

## INNOVATIVE

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<b>ITEM NUMBER</b>	18.4
<b>SUBJECT</b>	FOR APPROVAL: Pre-Gateway - Planning Proposal for land at 195 Church Street, 65-79 Macquarie Street, 38 and 45 Hunter Street, Parramatta (St John's Anglican Church)
<b>REFERENCE</b>	RZ/5/2018 - D07149307
<b>REPORT OF</b>	Land Use Planning Manager
<b>APPLICANT</b>	Jattca Pty Ltd
<b>OWNER</b>	St Johns Parramatta Endowment Fund

### DEVELOPMENT APPLICATIONS CONSIDERED BY SYDNEY CENTRAL CITY PLANNING PANEL - Nil

#### PURPOSE:

This report seeks Council's endorsement of a Planning Proposal for the land at 195 Church Street, 65-79 Macquarie Street, 38 and 41-45 Hunter Street, Parramatta for the purposes of forwarding it to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination. The report also seeks:

- endorsement to proceed with the preparation of a site-specific Development Control Plan;
- authorisation for the Chief Executive Officer to progress negotiations on a Planning Agreement;
- authorisation for further investigations and consultation with the applicant and adjoining owners on potential road closures and changes to the way sites are accessed by vehicles in the precinct.

#### RECOMMENDATION

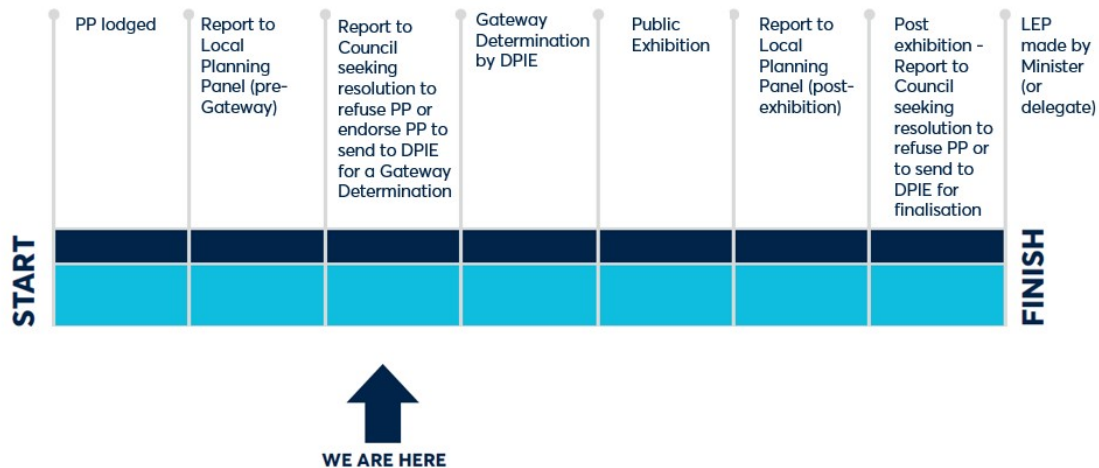
- (a) **That** Council endorse the Planning Proposal at **Attachment 2** for the purpose of public exhibition to amend Parramatta LEP 2011 for land at 195 Church Street, 65-79 Macquarie Street, 38 and 41, 43 and 45 Hunter Street, Parramatta, to pursue the following amendments to Parramatta Local Environmental Plan 2011:
- i. The land be rezoned from part B4 - Mixed Use and SP1 – Special Activities (Place of Public Worship) to part B3 - Commercial Core, part B4 Mixed Use and part SP1 Special Activities (Place of Public Worship) as shown in Figure 7 (Recommended - Zoning) of this report.
  - ii. The Floor Space Ratio (FSR) map be amended to apply a maximum incentive FSR of 10:1 in the location shown in Figure 7 (Recommended - FSR) of this report with no FSR being applied to the portion containing the Cathedral, also mapped in Figure 7 (Recommended - FSR) of this report.
  - iii. An additional site-specific local provision be included, which allows unlimited FSR for office development on the portion of the site labelled 10:1\* in Figure 7 of this report (Recommended - FSR) of this report.
  - iv. The sliding-scale provisions contained within Parramatta LEP 2011

- remain applied to the subject site.
  - v. The Height of Building Map be amended to apply a maximum building height control of 211 metres Reduced Level (approximately 60 storeys) and 12 metres (approximately 3 storeys) in the locations shown in Figure 7 (Recommended - Building Height) of this report with no building height being applied to the portion containing the Cathedral, also mapped in Figure 7 (Recommended - Building Height) of this report.
  - vi. The site is identified on the Special Provisions map to permit the application of Clause 7.6 Airspace operations.
  - vii. The existing heritage item identified as St. John's Parish Church Hall (Item 1713) be de-listed from Schedule 5 of the LEP.
  - viii. The portion of land at 41, 43 and 45 Hunter Street, as shown in Figure 10 in Attachment 1, is identified on the Land Reservation Acquisition Map to facilitate the creation of a 6 metre wide laneway to provide future vehicle access to these three sites and 181 Church Street, Parramatta. Noting that 41 and 43 Hunter Street have only been included in the Planning Proposal for the purposes of identifying the 6 metre wide laneway land on the Land Reservation Acquisition Map and that no other changes will be made to the planning controls that apply to these two sites.
  - ix. An additional site-specific provision to allow car-parking as a permissible use on a small portion of the land zoned SP1 – Special Activities (Place of Public Worship), shown in Figure 9 in Attachment 1, in conjunction with any redevelopment of the St John's Church Site.
  - x. Is consistent with Council's policy position, endorsed 25 November 2019, in relation to Sun Access Plane – Parramatta Square where any new development on affected land must not result in any additional overshadowing between 12pm and 2pm of the nominated area on Parramatta Square during midwinter on 21 June.
  - xi. Maximum parking rates be adopted as an additional local provision, consistent with the Parramatta CBD Planning Proposal Strategic Transport Study rates endorsed by Council on 10 April 2017.
- (b) **That** the revised Planning Proposal be forwarded to the DPIE with a request for a Gateway Determination;
- (c) **That** a site-specific Development Control Plan (DCP) be prepared and reported to Council prior to exhibition, in accordance with the following principles:
- i. Significant heritage interpretation of the Church Hall recommended above for delisting and potential future demolition;
  - ii. A minimum 5 metre width for the new pedestrian through link (laneway) with no building overhangs and activation of the laneway;
  - iii. Requirements for the new civic square including scale, treatment, tree planting and deep soil;
  - iv. Controls consistent with the Parramatta CBD Planning Proposal flood requirements, basement design (flood-proofing), requirement for an overland flow study, water sensitive urban design requirements, no habitable floor space to be provided below the ground level;
  - v. Vehicular access and servicing arrangements for the site; and
  - vi. Built form controls relating to the tower forms on the site including but not limited to tower setbacks from adjoining properties, and setbacks from retained heritage items.
- (d) **That** the CEO be authorised to negotiate a Planning Agreement with the

landowner that takes into consideration:

