

## Planning Services

### Gateway determination report

<b>LGA</b>	City of Parramatta
<b>PPA</b>	City of Parramatta
<b>NAME</b>	286-300 Church Street Parramatta (318 dwellings, 172 jobs)
<b>NUMBER</b>	PP_2018_COPAR_008_00
<b>LEP TO BE AMENDED</b>	Parramatta Local Environmental Plan 2011
<b>ADDRESS</b>	286-300 Church Street Parramatta
<b>DESCRIPTION</b>	Lot 1 DP128501, Lot 5 DP516126, Lot 1 DP210616, Lot 2 DP216665, Lot 100 DP803945 and Lot 1 DP84998
<b>RECEIVED</b>	08 June 2016
<b>FILE NO.</b>	IRF18/3154
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of planning proposal

The proposal seeks to amend Parramatta Local Environmental Plan 2011 (PLEP 2011) by altering the height and floor space ratio (FSR) maps, introducing a special area provision relating to airspace operations and site-specific provisions which relate to maximum parking rates, heritage and design excellence. The proposal intends to facilitate mixed use development on the site to a maximum FSR of 16:1, as discussed in detail within this report.

### Site description

The site consists of six separate parcels and has a primary frontage to Church Street with rear access available via Erby Place (**Figure 1**). The site has combined area of 2,097.3m<sup>2</sup> and a frontage of approximately 45m to Church Street. A number of 2-3 storey buildings currently occupy the site and generally consist of ground floor retail and hospitality tenants, with commercial floor space above.

### Existing planning controls

The site is currently zoned B4 Mixed Use and the following planning controls apply under PLEP 2011:

- maximum building height of 12m for the first 18m from Church Street and then 120m beyond 18m from Church Street;
- maximum FSR of 3:1 for the first 18m from Church Street and then 10:1 beyond 18m from Church Street; and

- if a mixed-use building meets the requirements of Clause 7.10 Design Excellence, a 15% bonus on the FSR or height provisions applies.



**Figure 1:** Site at 286-300 Church Street Parramatta (outlined in blue) and immediate surrounds. The proposed light rail and future stop is shown red. (Source: Council Planning Proposal)

### Surrounding area

The site is in the Parramatta CBD, approximately 400m north-west of Parramatta train station. The approved route of the Parramatta Light Rail along Church Street has a planned stop, known as “Eat Street” which will be close to the site of the planning proposal. “Eat Street” has a number of existing restaurants which contribute to the activation of Church Street and the vitality of the locality. Church Street is intended to be pedestrianised as part of the Parramatta Light Rail.

Several heritage items are located within close proximity to the site which contribute towards the fine grain historic subdivision pattern of Church Street (**Figure 4**).

A number of planning proposals have been undertaken nearby. They are at varying stages of completion (see **Attachment F** for a map of planning proposals within the CBD).

### Summary of recommendation

The planning proposal should proceed subject to conditions as it reflects the broader strategic aims for the Parramatta CBD and has strategic merit. It will enable a mixed-use development adjacent to the commercial core of Parramatta and includes economic benefit through the provision of commercial floor space and further housing.

## PROPOSAL

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### Objectives or intended outcomes

The planning proposal seeks to amend the planning controls to permit a mixed-use development with a density and height greater than currently permitted under the existing controls. The intent is to permit the construction of a tall tower in a CBD context. **Attachment E** contains the Urban Design Reference.

**Figure 2** below provides a view of the planning proposal depicted in the reference design when viewed from the North. **Figure 3** provides a view of the reference design when viewed from Church Street opposite the site.



**Figure 2:** Reference design when viewed from north of site



**Figure 3:** Reference design when viewed from church street (source both: Urban Design Report - PTW)

### Explanation of provisions

The planning proposal (**Attachment A**) contains the following wording describing how the PLEP2011 is to be amended:

1. amend the FSR Map to permit a FSR of 14.5:1 across the entire site;
2. amend the Height of Building Map to permit heights of:
  - 12m for the first 10m of the site from Church Street; and
  - no height control beyond the first 10m of the site from Church Street;
3. amend the Special Provisions Map and Clause 7.6 Airspace Operations to apply the provisions of this clause to the site;

4. add a site-specific clause under Part 7 (Additional Local Provisions – Parramatta City Centre) which addresses the following:
  - a. a requirement to demonstrate appropriate transition to any heritage items or conservation areas;
  - b. a requirement for a minimum of 1:1 commercial floor space to be provided within the development;
  - c. provision outlining that 14.5:1 is inclusive of design excellence bonus;
  - d. provision outlining an additional 1.5:1 is achievable above the maximum FSR of 10:1, subject to the demonstration of design excellence;
  - e. that an additional FSR of 1:1 is achievable for non-residential floor space, with this additional FSR being excluded from the maximum FSR of 10:1;
  - f. an additional 0.5:1 is achievable above the maximum FSR of 10:1, subject to the demonstration that high-performing building standards are met (bringing the FSR total to 16:1);
  - g. the provision outlining that the high-performing building standard and additional 1:1 of non-residential FSR achievable are not subject to any additional design excellence bonus; and
  - h. maximum parking rates, in line with the resolution of City of Parramatta Council on 10 April 2017 with regards to maximum parking rates in the CBD planning proposal.

