure Implementation Plan as a potential funding mechanism. However, the planning proposal predates the Greater Parramatta Interim Land Use and Infrastructure Implementation Plan. At this stage there is no funding mechanism that would capture a contribution and no contribution is warranted.

9.3 State environmental planning policies

The draft LEP has addressed and is consistent with all relevant SEPPs.

9.4 Central City District Plan

The site is located within the Central City District, therefore the Central City District Plan (March 2018) applies to the site. Consistency with the District Plan was not considered at the Gateway determination stage as it was yet to be released.

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 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 by providing more housing choice within the CBD which will support commercial operations and jobs within the 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.

The monetary contribution provided through the VPA, provides opportunities for local infrastructure improves, and landscaping to be carried out on site, will broadly allow consistency with the following priorities C16 Increasing urban tree canopy cover and delivering Green Grid connections; and C17. Delivering high quality open space.

The draft LEP gives effect to the District Plan by delivering housing and employment opportunities supporting the vision of the Central River City as required by section 3.8(2)(a) of the *Environmental Planning and Assessment Act 1979*.

9.5 Local Planning Panel

The planning proposal is not required to be referred to the local planning panel as it was prepared prior to 1 June 2018 which is the relevant date under the Local Planning Panels Direction. Notwithstanding, the planning proposal was presented to the Local Planning Panel for advice (**Attachment H1**) on 3 December 2019. Council noted the Panel's advice (**Attachment H3**) and resolved to support the proposal for finalisation consistent with the Panel's advice.

9.6 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 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.

9.7 Parramatta CBD Planning Proposal

On 13 December 2018, Gateway determination was given for the Parramatta CBD planning proposal which seeks to provide for an expanded and more intense commercial core supported by high-density mixed use and residential development.

The new suite of controls is intended to be implemented CBD wide via amendments to the land use zones, built form controls, introduction of community infrastructure incentives and other bonus provisions. These amendments will assist in providing opportunities for increased capacity for new jobs and dwellings, provision of community infrastructure, high-quality commercial floor space to strengthen Parramatta's position as the focal point of the Central District.

The draft LEP does not seek to make any mapping amendments but rather allow redevelopment to occur through an amendment to an existing additional local provision. The wording within the draft LEP is generally consistent with the endorsed CBD Planning Proposal.

10. MAPPING

The planning proposal does not require any mapping amendments.

11. 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 J**). Council confirmed on 13 August, 2020 that it was satisfied with the draft and that the plan should be made (**Attachment K**).

12. PARLIAMENTARY COUNSEL OPINION

On 19 August, 2020 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 as it:

- gives effect to the Central City District Plan;
- provides opportunities for commercial (and other non-residential uses) within the commercial core of the Parramatta CBD; and
- will assist with the redevelopment of the locality and support the growth of the Parramatta CBD.



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