- i. the public benefits offered by the landowner in submissions to Council to date;
  - ii. Council's Planning Agreements Policy and Parramatta CBD Planning Proposal Community Infrastructure Framework acknowledging that the public benefits offered by the landowner are proposed to offset the demolition of the Church Hall. The works proposed to offset the loss of the Church Hall should not be taken into consideration when determining whether any offer from the landowner is consistent with the abovementioned Council Policy and Framework.
  - iii. that any planning agreement contribution is in addition to the development contributions required under Council's CBD Development Contributions Plan.
- (e) **That** an assessment of whether the eastern portion of Hunter Street adjoining the subject site's western boundary should be closed and sold to the Church for inclusion in the new civic space, be considered concurrently with Planning Agreement negotiations with the Applicant/ landowner.
- (f) **That** the outcome of negotiations on the Planning Agreement and the assessment of the closure of the eastern portion of Hunter Street be reported back to Council for endorsement prior to public exhibition of any Planning Agreement, at the same time the draft site-specific DCP is reported to Council for exhibition purposes.
- (g) **That** prior to any exhibition the Applicant be requested to provide urban design analysis and other supporting documents for the Planning Proposal that are consistent with the Council's resolved position and any conditions of the Gateway Determination to ensure the exhibition material is consistent.
- (h) **That** upon the issue of a Gateway Determination the Planning Proposal, draft DCP, and Planning Agreement be exhibited concurrently and that the exhibition outcomes be reported back to Council.
- (i) **That** Council officers commence negotiations with the owners of 181 Church Street, Parramatta to seek agreement to the implementation of alternate vehicle access arrangements to this site from Hunter and/or Marsden Street.
- (j) **That** Council authorise the CEO to amend the Planning Proposal to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan-making process.
- (k) **Further, that** Council note the advice of the Local Planning Panel of 3 December 2019 is inconsistent with the Council officer's recommendation in this report. The Panel's advice is to:
- i. Retain the listing of the Church Hall on the heritage schedule; and
  - ii. Consult with landowners of 41 and 43 Hunter Street, prior to requesting a Gateway determination.

## PLANNING PROPOSAL TIMELINE



## BACKGROUND

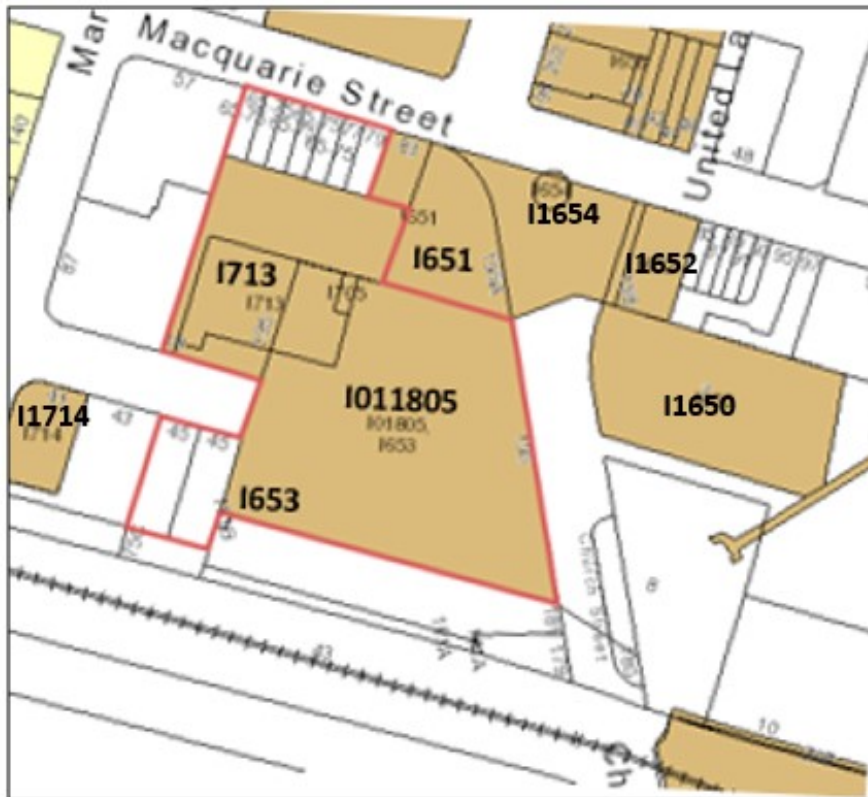
1. On 29 May 2018, Jattca Property Solutions (the Applicant) lodged a Planning Proposal to Council on behalf of the landowner (Anglican Church Property Trust Diocese of Sydney, as Trustee for the Parish of Parramatta and the St John's Parramatta Endowment Fund) in relation to land at 195 Church Street and 68-79 Macquarie Street and 45 Hunter Street, Parramatta. The subject site is commonly referred to as the St John's Church site.
2. The applicant's Planning Proposal is based on a 100-year master plan envisaged for the subject site prepared by the Applicant and includes the following (**Attachment 3** contains images of the proposed development preferred by the Applicant):
  - A new setting for the state heritage listed St John's Anglican Cathedral through an enhanced public domain comprised of the provision of a new public square (proposed to remain under the ownership of the Church but accessible by the public), and a new pedestrian laneway accessed from Macquarie Street;
  - A new northern tower comprised of 45-storeys (approximately 192 metres) including a minimum of 4,000 square metres of Church uses ancillary to the Cathedral, ground floor active uses within a three-storey podium, and 44,000 square metres of A-Grade leasable office space within the tower element (providing approximately 4,000 jobs) which would require the demolition of the existing locally heritage listed Church Hall located immediately north west of the State listed Cathedral;
  - A new southern tower comprised of 43-storeys (approximately 152 metres) containing ground floor active uses and 15,000 square metres of residential accommodation; and
  - Shared basement car parking extending from the north of the site, to the south of the site with proposed vehicular access off Macquarie Street.
3. The Applicant's preferred redevelopment option involves the demolition of the Church Hall, which is a listed Heritage Item. The Applicant was asked to prepare three design options regarding the treatment of the Church Hall to allow a proper assessment of the proposal and the potential alternatives. The options put forward by the Applicant and assessed by Council officers were:

- i. The Church Hall is retained with any new building constructed beside the Hall;
  - ii. The Church Hall is retained and the new A-grade office building cantilevers over the Hall; and
  - iii. The Church Hall is demolished to allow for a larger civic space and better activation from a new A-grade office building.
4. The Applicant's original Planning Proposal did not propose to de-list the Church Hall from Schedule 5 of Parramatta LEP 2011, but instead to show its removal in the site-specific DCP and manage its removal as part of a future development application. Council officers advised the Applicant that if officers were to support the removal of the Church Hall, it would be on the basis that the Church Hall was formally de-listed. As such, the Applicant subsequently amended their proposal to now seek the de-listing of the Church Hall from Schedule 5 of Parramatta LEP 2011.
5. Further detail on the application and the applicant's justification is included in the Urban Design report lodged with the application (Refer to **Attachment 3**).

#### **THE SUBJECT SITE AND SURROUNDING CONTEXT**

6. The subject site contains 195 Church Street, 65-79 Macquarie Street, 38 and 45 Hunter Street, Parramatta. These properties comprise of twelve (12) allotments currently owned by the Anglican Church Property Trust, Diocese of Sydney, as Trustee for the Parish of Parramatta and the St John's Parramatta Endowment Fund (See Figure 1). The subject site is irregular in shape and has a total site area of 10,857 square metres.
7. The combined site has frontages to Macquarie Street (north), Centenary Square (east), Hunter Street (west) and the railway corridor (south). The site is about 100 metres from Parramatta Railway Station and Parramatta Light Rail Stage 1 stop on Macquarie Street, and is adjacent to Parramatta Square.
8. There are currently site-specific Planning Proposals being processed for three adjoining sites at 57 Macquarie Street, 20 Macquarie Street and one site with two frontages at 197- 207 Church Street and 89 Marsden Street. Details of what is proposed on these sites are provided in **Attachment 1** but each of these sites have Planning Proposals before Council where buildings with heights between 90 metres (25-storeys) and 180 metres (50-storeys) are proposed.