The planning proposal includes a draft site-specific clause as a guide to how the intent of the proposal may be drafted (**Attachment G**). The intended effect of the above means that the planning proposal would permit a development with a maximum FSR of 16:1 with an unlimited height (for a portion of the site) if all bonus and incentive provisions are utilised. The remaining portion of the site, within 10m of Church Street, will have a limited height of 12m.

Clarification was sought from Council as to how the intent of the planning proposal is to be achieved (i.e. maximum FSR of 16:1) in the LEP. The following table outlines the intended make up for the FSR controls put forward by the planning proposal:

Item	FSR
FSR Map	14.5:1
High Performing Building	0.5:1
Additional Non-Residential 1:1	1:1
<b>Total</b>	<b>16:1</b>

It is recommended that the Gateway determination include a condition for the planning proposal to be updated to clarify how the maximum FSR is to be achieved having regard to the FSR and incentive provisions in the CBD planning proposal (for example mapping and/or site-specific provisions). In addition, the explanation of provisions should also be updated to outline that satisfactory arrangements for contributions towards designated state public infrastructure identified for the Greater Parramatta and Olympic Park Peninsula will be required.

The amendments will be required to be made prior to community consultation and submitted to the Department for approval in accordance with the conditions of the Gateway determination.

The proposal will also be supported by a site specific development control plan (DCP) that will provide details on design principles that any development



application must address such as retention of heritage walls, articulation of podiums, provision of a 3.5m public laneway, and activation of the laneway with retail uses.

### **Relationship to the CBD Planning Proposal**

The Parramatta CBD planning proposal Gateway determination was issued 13 December 2018 (**Attachment K**).

The CBD planning proposal identifies that the existing 18m building setback on the podium should be maintained unless further evidence is provided relating to urban design, heritage and commercial feasibility. Council is currently undertaking this work and it is considered that a precinct-based study is the most appropriate mechanism to determine the most suitable urban design outcomes for Church Street, rather than a site-specific study. The Gateway determination for the CBD planning proposal also requires Council to investigate the suitability of the provision of opportunity sites along Church Street.

It is recognised that under the existing conditions of Church Street, it is difficult to perceive tower setbacks from the pedestrianised areas due to existing awnings and street furniture. However, when the Parramatta Light Rail opens Church Street will be pedestrianised and therefore, the ability to read the historical context will be improved from a pedestrian perspective. As such careful attention needs to be paid to determining an appropriate tower setback, which may vary along different components of Church Street. This will depend on the outcomes of the work currently being undertaken by Council as part of the CBD planning proposal.

There is a site-specific planning proposal at 295 Church Street that received a Gateway determination in 2016. This Gateway determination gave in principle support for a 10m setback, but also imposed a condition that the final outcomes for the site were to be generally consistent with the CBD planning proposal. It is recommended that a similar condition be imposed on the subject site, noting that given the Gateway determination has been issued for the CBD planning proposal, improved strategic direction is available and Council is working towards delivering an outcome for Church Street.

It is also recognised that any outcome that is proposed on Church Street with regard to tower setbacks will be required to be publicly exhibited, with appropriate agency consultation.

### **Mapping**

The proposal includes amendments to the height of buildings, FSR and special provisions area maps. The mapping will be required to be amended prior to community consultation in accordance with the conditions of the Gateway determination.

### **NEED FOR THE PLANNING PROPOSAL**

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This planning proposal is not the result of any site-specific study or report and is in response to an owner-initiated request to increase the development potential of the site. The proposal was generally consistent with the CBD planning proposal as submitted to the Department. However, further evidence is required to justify that Council's preferred outcome for Church Street is acceptable, particularly in regard to the Church Street tower setback and opportunity sites along Church Street.

The existing height and FSR standards would not permit the development as proposed in the planning proposal. It is considered that this site does have strategic

and site-specific merit to proceed, however, a condition has been recommended to be imposed requiring consistency with the CBD planning proposal. This is consistent with other planning proposals that have been issued a Gateway determination in Church Street that sought to vary the podium setback control.

## **STRATEGIC ASSESSMENT**

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### **Regional / District**

#### **Greater Sydney Region Plan**

The Greater Sydney Region Plan provides a 40 year vision and 20 year plan for the delivery of 725,000 dwellings and an extra 817,000 jobs in the Greater Sydney Region. The Plan recognises the Parramatta CBD as the core of the Central River City.

With its emphasis on planning for future floorspace for jobs and housing in the Parramatta CBD, the proposal is consistent with the focus of the Plan to increase housing capacity (Objective 10) and to deliver places that bring people together (Objective 12). The proposal also seeks to identify, conserve and enhance heritage (Objective 13).

The proposal is generally consistent with and gives effect to the plan, subject to the appropriate resolution of heritage issues along Church Street.

