

LEADING

ITEM NUMBER	13.2
SUBJECT	Planning Proposal for land at 286-300 Church Street Parramatta
REFERENCE	RZ/14/2017 - D06067418
REPORT OF	Service Manager Land Use Planning
LANDOWNER	JHJ Group Pty. Ltd.
APPLICANT	Ethos Urban

Note: This report was deferred from the Council meeting on 9 April 2018 for a Councillor workshop.

PURPOSE:

To seek Council's endorsement of a Planning Proposal for land at 286-300 Church Street, Parramatta. The proponent's Planning Proposal seeks to amend the Parramatta Local Environmental Plan 2011 to increase maximum building height (HOB) from 12m for the first 18m of the site to Church Street to 12m for the first 10m to Church Street, and to remove the 120m height limit to the rear of the site; and to provide for a potential maximum FSR of 16:1.

This report has also been prepared in response to a pre-Gateway review currently under assessment by the Department of Planning & Environment (DP&E), where Council has been invited to provide comment.

RECOMMENDATION

- (a) **That** Council endorse the Planning Proposal at **Attachment 1** for land at 286-300 Church Street, Parramatta subject to the following amendments:
 - Provide a potential maximum FSR of 13:1 (comprised of a base FSR of 10:1 of which 1:1 much be provided as commercial, and the application of 1.5:1 for design excellence, 0.5:1 High Performing Building Bonus, and an additional commercial floor space of 1:1) prior to the Gateway request being forwarded to DP&E;
- (b) **That** the proponent provides an amended reference design consistent with the above requirements prior to the Planning Proposal request being forward to the DP&E;
- (c) **That** once (a) and (b) are satisfied the Planning Proposal be forwarded to DPE for Gateway Determination;
- (d) **That** this report form Council's submission in response to the request for a Gateway Assessment and be forwarded to the Department of Planning and Environment.
- (e) **That** should a Gateway be issued, a site specific DCP be prepared in accordance with the following principles:
 - The heritage walls remain in situ throughout the construction process;
 - The podium be appropriately articulated to respond to the fine grain

- historical subdivision pattern of Church Street;
 - That a fully public laneway with a minimum width of 3.5m be provided and dedicated to Council, with design principles in accordance with Council's endorsed CBD Laneway Strategy; and
 - That the laneway, front and rear frontages be activated with retail uses to encourage through traffic and to provide a high level of amenity to pedestrians.
- (f) **That** the proponent be invited to provide a draft Letter of Offer consistent with Council's endorsed Draft Planning Agreement Policy.
- (g) **That** upon the issue of a Gateway Determination the Planning Proposal, DCP, and VPA be exhibited concurrently.
- (h) **That** delegated authority be given to the CEO to negotiate the VPA on behalf of Council and that the outcome of negotiations be reported back to Council prior to its public exhibition.
- (i) **Further, that** Council authorise the acting CEO to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan-making process.

THE SITE

1. The subject site is located at 286-300 Church Street, Parramatta (refer to **Figure 1**). The legal descriptions that make up the site are Lot 1 DP128501; Lot 1 DP210616; Lot 5 DP516126; Lot 2 DP216665; Lot 100 DP803945; and Lot 1 DP84998. The site is located one lot away from the south-eastern corner of Church Street and Phillip Street, with a highly prominent western street frontage to the 'Eat Street' Precinct of Church Street, and an eastern rear frontage to Erby Place.



Figure 1 Location map (Source: Nearmaps)

2. The total site area is 2,097.3m² and currently contains a series of 2 and 3 storey commercial buildings. Two local heritage items are identified in Schedule 5 of the Parramatta Local Environmental Plan 2011 as Local Item I672 and I677; the State Heritage Inventory also lists the rear wall of 292 Church Street as a heritage item. The site is also part of Parramatta Archaeological Management Unit 3079.

BACKGROUND

3. Council were first engaged by the proponent in early 2017, with two pre-lodgement meetings held on 27 March 2017 and 2 July 2017. Issues raised by Council Officers at the time related to: the isolation of 302 Church Street (the corner site to Church Street and Phillip Street); the maximum carrying capacity of the site in terms of its maximum FSR; and that serviced apartments would not be considered by Council Officers to be a form of commercial floor space.
4. On 29 August 2017 a Planning Proposal for the subject site was submitted to Council. Council provided the proponent with a written preliminary assessment on 15 November, and met with the proponent on 17 November 2017. Following this meeting, additional documentation that addressed a number of issues raised by Council Officers was provided by the proponent progressively throughout November 2017 to January 2018, with an amended Urban Design Report with additional studies provided to Council on 20 February 2018.
5. On 28 February 2018 the proponent provided the amended documentation to the Department of Planning & Environment (DP&E) and requested that it

commence a Pre-Gateway Review of the Planning Proposal for a Gateway Determination.

6. On 2 March 2018 DP&E requested Council provide a response that provides reasons for Council not indicating its support of the Proposal. As such, this report has been prepared as both an assessment of the amended documentation for the consideration of Council, and to form Council's response to the request received from DP&E.
7. This report provides a recommendation that supports the Proposal proceeding to the DP&E for a Gateway Assessment, subject to a number of conditions as provided in the Council Officer recommendation.