**Figure 1 – Subject site and listed heritage items in the locality (site shown in outlined in red)**



9. In the location shown in **Figure 1**, the subject site contains a State heritage item known as St John's Anglican Cathedral (I011805) and several local listed items including:
  - St John's Parish Church Hall (Local Listing I713);
  - Warden's (Verger's) Cottage (Local Listing I653); and
  - St John's Building (façade included in local listing I651 for Centenary Square and adjoining buildings).
10. These items as they relate to their respective allotments, contribute to the setting and curtilage of the St John's Anglican Cathedral. There are also a number of heritage items on sites surrounding the subject site and the details of these are provided in the Local Planning Panel report included as **Attachment 1**. The subject site and its surrounds is a critical heritage precinct in the Parramatta CBD with a group of listed buildings on the site and surrounding it that represent an important part of the history of Parramatta. Heritage impacts are an important part of the assessment of this proposal.

#### **COMPARISON OF EXISTING, PARRAMATTA CBD PLANNING PROPOSAL, APPLICANT'S AND RECOMMENDED CONTROLS**

11. A comparison of existing, Parramatta CBD Planning Proposal, the Applicant's and recommended controls is shown in Table 1 below.

**Table 1 – Comparison of controls**

	<b>Parramatta LEP 2011</b>	<b>Parramatta CBD Planning Proposal, endorsed by Council on 25 November 2019</b>	<b>Applicant's Planning Proposal</b>	<b>Council officer's recommended controls</b>
<b>Zoning</b>	Part B4 Mixed Use, part SP1 Special Activities	Part B4 Mixed Use, part SP1 Special Activities	Part B4 Mixed Use, part B3 Commercial Core, Part SP1 Special Activities	Part B4 Mixed Use, part B3 Commercial Core, part SP1 Special Activities
<b>Maximum height of building</b>	Part 24m, part 18m, part 36m and part no height control	Part 24m, part 18m, part 12m, part 36m, part 211RL and part no height control	Part 28m and part no height control	Part 12m part 211 RL and part no height control
<b>Maximum FSR</b>	Part 3:1, part 10:1 and part no FSR shown	Part 3:1, part 10:1 and part no FSR shown	Part 13.5:1 and part 9.4:1 and part no FSR shown	Part 10:1 and part no FSR shown (refer to special clauses)
<b>Parramatta CBD Planning Proposal special clauses</b>	Sliding-scale applies	Sliding-scale applies  Aeronautical investigation clause	Seeking exemption from sliding-scale  Aeronautical investigation clause	Sliding-scale applies  Aeronautical investigation clause  Unlimited FSR on Proposed B3 Commercial Core fronting Macquarie Street
<b>Site-specific clauses</b>	Nil	Nil	Nil	Additional permitted use to allow basement parking on part of SP1 Special Activities zoned land.
<b>Heritage status Church Hall</b>	Listed	Listed	De-list	De-list

	<b>Parramatta LEP 2011</b>	<b>Parramatta CBD Planning Proposal, endorsed by Council on 25 November 2019</b>	<b>Applicant's Planning Proposal</b>	<b>Council officer's recommended controls</b>
<b>Maximum gross floor area (GFA)</b>	6,870 m <sup>2</sup> fronting Macquarie Street  2,592 m <sup>2</sup> fronting Hunter Street	6,870 m <sup>2</sup> fronting Macquarie Street  5,184 m <sup>2</sup> fronting Hunter Street (applying sliding-scale)	57,900 m <sup>2</sup> office GFA fronting Macquarie Street  14,500 m <sup>2</sup> fronting Hunter Street	Unlimited office GFA fronting Macquarie Street  5,184 m <sup>2</sup> in B4 Mixed Use Zone (applying sliding-scale)
<b>Maximum dwelling yield = maximum GFA / 85 m<sup>2</sup> for high density dwellings</b>	Approximately 111 apartments (both Macquarie and Hunter Street sites)	Approximately 142 apartments (both Macquarie and Hunter Street sites)	171 apartments (Hunter Street building)	61 apartments (Hunter Street building)

## ASSESSMENT OF KEY ISSUES

### Office building proposed at the northern side of the site (fronting Macquarie Street)

12. **Figure 2** shows the Applicant's proposed development for the northern part of the site. There are three critical issues in the assessment of the office tower proposed at the northern end of the site:
- inconsistency with the Parramatta CBD Planning Proposal;
  - de-listing and removal of the existing Church Hall; and
  - potential for the new office tower to overshadow the portion of Parramatta Square where solar access is protected under Parramatta LEP 2011.

**Figure 2 – Applicant's preferred development option**





### Inconsistency with Parramatta CBD Planning Proposal

13. As indicated in **Table 2**, the Applicant is proposing significant changes from the existing controls but the more relevant basis of assessment is to compare the proposal to the draft Parramatta CBD Planning Proposal controls. These controls represent Council's current policy framework for sites in the CBD. The differences between the Applicant's proposal and the Parramatta CBD Planning Proposal controls are summarised in **Table 2**.

**Table 2 - Comparison Parramatta CBD Planning Proposal controls and applicants proposed controls as originally submitted for northern side of site.**

	<b>Parramatta CBD Planning Proposal</b>	<b>Application as originally submitted</b>
<b>Zoning</b>	B4 Mixed-Use	B3 Commercial Core
<b>Height of Building</b>	Part 24m (6-7 Storeys), part 28m (7-8 storeys) part 12m (3-4 storeys)	Removal of all height controls
<b>FSR</b>	3:1	13.5:1

14. The Parramatta CBD Planning Proposal controls are informed by a heritage study undertaken by Urbis. The Applicant has put forward a suite of studies to argue that additional density and height is appropriate for this site (**Attachments 3, 4, 5, 6, 7, 9, 10, 12 and 13**). Council obtained an independent heritage review undertaken by Hector Abrahams and Associates (**Attachment 8**) that recommended the Church Hall be retained but that they had no objection to a taller building and more density in the area of the subject site north of the Hall.