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

The Central City District Plan commits to a 21,950 dwelling 5 year housing target by 2021 for Parramatta. Housing is to be supported with additional capacity for jobs growth (Planning Priority C5) and growing Parramatta as a metropolitan centre to create a stronger and more competitive Greater Parramatta (Planning Priority C7).

Action 24 commits to expanding the Parramatta office market and to balance residential development with the needs of commercial development.

The proposal is generally consistent with the priorities and actions set by the District Plan. The planning proposal gives effect to the District Plan by providing an opportunity to deliver additional housing and jobs for a growing commercial office market by permitting a mixed residential and commercial development in a highly accessible location in the Parramatta CBD.

However, it is important that in creating and renewing great places, that regard is given to respecting the District's heritage (Planning Priority N6), such as the heritage significance of Church Street. As such, the Gateway determination requires that further consideration needs to be given to tower setbacks along Church Street by requiring the planning proposal to be consistent with the CBD planning proposal. This is discussed further below.

Subject to the recommended Gateway conditions being met, the Department is satisfied that the planning proposal will give effect to the District Plan in accordance with section 3.8 of the Environmental Planning and Assessment Act 1979.

#### **Greater Parramatta and the Olympic Peninsula**

The planning proposal is consistent with the Greater Parramatta and Olympic Peninsula vision to design Parramatta as a 30-minute city by enabling a mixed-use tower to be developed in a central location with excellent proximity to jobs, shops and community facilities.

## **Local**

### Parramatta 2038 Community Strategic Plan

The planning proposal is considered to meet the strategies and key objectives identified in Council's strategic plan by allowing for an appropriate mix of residential and non-residential uses in a centre with public transport, shops and community facilities nearby.

The proposal will help to activate the street frontages and improve the walkability of the city centre, with commercial uses on the ground floor of the site and at podium level. The proposal will also allow for additional housing around existing and future transport nodes and contribute towards dwelling targets for Parramatta.

### Parramatta CBD Planning Strategy

The Parramatta CBD Planning Strategy seeks to establish a vision for growth within the Parramatta CBD and principles and actions to guide this growth. The CBD planning proposal aims to implement this strategy.

The subject site is located within the existing and proposed Parramatta CBD boundary. As previously discussed, it is recommended that a condition be imposed that requires the planning proposal to be generally consistent with the outcomes in the CBD planning proposal, prior to finalisation.

## **Section 9.1 Ministerial Directions**

The proposal is consistent with section 9.1 Directions, except for the following:

### Direction 2.3 Heritage Conservation

This Direction requires a planning proposal to contain provisions to facilitate the conservation of items, places, works, relics and moveable objects of heritage significance.

The site contains items of local and state significance and potential relics. The planning proposal has identified that the items will remain in-situ during the redevelopment of the site. The preparation of a site specific DCP will address this matter further at the development application stage. The planning proposal also intends to introduce a site-specific provision to require that any future development demonstrates an appropriate transition to heritage items and conservation areas.

The Department is concerned that the proposed 10m setback may compromise heritage streetscape values. Council has subsequently resolved to require a 12m podium setback as part of the CBD planning proposal. In assessing the CBD planning proposal the Department considers existing controls be retained for Church Street unless further investigations demonstrate that alteration is warranted, as reflected in condition (k)(iii) of that Gateway determination.

However, for the purposes of this planning proposal it is considered that the planning proposal should be updated to demonstrate the difference in outcomes between a 18m and 12m tower setback. This should include consideration of impacts on urban design, heritage and commercial feasibility. The Gateway determination has been conditioned accordingly.

Council is to clarify the local heritage items and their location on the site, consistent with the current housekeeping amendment (PP\_2018\_COPAR\_011\_00) which has received a Gateway determination that addresses incorrect mapping of heritage items within the site. Where appropriate, the planning proposal and heritage reports

should be updated to reflect the correct status and location of the heritage items on the site and a condition has been imposed.

It is recommended that this Direction remain unresolved pending consultation with the NSW Office of Environment and Heritage. Their input is required to determine if any inconsistency is present.

#### Direction 3.5 Development Near Licensed Aerodromes

The site is located within prescribed airspace surfaces. A proposed height of 207.80 AHD exceeds the Bankstown Airport Obstacle Limitation Surface of 156 AHD.

Therefore, consultation with the Commonwealth Department of Infrastructure and Regional Development and Civil Aviation Safety Authority must take place to address this Direction.

It is recommended that this Direction remain unresolved pending further consultation, noting that Clause 7.6 Airspace Operations will be required to be applied to the site should a maximum building height greater than 156 AHD be proposed and as such the planning proposal reflects this.

#### Direction 4.1 Acid Sulfate Soils

The site is mapped as having Class 4 acid sulfate soils under PLEP 2011. The proposal is inconsistent with this Direction as an acid sulfate soils study has not been submitted with the planning proposal to support the intensification of development.

This inconsistency is considered to be of minor significance as this matter can be appropriately considered and addressed at the development application stage in accordance with clause 6.1 of PLEP 2011 (which requires an acid sulfate soils management plan to be submitted at the development application stage if certain development thresholds are met).

It is recommended that the Secretary's delegate agree that any inconsistency with this Direction is of minor significance.

#### Direction 4.3 Flood Prone Land

This Direction is relevant as the proposal will alter a provision that affects flood prone land within the meaning of the Floodplain Development Manual 2006. Flood Prone land is defined as 'land susceptible to flooding by the Probable Maximum Precipitation (PMF) event'. The PMF is the greatest possible theoretical amount of water which can fall at any given time and represents the largest possible flood that could conceivably occur. The PMF identified for the site is 12.5m AHD.

The Direction also contains specific provisions to be considered in a planning proposal where a site is affected by the Flood Planning Area. The Flood Planning Area consists of land below the Flood Planning Level (FPL) which is defined as the level of a 1:100 Average Recurrent Interval (ARI) flood event plus 0.5 metre freeboard. The FPL for the site is 9.32m AHD.

A flood study has not been provided with the planning proposal. As such, detailed advice to the extent of flooding has not been provided other than the FPL (9.32m AHD) being identified and suggested management techniques detailing the mitigation measures that would be appropriate for the site in the event of a flood. It is recommended that the Urban Design Reference be reviewed by an appropriately qualified engineer to ensure all built form outcomes can be achieved and that heritage values will not be compromised by any required mitigation measures for flooding.



It is recommended that this Direction remain unresolved until an appropriate study is prepared and consultation with the State Emergency Service (SES) occurs to ensure appropriate rigour has been applied to the consideration of flood impacts. The Gateway has been conditioned accordingly.

### **State environmental planning policies**

The planning proposal is generally consistent with the relevant state environmental planning policies.

#### State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The proposal requires an amended urban design analysis and design reference to be provided to address concerns relating to site isolation/orderly development and heritage. Consideration of the concepts compliance with policy can be considered when the amended reports are provided.

### **SITE-SPECIFIC ASSESSMENT**

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#### **Social**

The planning proposal will aid in the future development of the site which will contribute to the revitalisation of the Parramatta CBD and activation of commercial activities in the locality via increased commercial floorspace and higher residential population through additional residential floor space. The residential floor space will aid in the delivery of housing options within proximity to public transport (train, buses and the proposed Paramatta light rail), employment and community facilities.

#### **Environmental**

The proposal is not anticipated to have adverse environmental impacts. It does not contain any critical habitat, threatened species, populations or ecological communities.

#### **Economic**

The planning proposal identifies a development scenario with a ground level retail component and two additional levels of commercial floorspace. The provision of the non-residential floorspace is proposed to be delivered by the introduction of a minimum commercial FSR control and additional incentive commercial FSR. The planning proposal identifies a commercial floorspace on two levels exceeding 4100m<sup>2</sup> which can support 172 jobs (approximately). The provision of additional commercial floor space within the Parramatta CBD is appropriate.

The development will also require the payment of section 7.12 development contributions towards infrastructure to support the growth of the Parramatta CBD. Council has also resolved to invite the proponent to enter into a voluntary planning agreement to fund additional facilities and infrastructure to support the influx of new residents and workers to the locality.

#### **Heritage**

The site contains two local heritage items that are identified in Schedule 5 of the Parramatta Local Environmental Plan 2011 as local items I672 and I677. The State Heritage Inventory also lists the rear wall of 292 Church Street as a heritage item. The planning proposal is required to be updated to ensure that the heritage items are appropriately identified, consistent with the existing housekeeping planning proposal (PP\_2018\_COPAR\_011\_00). Furthermore, the site is also part of Paramatta Archaeological Management Unit 3079.

Several heritage items are located within close proximity to the site which contribute towards the fine grain historic subdivision pattern of Church Street. **Figure 4** below identifies the location of heritage items in the locality and demonstrates how the site relates to the numerous heritage items in the vicinity.