### De-listing and removal of the Church Hall

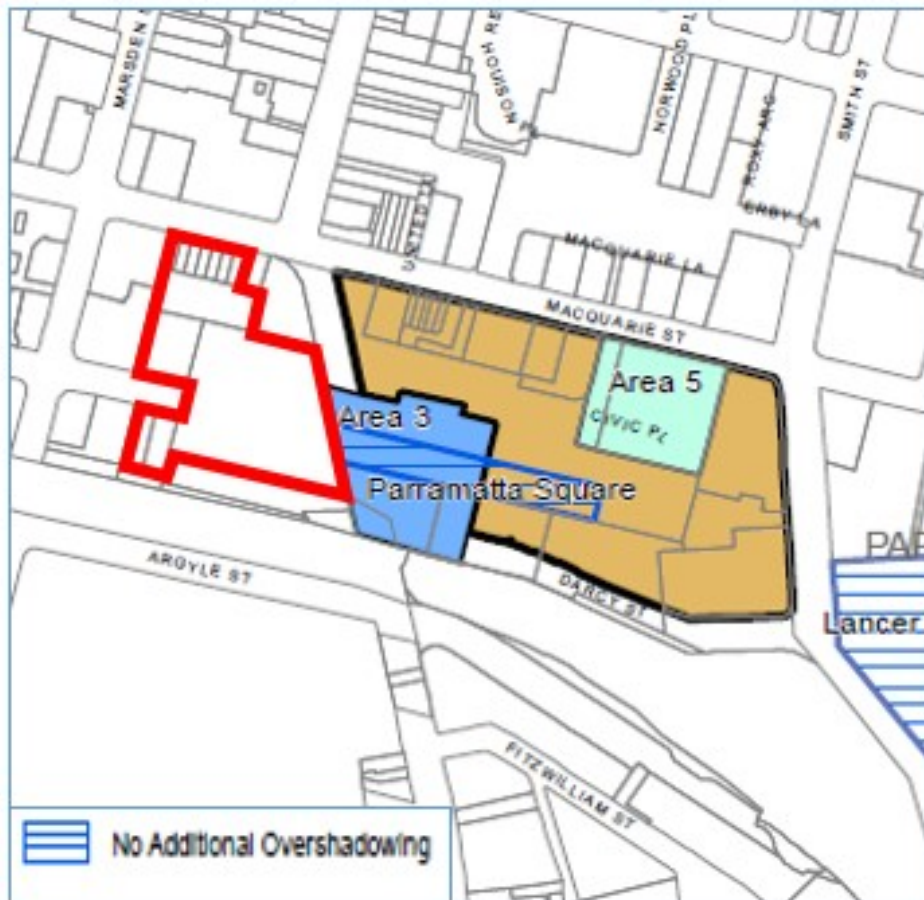
15. The Applicant has provided a number of heritage and other studies to justify the proposed de-listing and future removal of the Church Hall. The Applicant's justification for the removal of the Church Hall is summarised as follows:
- The Church Hall has continuously evolved over time to support the needs of the Church congregation and now needs to evolve again to meet modern day requirements. The design and configuration of the Church Hall does not meet the need of modern congregations;
  - The Church wishes to expand its ancillary facilities in the podium of the new proposed office tower on the northern side of the site and retaining the Church Hall means the new facilities would be fragmented across two buildings rather than incorporated and integrated in one new building;
  - It is not viable for an A-grade office tower to be provided on site if the Church Hall is retained. In addition, the cost of constructing an A-grade office tower that is designed to accommodate the Church Hall and cantilever over the top of the Church Hall will add to the design complexity and cost of the redevelopment impacting on its viability;
  - The Church wishes to provide a new civic space and new pedestrian laneway linking the new civic space to Macquarie Street along the western edge of the site, to provide an improved public domain outcome in front of the Cathedral. Removing the Church Hall will allow for the new civic space to be larger, better connected to other civic space around the Church and to Centenary Square and be better activated as the existing

- Church Hall has limited opportunities for openings and interactions along its southern edge fronting the new civic space. The area of civic space that the Church is able to contribute to the new civic square can be increased by 640 square metres from 1,210 square metres to 1,850 square metres, if the Church Hall is removed;
- e. For the Church to make their 100-year masterplan financially viable, they need to be able to develop a viable A-grade office building. This would also be a valuable contribution to the CBD where employment uses should be encouraged;
  - f. Retaining the Church Hall would limit the ability to achieve a continuous functional basement; and
  - g. The public benefit from the new public domain and the additional A-grade jobs will outweigh the public loss associated with the future demolition of the locally listed Church Hall.
16. As part of the assessment, Council asked the Applicant to provide details of the different development outcomes on the site if the Hall is demolished or retained including an option with an office tower cantilevering over the Church Hall.
17. As indicated above, the independent heritage assessment recommended the Church Hall be retained and that any tower adjoining it should not cantilever over the Hall. This position is supported by Council's Heritage Advisor and the Heritage Advisory Committee.
18. An independent assessment was undertaken by JPW Architects to test the viability of providing an A-grade office building if the Church Hall is retained. The key conclusions were that it is possible to achieve an A-grade office tower if the Church Hall is removed or if it cantilevers above the Hall but not if the Church Hall is retained.
19. Copies of the heritage and A-grade office viability studies Council engaged are provided in **Attachments 8 and 11**.
20. An assessment of the economic benefits of the proposal was obtained from Council's Economic Development team who acknowledged the benefits and demand for additional A-grade office space in this location in the Parramatta CBD.
21. The recommendation on whether the Church Hall should be demolished rests on the net public benefit from the project. The operational issues associated with the operation of the Church are secondary issues. The key issue is whether the public benefits accruing from the larger new civic space, the improved level of design and activation of this space and the economic benefits of an A-grade office space outweighs loss the community will experience by having a locally listed heritage item demolished. After considering the issues, Council officers consider that on balance the public benefits accruing to the community by the proposal are greater than the loss associated with potential demolition of the Church Hall, consequently, it is recommended Council support the Applicant's proposal to de-list the Church Hall. De-listing the Church Hall from the heritage schedule in the Parramatta LEP 2011 will simplify the assessment of any future development application for demolition and increase the likelihood that any future proposed demolition will be approved.

### Overshadowing of Parramatta Square

22. **Figure 3** shows the portion of Parramatta Square that the Parramatta LEP 2011 seeks to protect from overshadowing between 12pm and 2pm year round. Under the Parramatta CBD Planning Proposal, it is proposed that this area be protected between 12pm and 2pm on 21 June. This would allow some overshadowing during other times of the year providing there is no shadow impact on 21 June.
23. The northern office tower proposed by the Applicant complies with the proposed Parramatta CBD Planning Proposal control which would protect the site on 21 June from 12 pm to 2pm. The proposed office tower would overshadow the key portion of Parramatta Square between 12pm and 2pm during two periods of the year from March to May and August to October, but complies with the Parramatta CBD Planning Proposal controls.

**Figure 3 – Subject site in relation to Parramatta Square Sun Access Plane**

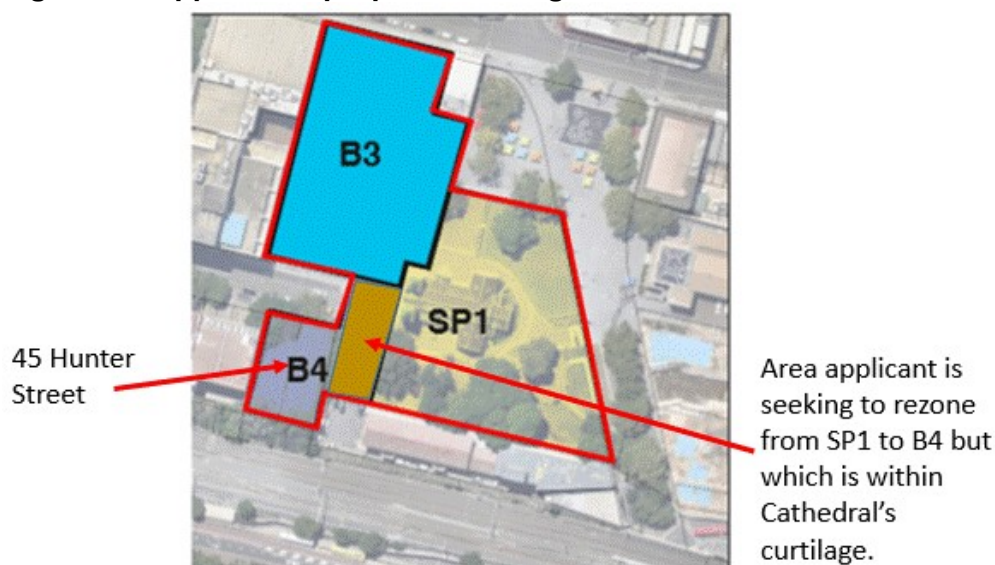


24. The conclusion of the assessment is that taller buildings can be supported on the northern portion of the site from a heritage viewpoint and that there is a net public benefit in promoting an A-grade office building on this site by allowing for the demolition of the existing Church Hall. Also, the shadow impact is consistent with Council's overshadowing policy. Given these conclusions, the Applicant's proposed de-listing and demolition of the Church Hall and an increase in FSR and heights are supported on the northern part of the site. The specific FSR and height recommended are discussed later in the report.

### Residential building proposed at the southern end of site (fronting Hunter Street)

25. The residential tower development is shown in **Figure 2**. The Applicant is proposing a 43-storey (154 metre high) residential tower building with up to 15,000 square metres of floor area. Development on the southern end of the site would be limited to the 45 Hunter Street site because the remainder of the southern part of the site is within the state listed curtilage of the Cathedral where development would not be supported.
26. The applicant is also seeking to expand the existing B4 Mixed Use zoned area immediately west of the Cathedral, as shown in to **Figure 4**. This would allow an FSR to be applied to this land. This proposal if accepted would allow the Applicant to avoid application of the sliding-scale provision (by having sufficient land area to maximise the FSR) and allow a much bigger building on 45 Hunter Street than would be permitted under the Parramatta CBD Planning Proposal. A comparison of the development permitted under the Applicant's proposal and the Parramatta CBD Planning Proposal is shown in **Table 3**.

**Figure 4 – Applicant's proposed zoning**



**Table 3 – Comparison of Applicant's proposed and Parramatta CBD Planning Proposal controls**

Scenario	Site Area (approx.)	FSR with Sliding-scale FSR	Floor Space Achievable	Height of building
<b>Applicant's proposal</b>	1,600 m <sup>2</sup> *	9.4:1	14,500 m <sup>2</sup>	45-storeys
<b>CBD Planning Proposal and recommendation for this site-specific Planning Proposal</b>	864 m <sup>2</sup> ^	6:1	5,184 m <sup>2</sup>	8-storeys

\*Area Applicant is proposing to zone B4 Mixed use

^Site area of 45 Hunter Street.

27. A detailed assessment of the urban design impacts indicates that permitting the Applicant's proposed controls would produce an unacceptable urban design outcome with large towers with minimal setbacks and large blank walls on 45 Hunter Street and the adjoining site at 43 Hunter Street. The design outcome is

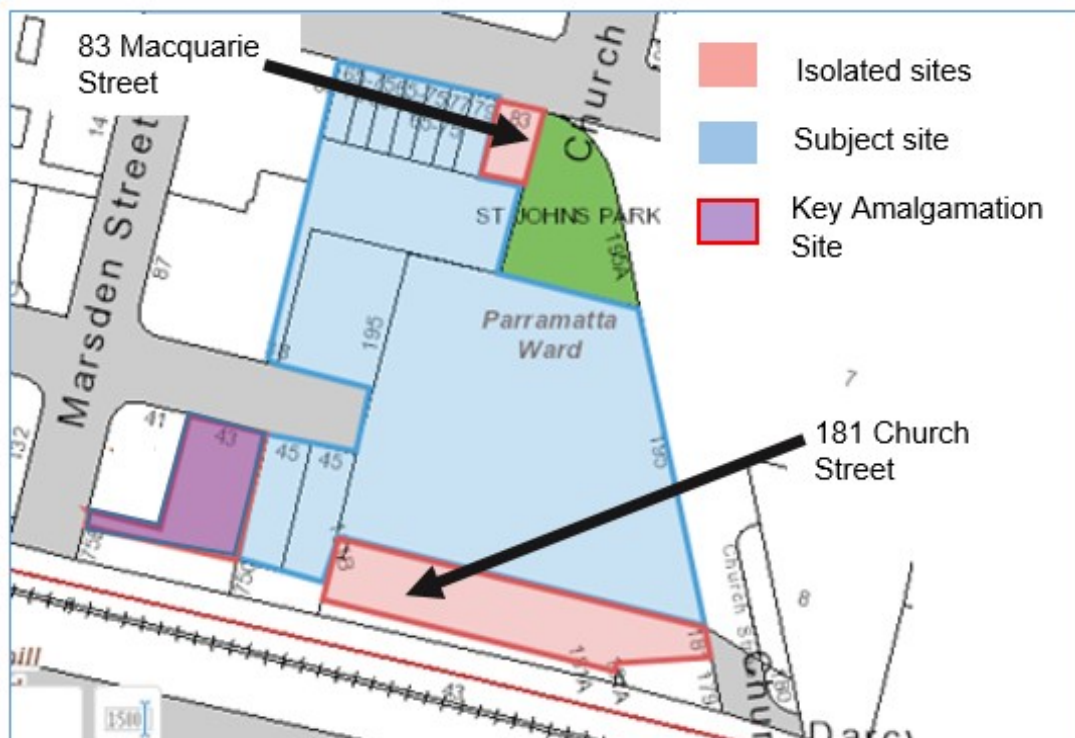
inconsistent with the objectives of the Apartment Design Guide and Council's policy framework. This detailed assessment is provided in **Attachment 1**. A better urban design outcome is achieved by encouraging amalgamation of 43 and 45 Hunter Street to obtain one tower with setbacks that comply with the objectives for the Apartment Design Guide and Council's policy framework.

28. Given the findings of the urban design assessment, a planning policy that encourages amalgamation of these sites is recommended. The existing Parramatta LEP 2011 and the Parramatta CBD Planning Proposal both contain sliding-scale controls that seek to encourage amalgamation by allowing the landowners to achieve a higher FSR if they amalgamate their sites and achieve the greater site area and urban design outcomes. It is recommended that the FSR and height controls be permitted to increase in accordance with the Parramatta CBD Planning Proposal and that the current sliding-scale controls be applied to encourage amalgamation and achievement of better urban design outcomes.

### ASSESSMENT OF OTHER PLANNING MATTERS

29. An assessment of traffic, vehicle access, flooding and other statutory matters are provided at **Attachment 1**.
30. This assessment includes an analysis of the impact of this Proposal on two sites at 83 Macquarie Street and 181 Church Street that will become isolated unless they can be amalgamated with the Church site and developed in an integrated manner. The two sites are shown in **Figure 5**.


**Figure 5 – Isolated sites**





31. The isolated site assessment concludes that, if the two sites are developed separately, the development potential they will be able to achieve will not be greater than what is permitted under current controls in Parramatta LEP 2011 due to constraints related to protecting the view corridor to St John's Cathedral.
32. If they are amalgamated with the Church site, the net development potential will not increase and the urban design outcomes will not be significantly different.
33. Given this, there is no benefit to any landowner or additional incentive to amalgamate these sites with the Church site if these sites are included in the subject site-specific Planning Proposal. These isolated sites are not considered an issue that warrants Council making a decision not to progress the current site-specific Planning Proposal.
34. The assessment of these additional issues has identified a range of further amendments to the planning controls that are recommended for inclusion in the Planning Proposal. These are summarised in Table 4.