**Figure 4:** Location of Heritage items in the locality (Source: Planning NSW Website)

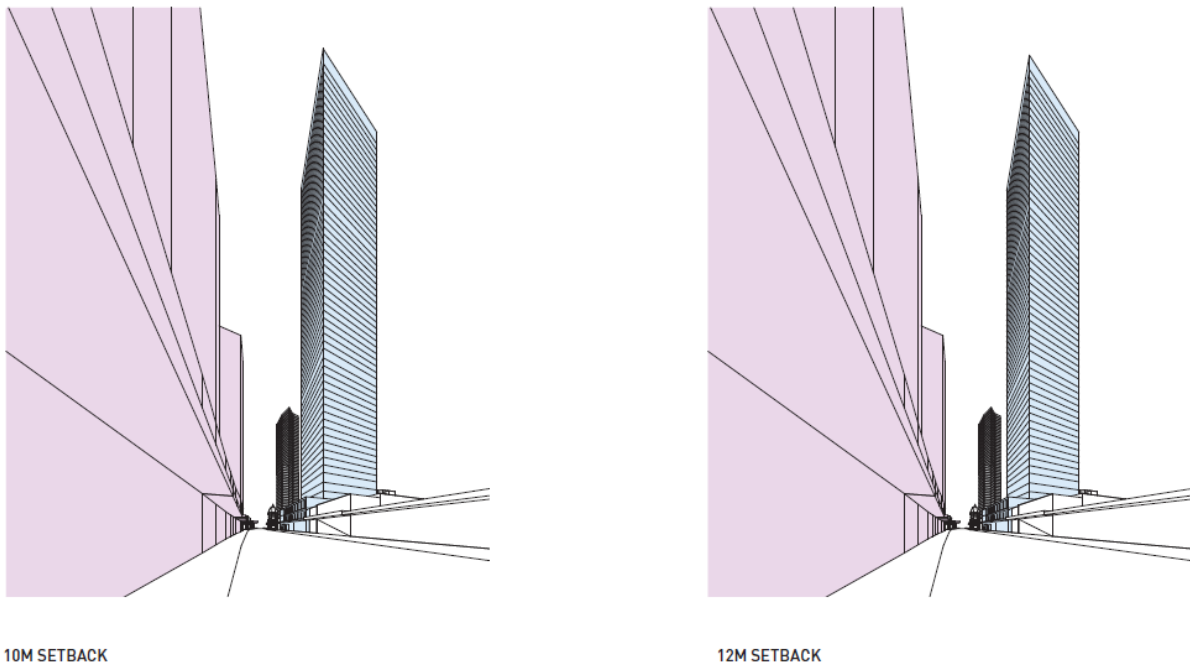
A statement of heritage impact and addendum (**Attachments H1 and H2**) have been prepared in support of the planning proposal. The proposal seeks to retain the heritage items in-situ during the redevelopment of the site. Furthermore, it is proposed that the items will be restored where required.

The preparation of a site specific DCP will address heritage and require it to be further addressed with at the future development assessment stage. The proposal intends to introduce a site-specific provision to require that any future development demonstrates an appropriate transition to heritage items and conservation areas.

The planning proposal requires a design excellence process to be undertaken as part of any development of the site. The design excellence process requires heritage to be considered. The current LEP also contains provisions to ensure heritage is addressed at the development application stage, prior to consent.

A framework (through the combination of existing and proposed planning controls) exists that will allow sufficient consideration of likely impacts upon heritage in the locality.

The current controls require a 18m setback, for development over 12m in height, from Church Street. The planning proposal has proposed to reduce the setback to 10m on the basis that the CBD planning proposal seeks to reduce the setback to 12m and the perceptible difference between 12m and 10m (i.e. 2m) when viewed from the street level is negligible. **Figure 5** below identifies the reference design with 10m and 12m setbacks when viewed from the southern end of Church Street. It is noted that the CBD Gateway determination requires that the existing controls be retained for Church Street unless further investigations relating to urban design, heritage and commercial feasibility are provided.



**Figure 5:** 10m/12m setback of tower when viewed from Church Street (Source: Urban Design Report – PTW)

Whilst it is agreed that the difference of 2m is difficult to perceive when viewed from Church Street the difference from the original setback of 18m to 10m would be readily detectable. In this respect, the 10m setback is not currently supported.

The proponent submitted additional information to the Department to demonstrate the commercial viability of the proposed tower when three different tower setbacks are considered (18m, 12m and 10m) (**Attachment L**). It is acknowledged that an 18m setback does reduce the viability of the commercial tower due to a reduced floorplate.

However, the Department is also concerned about the height and density of the proposed podium relative to adjoining properties, as indicated in **Figure 8** below. The proposed bulk of the podium is driven by the additional commercial floorspace that is proposed. As the proposal does not include 302 Church Street, it creates an uneven rhythm in built form outcomes along Church Street and suggests that without consolidation with the adjoining property and proper regard for the holistic renewal of Church Street, that developments of this nature will detract from the historical values of Church Street.

The planning proposal seeks to remove the FSR control along the Church Street podium (currently 3:1) however, this is inconsistent with the conditions of the Gateway determination for the CBD planning proposal. As previously discussed the Department considers the planning proposal should be updated to clarify how FSRs will be achieved on site having regard to the FSR and incentive provisions in the CBD planning proposal.

In this instance a balance needs to be achieved between ensuring development is sympathetic with the historic nature Church Street and that there is sufficient incentive for appropriate redevelopment to occur. It is likely that the retention of the 18m setback will result in limited development uptake in the locality based upon the existing road pattern and lot depths. However, reduction of the 18m setback can only

be supported when the development responds to adjoining properties and the bulk and scale is setback from the street.

The urban design reference and Figure 3 and 8 in this report suggest that the relationship with surrounding properties and the bulk and scale has not been adequately resolved.

In order to resolve issues with the tower setbacks and podium heights whilst ensuring consistency within the locality as a whole, a condition has been recommended in the Gateway determination that the proposal is consistent with the CBD planning proposal outcomes and a revised design reference be submitted.

This condition was also applied to the planning proposal at 295 Church Street, Parramatta as it is acknowledged that there is a requirement to address podium heights and setbacks along Church Street holistically due to the sensitive heritage issues surrounding this locality which cannot be readily addressed on a site-specific basis.

Consultation with the heritage branch of the Office of Environment and Heritage is recommend as part of the consultation process given the sensitivities of the site and the location in which it is proposed.

### **Orderly Development / Site Isolation**

The planning proposal is based over several properties being 286-300 Church Street. One additional property, known as 302 Church Street, is located between the planning proposal site and the corner of Church and Phillip Street. The figure below identifies the planning proposal site in blue and 302 Church Street in red dots. Their relationship to Church Street and Phillip Street are also shown.



**Figure 6:** 286-300 Church Street Parramatta (outlined in blue) and 302 Church Street (dotted red). (Source: Council Planning Proposal)

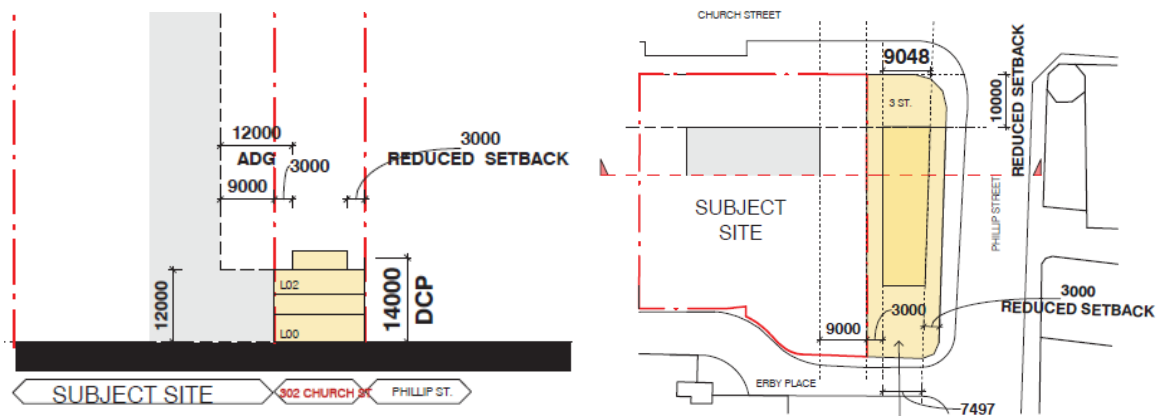
302 Church Street has an area of 776.5m<sup>2</sup> with a frontage of approximately 15m to Church Street and 50m to Phillip Street. The planning proposal acknowledges that in isolating development of 302 Church Street it is unlikely to reach its full development potential of 10:1 FSR and 120m in height based upon the current LEP.

The Urban Design Reference submitted with the planning proposal put forward four possible options demonstrating how 302 Church Street can be developed in



isolation. It is evident from the options that a tower is not possible within 302 Church Street in isolation. The preferred option (**Figure 7**) identified by the Urban Design Reference is extremely limited in development potential, with a low height (four storeys) and small floor plate (less than 250m<sup>2</sup>) when taking into consideration the Apartment Design Guidelines and DCP setbacks.

Furthermore, the preferred option assumes non-compliance with the DCP with respect to setbacks and as such if compliant setbacks were identified in the design the development potential would be even less. Should the planning proposal proceed without 302 Church Street it would effectively isolate the site and limit the development potential to a large extent.



**Figure 7:** Design Option D (source: Urban Design Analysis)

**Figure 8** below identifies the anticipated streetscape of Church Street should development occur in accordance with the reference design. Isolating 302 Church Street is likely to result in the existing development to remain as is, into the future. There is little incentive for an owner in undertaking any development, if there is little to be gained in terms of additional floor area.

To this end, there is likely to be little opportunity to have any improved consistent streetscape outcome for the locality and in this instance the concept would be likely to create an imbalance in the symmetry of Church Street if undertaken as indicted in the reference design and results in a poor relationship with the adjoining property. This is of importance given the sensitive nature of the locality due to the existence of numerous heritage items.



**Figure 8:** Anticipated Church Street presentation (source: Urban Design Analysis)

Council have noted that they are satisfied that the proponent has made genuine and repeated attempts to acquire 302 Church Street. It has been suggested that a failure to amalgamate the planning proposal site with 302 Church Street should not prevent

the progression of the planning proposal. It is acknowledged that the coordination of a development with multiple sites and owners is extremely difficult. However, the difficulties in achieving a coordinated development approval should not allow for a diminished planning outcome for the locality at the strategic level.

In this instance it is considered appropriate that the planning proposal be extended to include 302 Church Street and it is recommended that the Gateway be condition accordingly. Only with the inclusion of 302 Church Street as part of the planning proposal will a consistent planning framework be put forward for the locality in an orderly manner. Once rezoned, should the owners of 302 Church Street not want to develop their land in the future it can be dealt with under any future development application process.

The Land and Environment Court has established planning principles in *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189* and *Melissa Grech v Auburn Council [2004] NSWLEC 40* that deal with orderly development of a locality and the impact upon the ability of adjoining properties to be developed in the future.