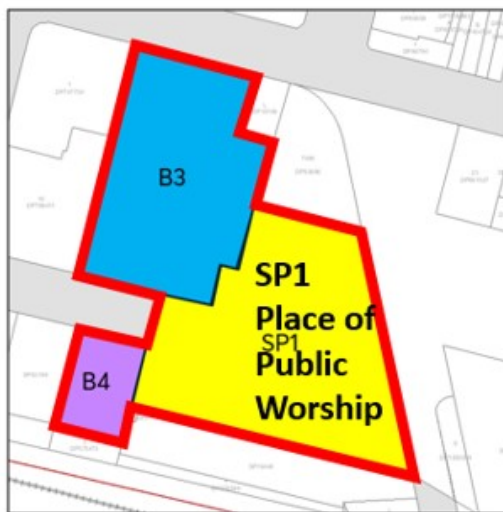
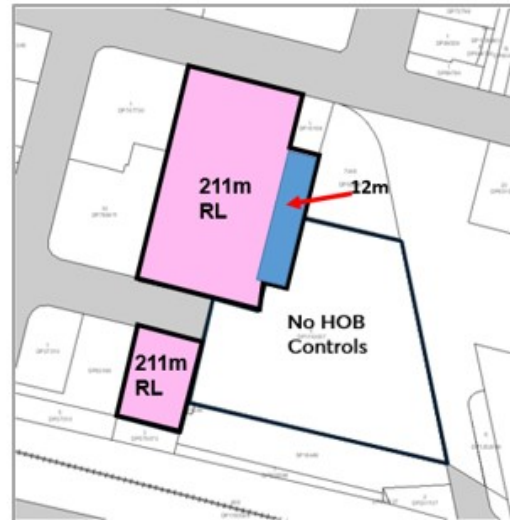
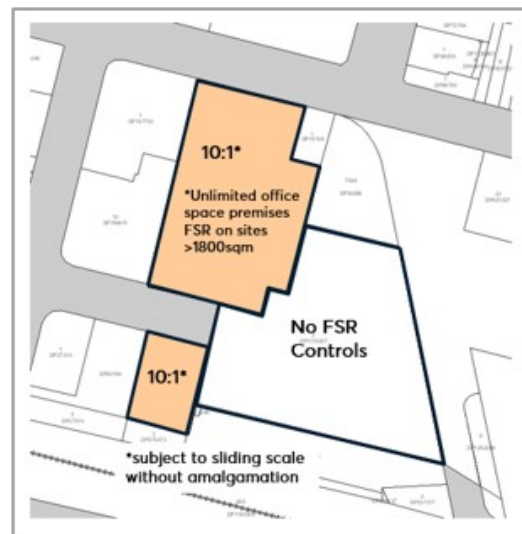
**Table 4: Additional recommended controls**

Recommended control	Justification
<p>Allow basement parking as an additional permitted use in part of SP1 Special Activities (Place of Public Worship) zoned land to allow a single connected basement to be achieved</p>  <p><b>Figure 6 : Applicant proposed basement parking Plan</b></p>	<p>The basement parking is unlikely to have a significant impact on the heritage significance of the Cathedral.</p> <p>The potential benefits of achieving a large basement that links both the proposed building on the site is acknowledged.</p> <p>Allowing this additional permitted use will allow the impact of a basement to be considered in more detailed at Development Application stage where otherwise it would not be permitted and not able to be considered.</p>
<p>Include car parking rates for the Parramatta CBD Planning Proposal endorsed by Council on 10 April 2017</p>	<p>Ensure consistency with Council's resolved position on parking in the Parramatta CBD. The planning proposal would be unlikely to be supported by State Government planning or transport agencies unless this is included.</p>

Recommended control	Justification
<p>Include a 6m strip of land parallel to the rail line impacting on 41, 43 and 45 Hunter Street on the Land Reservation Acquisition Map to ensure that a new laneway can be delivered. While technically this will make Council the acquisition authority for this land it is envisaged that the laneway will be delivered as an infrastructure contribution that would be negotiated when these sites are redeveloped in the future rather than acquired by Council. Given the boundaries of the lots the impact on 43 and 45 is to take a 6m strip along the southern boundary of these site. However, 43 Hunter Street has a battle-axe handle driveway linking the site to Marsden Street that is approximately 4.5 metres wide so an additional 1.5m will be required. The proposed access way would cover this battle-axe driveway and so the land take from 41 Hunter Street will be in the order of 1.5m. (see Figure 10 in <b>Attachment 1</b> for location of vehicle access laneway)</p>	<p>This laneway provides pedestrian safety benefits in Hunter Street and will ensure the new proposed civic space is more pedestrian friendly, by taking vehicles accessing these properties off Hunter Street. This also would provide an opportunity to resolve an access issue associated with 181 Church Street (ie Queensland Arcade). Current vehicle access to the Queensland Arcade site involves vehicles driving across a pedestrian zone immediately north of the Church Street railway underpass which represents an on-going pedestrian safety issue. This laneway could provide alternate access to this site to assist in resolving this pedestrian safety issue.</p>
<p>Solar Access provision to protect Parramatta Square from overshadowing,</p>	<p>To apply controls consistent with Parramatta CBD Planning Proposal that propose to protect solar access in Parramatta Square. Details of these controls have been provided previously in this report.</p>
<p>Apply clause 7.6 Aeronautical Operations to this site</p>	<p>Given the height of the proposed buildings an assessment of their impact on aeronautical operations will be required to be undertaken at development application stage.</p>

## RECOMMENDED ZONING, FSR AND HEIGHT CONTROLS

35. As a result of the assessment undertaken the zoning, FSR and height of buildings controls recommended for the site are shown in the **Figure 7**
36. The controls recommended are consistent with the Parramatta CBD Planning Proposal except for the zoning change to enable a new A-grade commercial building on the northern part of the site. The benefits associated with the new civic space and A-grade office building are considered on balance to provide adequate justification for the recommended de-listing of the Church Hall and the increase in FSR and height on the site.

**Figure 7: Recommended Zoning, Height of Building and FSR Controls****Recommended Zoning****Recommended Height Of Building****Recommended FSR****SALE OF PART OF HUNTER STREET**

37. The proposed delivery of the new civic square is supported in principle as it will contribute to the supply of new open space in a strategically important area within the CBD, will enhance the setting of the western part of the site, which currently presents as a cul-de-sac at the end of Hunter Street, and complements existing adjoining civic spaces.
38. The Applicant's proposal includes the closure of part of Hunter Street to create a new rectangular civic space and to accommodate a new basement car park as shown in **Figure 8**. Council officers consider there is merit in pursuing the new civic space if the subject site is to be redeveloped in accordance with the Planning Proposal lodged.



**Figure 8 – Portion of Hunter Street Applicant wishes to acquire to allow for basement car park**



39. It is recommended that Council in parallel with ongoing discussions with the Applicant on the Planning Agreement, undertake a more detailed assessment of the merits of closing the relevant portion of road and selling it to the Church. The assessment would be provided at the same time the report to progress the Planning Agreement for the site is reported to Council.

## DEVELOPMENT CONTROL PLAN

40. Council officers will work with the Applicant to prepare a draft site-specific DCP for the site, based on issues raised during the assessment of the proposal including but not limited to built form, flooding, heritage interpretation, access and service arrangements and requirements for the pedestrian laneway and civic square. The draft site-specific DCP will be reported to Council prior to its exhibition.