Should the planning proposal exclude 302 Church Street the ability to achieve a consistent and improved development outcome for the locality would effectively be forfeited and the design excellence provisions in the LEP would be required to consider the overall merit of the proposal at the development application stage. It is therefore recommended that the planning proposal be amended to include 302 Church Street and the Gateway determination has been conditioned accordingly.

## Flooding

The planning proposal has identified the following relevant levels with respect to flooding for the site:

- Probable Maximum Precipitation (PMF) event of 12.5m AHD;
- 1:100 Average Recurrent Interval (ARI) of 8.82m AHD; and
- Flood Planning Level (FPL) of 9.32m AHD (derived by 1:100 ARI plus 0.5m freeboard).

**Figure 9** identifies the PMF and 1:100 ARI but omits reference to the FPL. As the FPL is higher than the 1:100 ARI is it suggested that the site will be affected by the FPL to some extent based upon levels provided within the reference design.



**Figure 9:** Flood Affected Areas (source: Council Planning Proposal)

The PLEP 2011 identifies that development consent must not be granted if a site is affected by the Flood Planning Level unless it is able to be demonstrated that the development is appropriate. The development must show that it is compatible with the flood hazard and not likely to adversely affect the flood behaviour (i.e. result in impacts on adjoining properties). It must also detail how the management of the risk shall be carried out, not impact upon the environment and not result in an unsuitable social or economic consequence because of the development.

A flood study has not been provided to detail the extent of flood affectation and measures to be taken to minimise impacts in accordance with the PLSP 2011. The Gateway determination has been conditioned to require appropriate investigations to be undertaken to ensure the intended built form outcome can be achieved.

Notwithstanding the lack of a flood study, development is possible within the locality when considered against the PLEP 2011 as evident by a recent approval and construction of a mixed-use development at 330 Church Street which is adjacent Parramatta River. Furthermore, there is an existing ability to develop the site under PLEP 2011.

In this instance, there is reasonable certainty that flooding can be managed via an appropriate building design and management techniques for the operation of the building. The further investigations will confirm that the proposed built form outcomes can be achieved and importantly, that any mitigation measures will not compromise heritage values.

### **Overshadowing**

The current reference design is consistent with PLEP 2011 Clause 7.4 Sun Access as the overshadowing diagrams (**Figure 10**) submitted with the planning proposal demonstrate that the reference design (of up to RL210.610) does not affect Lancer Barracks or Parramatta Square at any time between the hours of 9am and 3pm on 21 June.



**Figure 10:** Shadow diagrams 12PM to 2PM 21 June (source: Urban Design Analysis)

### **Car Parking**

On 10 April 2017, Council resolved to endorse the strategic transport study for the Parramatta CBD and to include reduced car parking rates in the CBD planning proposal, pending the results of the mesoscopic study. This was partly to allow site-specific proposals to proceed ahead of the modelling.

The planning proposal has been accompanied by a Traffic and Parking Assessment report (**Attachment I**) in support of the proposal. The proposal includes a site-specific clause to limit the maximum number of parking spaces to be provided in association with the development which is consistent with the Council endorsed strategic transport study. The site-specific clause sets the following parking rates:

*The maximum parking rates for any development proposed under this clause are as follows:*

- a. The maximum parking rates which apply to any part of the building used as a dwelling are:*
  - i. For each studio dwelling – 0.1 spaces, and*
  - ii. For each 1 bedroom dwelling – 0.3 spaces, and*
  - iii. For each 2 bedroom dwelling – 0.7 spaces, and*
  - iv. For each 3 or more bedroom dwelling – 1 space*
- b. The maximum parking rates which apply to any part of the building used for the purposes of commercial or community uses is established by the following formula:*

$$M = (G \times A) / (50 \times T)$$

*Where*

*M is the maximum number of parking spaces,*

*G is the gross floor area of all commercial and community uses in the building in square metres, and*

*A is the site area in square metres, and*

*T is the total gross floor area of all the buildings on the site in square metres.*

The above approach has been previously accepted by the Roads and Maritime Services (RMS) as a means of limiting parking and traffic rates associated with development. The RMS will be given an opportunity to comment on the proposal during the consultation period.

## **Height**

The planning proposal seeks to remove the current maximum building height of 120m from the site. The reference design identifies a building with a height of 207.8m AHD. An Aeronautical Report (**Attachment J**) submitted with the planning proposal identifies a temporary crane height of 240m AHD.

The planning proposal is to be amended to include a height control (which is likely to be determined as part of the consultation public authority process and further urban design testing), consistent with all other site-specific planning proposals in the Parramatta CBD.

Currently all proposals with a building height above 156m AHD are deemed controlled activities requiring referral to the Commonwealth Government for approval. As the proposal intends to encroach the proscribed airspace above the Parramatta CBD, the application of clause 7.6 Airspace Operations of the Parramatta LEP 2011 will need to be extended to the site.



## **Infrastructure**

### Local

The developer will be required to pay Section 7.12 contributions. The Council has also indicated that the proponent will enter into a Voluntary Planning Agreement (VPA) to appropriately contribute towards the provision of identified local infrastructure that will meet the demands of the future community. This is considered an acceptable outcome.