## PLANNING AGREEMENT

41. The Applicant submitted potential public benefits as part of their original Planning Proposal with further detail provided in a letter to Council on 12 September 2019. The Applicant has agreed to include the following in a Planning Agreement should Council be supportive of their proposal and in particular the de-listing and demolition of the Church Hall:

- New civic space and laneway;
  - Immediate temporary vehicle access to 181 Church Street; and
  - Future permanent vehicle access along the rear of 45 Hunter Street.
42. Negotiations on the Planning Agreement should take into consideration the following issues:
- a. Council's Planning Agreements Policy;
  - b. Council's Parramatta CBD Planning Proposal Value Sharing Framework;
  - c. The delivery of the proposed civic space, new pedestrian lane and embellishment of these spaces is proposed to offset the removal of the Church Hall. When assessing the Applicant's offer against the CBD Planning Proposal, the value of these works should not be taken into account when determining whether the Applicant's offer is consistent with Council's policy framework.
  - d. The recommended negotiating position is that any planning agreement contribution be in addition to development contributions required at the development application stage under Council's CBD development contributions plan.
43. A Draft Planning Agreement will be reported to Council for endorsement before it is placed on public exhibition.

#### **LOCAL PLANNING PANEL ADVICE**

44. The Local Planning Panel considered a detailed assessment report on the Planning Proposal at its meeting on 3 December 2019. An extract of the Minutes from the Panel's meeting is provided at **Attachment 12**.
45. The Panel's advice to Council relates to two key matters:
- a. de-listing the Church Hall from the heritage schedule; and
  - b. consulting with landowners of 41 and 43 Hunter Street.

#### **De-listing the Church Hall**

46. The Panel endorsed the Planning Proposal with all Council officer recommended amendments except Council officer's recommended amendment to de-list the Church Hall from the heritage schedule. The Panel does not consider de-listing the Hall is appropriate. The Panel would instead prefer the merits of demolishing a listed heritage item to be tested further as part of a future development application by the Applicant.
47. Council has commissioned a number of heritage reports, which include consideration of the subject site and Church Hall, in connection with the current site-specific Planning Proposal as well as the Parramatta CBD Planning Proposal. Council officers have also sought advice from Council's Heritage Adviser and Heritage Advisory Committee. The Applicant has also commissioned multiple heritage reports. Given the comprehensive advice sought to date, it is unlikely that a further heritage report commissioned as part of a development application will reveal any significant new information.

48. As noted in this report, Council officers acknowledge that de-listing and demolishing the Church Hall will impact on heritage, however, consider that on balance the public benefits that will be derived from de-listing and demolishing the Church Hall are of sufficient strategic importance to justify de-listing the Church Hall. The three key public benefits to be accrued from de-listing and demolishing the Church Hall are a larger new civic space, better activation of the civic space, and the provision of A-grade office space. These benefits will be particularly important owing to the site's central and strategically important location.
49. If Council seeks to retain the Church Hall and does not allow a cantilever the merit of zoning this portion of the site B3 Commercial Core is in question as an A-grade office tower cannot be achieved. This recommendation is critical to the corresponding Council officer recommendation on the zoning of the site. In the report to the Local Planning Panel it has been noted that if demolition of the Church Hall is supported then it should be conditional upon the zoning of the relevant portion of the site being amended from B4 Mixed Use (which permits residential development) to B3 Commercial Core (which prohibits residential development). This will effectively "lock in" the public benefit by requiring the site to provide a commercial/office use and prevent the site from being developed for a residential purpose after the Church Hall is demolished. If an A-grade commercial tower is not possible Council could consider retaining the existing B4 Mixed Use zoning to provide more flexibility in the future use of the site to the owner.
50. However, it should be noted that the Applicant originally proposed the B3 Commercial Core zoning and have written to Council following the Local Planning Panel meeting of 3 December 2019 confirming that they support the B3 Commercial Core zoning being applied to this portion of the site regardless of the decision that is made by Council on the listing of the Church Hall.
51. The Panel's advice is that the preparation of a draft DCP for the site should address a number of principles including the following principle that relates to the Church Hall:

*"Significant heritage interpretation of the Church Hall for potential future demolition"*

52. If Council resolves to retain the listing of the Church Hall, as per the Panel's advice, Council officers advise that the draft DCP to be prepared for the site should incorporate controls that promote the retention and interpretation of the Church Hall. Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that the purpose of a DCP is to give effect to the aims and objectives of the relevant planning instrument. If the Church Hall remains listed the aim and objective of Council's Parramatta LEP 2011 will be that the Church Hall be retained, enhanced and interpreted as a heritage item. Therefore, any DCP controls that are drafted should facilitate the retention, enhancement and interpretation of the Church Hall not foreshadow its demolition. As noted, retention of the Church Hall will mean that the three key benefits from removing the Church Hall cannot be realised.

53. The Applicant when they first submitted the Planning Proposal were not seeking to have the Church Hall de-listed. They amended their Planning Proposal after a request from Council officers once Council officers advised the Applicant that de-listing was the officers' preferred position to ensure planning controls will be consistent.
54. The Applicant in their original Planning Proposal were proposing that the listing be retained but that the Church Hall be demolished. The process they envisaged to achieve this outcome was that a Development Application would be lodged to seek approval to demolish the Church Hall. The Applicant as part of this process was requesting that Council consider DCP controls that allowed for/envisaged the Church Hall potentially being demolished.
55. If the Church Hall is not delisted and DCP controls that specifically contemplate removal of the Church Hall are not prepared, the absence of specific DCP controls relevant to the demolition will mean Council cannot determine the planning framework to positively influence the design of a proposed development proposing to remove the Church Hall at the development application stage. As Council will not be able to impose controls, if the relevant planning panel supports removing the Church Hall, the panel rather than Council will determine issues such as:
  - a. how far back the new commercial podium should be setback;
  - b. what the minimum expanded area of the new civic square must be if the Church Hall is removed;
  - c. design of the new podium to ensure appropriate activation of the new civic square;
  - d. what the tower setback from the new podium should be to minimise visual amenity impacts of the new tower on the new civic square ensure; and
  - e. interpretation of the Church Hall in the new development if the Church Hall is removed.
56. Instead, in the absence of specific DCP controls on how to address these matters, the applicant will propose their own approach on how to do this. It will also mean Council cannot negotiate to secure the expansion of the new civic square in the Planning Agreement. Instead, it would rely on the applicant volunteering to offer to enter into a Planning Agreement at the development application. As noted, expansion of the new civic square is one of three key public benefits underpinning the Planning Proposal.
57. The decision that Council makes on the draft DCP will be critical. The advice of Council officers is that if the listing of the Church Hall is to be retained the draft DCP should include controls that are consistent with the aim and objectives of the Parramatta LEP 2011 and that seek to retain, enhance and interpret the Church Hall as a heritage item.
58. Including DCP controls that envisage that the Church Hall may be demolished (despite it being heritage listed) would result in an inconsistent policy framework. It would leave the community having to interpret controls where it is unclear whether Council supports demolition or not, and would set a precedent for other sites/applicants who may seek two possible development scenarios in the DCP controls for their site if they contain a heritage item: one with the

heritage item retained and one with it demolished. Council officers do not consider that this would be an appropriate precedent.

59. Council officers' recommendations is that the Church Hall be de-listed to provide a clear policy framework for the future redevelopment of the subject site.

Consulting with landowners of 41 and 43 Hunter Street

60. The Panel also consider that the revised Planning Proposal should be forwarded to the DPIE with a request for a Gateway determination only after consultation with landowners of 41 and 43 Hunter Street.
61. It is understood the landowners are concerned about Council officers' recommendation that the Planning Proposal be amended so that a portion of land at 41, 43 Hunter Street is identified on the Land Reservation Acquisition Map. As noted, this is to facilitate the creation of a 6-metre wide vehicle laneway to provide future vehicle access to these three sites and the Queensland Arcade site at 181 Church Street (refer to Figure 10 in Attachment 1 for the location of the proposed lane).
62. It is understood landowners' concerns include the level of notification provided before the Panel meeting, potential financial impacts and a perception Council officers recommended the amendment to favour the Applicant.
63. Council officers recommended the amendment for public interest reasons, namely, to assist with addressing public safety, amenity and accessibility issues associated with current vehicle access arrangements to Queensland Arcade. Council officers did not recommend the amendment to favour the Applicant.
64. As outlined in this report, the preferred approach is for affected landowners to dedicate the land when they redevelop their sites, so they can still 'harvest' the floor space from the dedicated land and it does not impact on their sites' development potential. Compulsory acquisition is not the preferred approach.
65. In the unlikely event the land is acquired compulsorily, it would be governed by the *Land Acquisition (Just Terms Compensation) Act 1991*. A key objective of this Act is to guarantee that, when land affected by a proposal for acquisition by an authority of the State is eventually acquired, the amount of compensation will be not less than the market value of the land (unaffected by the proposal) at the date of acquisition.
66. When Council proposes a change to planning controls it typically consults with affected landowners during the statutory public exhibition phase of the planning proposal. There is also a risk the DPIE may determine that the Planning Proposal cannot progress or it may impose conditions that substantially change the Planning Proposal.
67. If Council accepts the Panel's advice to consult before requesting a Gateway Determination, it will require the submission of a further report to Council in 2020 so that Council can consider the outcome of this consultation with the

owners of 41 and 43 Hunter Street prior to the Planning Proposal being referred to the DPIE. If following this consultation Council decides to proceed and a Gateway Determination is issued, a further statutory consultation period will be required where these landowners will be consulted a second time. The duplication of the consultation will extend the timeframe for the processing of this Planning Proposal.

68. Council officers do not consider that the consultation process should be duplicated and recommend that the Planning Proposal be forwarded to the DPIE immediately and the owners of 41 and 43 Hunter Street be consulted as part of the statutory consultation process required after the DPIE provides a Gateway determination.

## **FINANCIAL IMPLICATIONS**

69. The report has flagged that Council may need to acquire a narrow strip of land along the rear of 41 and 43 Hunter Street to enable a future vehicle laneway. Council will only need to acquire the land if Council is unable to facilitate the dedication of land for this laneway through the redevelopment of these sites.
70. A preliminary assessment of the financial impact of any future acquisition has been provided to Council under separate cover. The new vehicle laneway will be considered for inclusion in the new Parramatta CBD Contributions Plan being prepared in parallel with the CBD Planning Proposal. Options will be pursued to minimise the likelihood that Council will need to formally acquire the land. The option of having the land dedicated to Council at no or minimal cost as part of redevelopment of the relevant sites will be the first option pursued.
71. A contribution to Council for community infrastructure should be sought as part of ongoing negotiations on the Planning Agreement. This might take the form of a monetary contribution to fund Council works but the details of this are subject to negotiation with the Applicant. The Applicant as part of the discussions to date has flagged the potential dedication of a portion of 45 Hunter Street to create the new vehicle lane as a potential inclusion in a future Planning Agreement.
72. The potential closure and sale of part of Hunter Street to allow the Church to create a new rectangular civic space with car parking below should also be investigated. The sale of this land would also generate revenue for Council, which could also be allocated to community infrastructure provision in the CBD.

## **CONCLUSION AND NEXT STEPS**

73. It is recommended that Council endorse a Planning Proposal for the purposes of public exhibition that proposes to amend Parramatta LEP 2011 to apply the following controls on the subject site:
- Rezone a portion of the site from part B4 Mixed Use and part SP1 Special Activities (Place of Public Worship) to B3 Commercial Core;
  - Apply an FSR of 10:1 on the northern portion to be zoned B3 Commercial Core and include a special provision that allows unlimited office floor space on this part of the site;

- Apply FSR controls to the remainder of the site consistent with the Parramatta CBD Planning Proposal and apply the sliding-scale contained in Parramatta LEP 2011 to the B4 Mixed Use portions of the site;
  - Apply a maximum height of building control of 211 metres RL for the majority of the portion of the site proposed to be zoned B3 Commercial Core with a height limit of 12 metres to be applied to a strip adjoining Centenary Square;
  - Apply height of building controls to the remainder of the site in accordance with the Parramatta CBD Planning Proposal, which proposes 211 metres RL for the B4 Mixed Use zone with no height controls for the portion recommended to retain the existing SP1 Special Activities (Place of Public Worship) zone;
  - Apply the solar access provisions to protect the public domain of Parramatta Square and aeronautical operations clause consistent with the Parramatta CBD Planning Proposal;
  - Remove the Church Hall from the heritage schedule;
  - Allow basement parking as an additional permitted use in a portion of the SP1 Special Activities (Place of Public Worship) zoned land;
  - Identify on the Land Reservations Acquisition Map the parts of 41, 43 and 45 Hunter Street required for potential acquisition to enable creation of a new vehicle laneway; and
  - Apply the Parramatta CBD Planning Proposal car parking rates.
74. Should Council endorse the attached Planning Proposal subject to the recommendations of this report, the Council will prepare the Planning Proposal for forwarding to the DPIE to seek a Gateway Determination.
75. While waiting for the Gateway Determination, Council officers will work with the Applicant to prepare a draft site-specific DCP for the site, based on the issues raised within this report. In addition, the Applicant will be invited to negotiate a Planning Agreement. A separate report will be provided to Council on these matters to seek Council's endorsement for exhibition purposes, concurrent with the Planning Proposal.

Jonathon Carle

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**Group Manager City Strategy**

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**Executive Director City Strategy and Development**

#### **ATTACHMENTS:**

- |          |  |             |
|----------|--|-------------|
| <b>1</b> | Attachment 1 - Report to Local Planning Panel (including extract of minute from panel meeting)   | 40<br>Pages |
| <b>2</b> | Attachment 2 - Planning Proposal -St John's Cathedral Site, 195 Church Street, 65-79 Macquarie Street, 38 and 41-45 Hunter Street <sup>1</sup> | 54<br>Pages |

<b>3</b>	Attachment 3 - Applicant Urban Design Report	104
		Pages
<b>4</b>	Attachment 4 - Applicant Traffic Assessment	74
		Pages
<b>5</b>	Attachment 5 - Applicant Heritage Impact Statement	56
		Pages
<b>6</b>	Attachment 6 - Applicant Draft Conservation Management Plan	236
		Pages
<b>7</b>	Attachment 7 - Applicant Submission Solar Access to Parramatta Square	25
		Pages
<b>8</b>	Attachment 8 - City Commissioned Heritage Advice	16
		Pages
<b>9</b>	Attachment 9 - Applicant Heritage Report Responding to Independent Heritage Review	19
		Pages
<b>10</b>	Attachment 10 - Applicant Landscape Report Responding to Independent Heritage Review	8 Pages
<b>11</b>	Attachment 11 - City commissioned independent office building concept assessment	41
		Pages
<b>12</b>	Attachment 12 - Applicant ground plane study responding to independent office building assessment	10
		Pages
<b>13</b>	Attachment 13 - Applicant further heritage assessment responding to independent office building assessment	2 Pages

**NOTE: THE ATTACHMENTS TO THIS REPORT ARE PROVIDED AS SEPARATE PDF DOCUMENTS**

## **REFERENCE MATERIAL**