### State

As the planning proposal is located within the Greater Parramatta and Olympic Park corridor and proposes new dwellings, there is a need to require a satisfactory arrangements clause be included in the planning proposal to necessitate a contribution towards state infrastructure.

## **CONSULTATION**

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### **Community**

A community consultation period of 28 days is considered an appropriate amount of time to gauge the community's response. Public exhibition is likely to include a newspaper advertisement, display on Council's website and written notification to adjoining landowners.

### **Agencies**

Council proposed that consultation with relevant authorities will form part of the consultation requirements. It is recommended that the following agencies are contacted:

- Office of Environment and Heritage – Heritage Division;
- Office of Environment and Heritage
- Transport for NSW - Roads and Maritime Services;
- Transport for NSW
- Civil Aviation Safety Authority;
- Department of Infrastructure, Regional Development and Cities;
- NSW Aboriginal Land Council;
- Department of Education and Communities;
- Sydney Water; and
- Relevant service providers.

## **TIME FRAME**

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The proposed time frame to finalise this planning proposal is eighteen months, which is considered appropriate given the scale and complexity of the project. This is longer than the time frame identified in the planning proposal; however, the proposal is required to be updated before community consultation and is required to have regard to the CBD planning proposal.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested authorisation of the plan-making function in relation to this planning proposal. However, it is recommended that authorisation is not issued in this instance due to the site's location in the Parramatta CBD, the strategic importance of the Parramatta CBD and the need to coordinate several site-specific planning proposals and the CBD planning proposal to ensure consistent application of policy outcomes.

## CONCLUSION

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The planning proposal should proceed subject to conditions as it reflects the strategic aims of the Parramatta CBD. It will enable a mixed-use development, including economic benefit through commercial floor space and further housing provision. Conditions have been imposed to ensure that the site-specific planning proposal reflects the intended outcomes in the Parramatta CBD planning proposal.

There is a need to ensure that the significant heritage within Church Street is properly respected and for this reason, the broader Church Street precinct needs to be considered holistically, rather than on a more site-specific basis. The CBD planning proposal is an appropriate mechanism to achieve this outcome, noting that the site-specific planning proposal may proceed if it is conditioned appropriately to be able to respond to the outcomes being delivered through the CBD planning proposal.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 4.1 Acid Sulfate Soils is minor; and
2. note that the inconsistency with section 9.1 Directions 2.3 Heritage Conservation, 3.5 Development Near Licensed Aerodromes and 4.3 Flood Prone Land is unresolved and will require justification. Consultation with the SES is required, the details of which are to be included in the planning proposal prior to public exhibition.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Office of Environment and Heritage – Heritage Division;
  - Office of Environment and Heritage
  - Transport for NSW - Roads and Maritime Services;
  - Transport for NSW;
  - Civil Aviation Safety Authority;
  - Department of Infrastructure, Regional Development and Cities;
  - NSW Aboriginal Land Council;
  - Department of Education and Communities;
  - Sydney Water; and
  - Relevant service providers.
3. The time frame for completing the LEP is to be 18 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. Prior to exhibition, Council is to amend the planning proposal to:

- (a) amend the explanation of provisions, proposed maps and relevant supporting studies to include Lot 1 DP211499, 302 Church Street, Parramatta in the planning proposal;
- (b) demonstrate the difference in urban design, heritage and commercial feasibility outcomes between a 18m tower setback and a 12m tower setback;
- (c) prepare an appropriate study which addresses Section 9.1 Direction 4.3 Flood Prone Land;
- (d) amend the planning proposal to replace '1.5:1' with '0.5:1' within Table 3 (page 16) Cl. 7.17 – High Performing Buildings;
- (e) clarify the location of local heritage items on the site, consistent with the current housekeeping amendment (PP\_2018\_COPAR\_011\_00) that addresses the incorrect mapping of items within the site. Where appropriate, the planning proposal and heritage reports are to be updated to reflect the correct status and location of the heritage items on the site;
- (f) clarify how the maximum FSR is to be achieved having regard to the FSR and incentive provisions in the CBD planning proposal.
- (g) outline that satisfactory arrangements for contributions towards designated state public infrastructure identified for the Greater Parramatta and Olympic Park Peninsula will be required.

The planning proposal, including an amended reference design, is to be submitted to the Department for approval prior to community consultation.

6. Prior to submitting the proposal to the Department for finalisation, the proposal is to be reviewed, and amended where necessary, have regard to the FSR and height controls endorsed by the Gateway determination for the CBD planning proposal and any subsequent study prepared by Council in relation to heritage, urban design and commercial feasibility outcomes for the Church Street precinct. Council is to ensure that the planning proposal is consistent with the outcomes in the Parramatta CBD planning proposal.

4/4/2019

**Christine Gough**  
Team Leader, Sydney Region West  
Planning Services

1/05/2019

**Ann-Maree Carruthers**  
Director, Sydney Region West  
Planning Services

Contact Officer: Simon Turner  
Planning Officer, Sydney Region West  
Phone: 8837 6376