SUMMARY OF PLANNING PROPOSAL

8. The Proposal seeks to amend the PLEP 2011 as per **Table 1** below:

Instrument	PLEP 2011	CBD PP	Planning Proposal
Zoning	B4 Mixed Use	No change	No change
Building Height	12m for front portion of the site (first 18m from Church Street) 120m for the remainder of the site.	12m for front portion of the site (first 18m from Church Street) No height limit for the remainder of the site	12m for front portion of the site – 10m deep from Church Street No height limit for the remainder of the site
Floor Space Ratio (based on sliding scale in PLEP 2011)	3:1 for front portion of the site (18m deep to Church Street) 10:1 for the remainder of the site	10:1 for entire site	10:1 across entire site (up to 16:1) with CBD PP bonus FSR provisions
Heritage	Local items I672 and I677. Rear wall to 292 Church identified on State Heritage Inventory.	Local items I672 and I677. Rear wall to 292 Church identified on State Heritage Inventory.	No change – seek retention of heritage fabric.
Other Provisions	N/A	Opportunity Site – 3:1	Seek additional FSR of 3:1
		High Performing Building Bonus – 0.5:1	Seek additional FSR of 0.5:1
		Design Excellence – 1.5:1	Seek additional FSR of 1.5:1
		Additional commercial above maximum FSR not to be counted as FSR	Seek additional FSR of 1:1

9. If PLEP 2011 is amended as described in the Planning Proposal, the proponent's assessment states that a mixed use development containing approximately 4,188sqm of non-residential gross floor area (GFA) and approximately 324 residential dwellings could be achieved on the site.

10. Figures 2 and 3 below illustrates a potential built form outcome that could be achieved under the amended controls as sought by the Proponent.



Figure 2 Photomontage of potential tower from the southern view of Church Street
(Source: Updated Urban Design Report, PTW)



Figure 3 Photomontage of potential podium with restored heritage façade to 300 Church Street
(Source: Updated Urban Design Report, PTW)

CURRENT PLANNING CONTROLS

11. The land is currently zoned B4 Mixed Use and has a maximum FSR of (part) 3:1 along Church Street and (part) 10:1 to the rear of the site currently apply to the site as per Parramatta Local Environmental Plan 2011 (PLEP 2011). The maximum building height (HOB) of 12m applies to a depth of 18m from Church Street, with the remainder of the site having a maximum height of 120m applies under the PLEP. Refer **Figures 1** and **2** below.

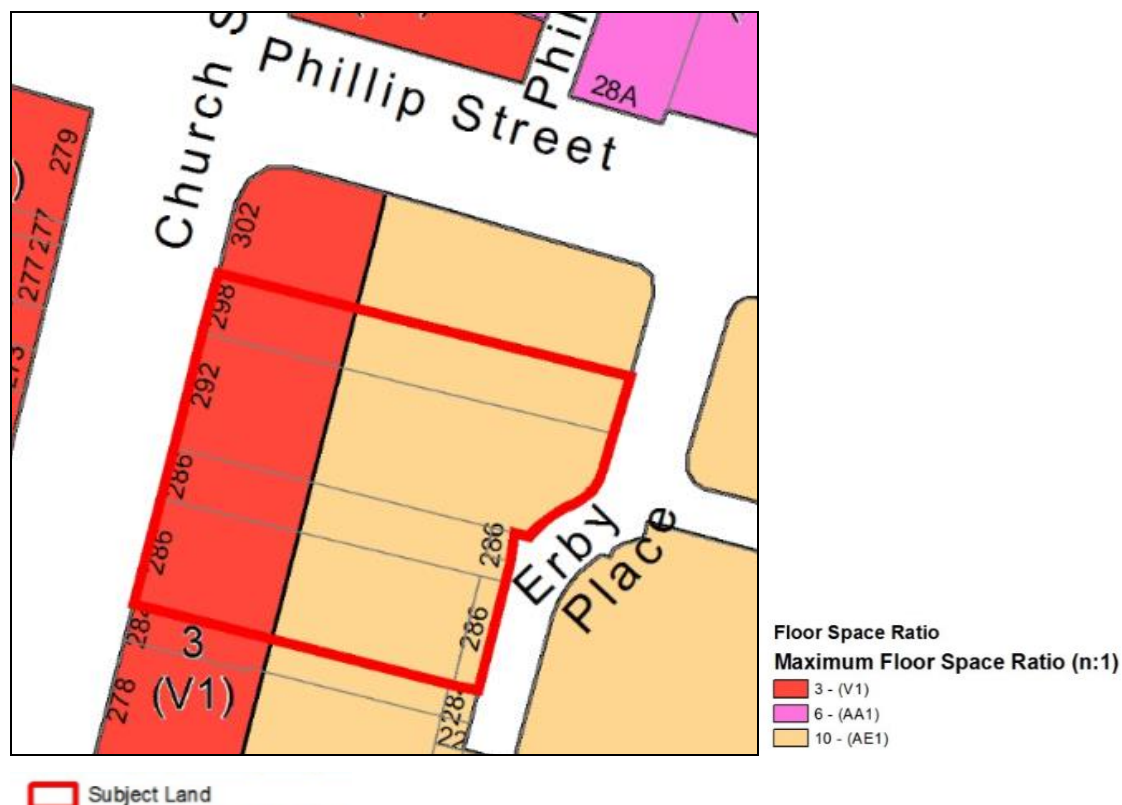


Figure 4 Current Maximum Floor Space Ratio (PLEP 2011)

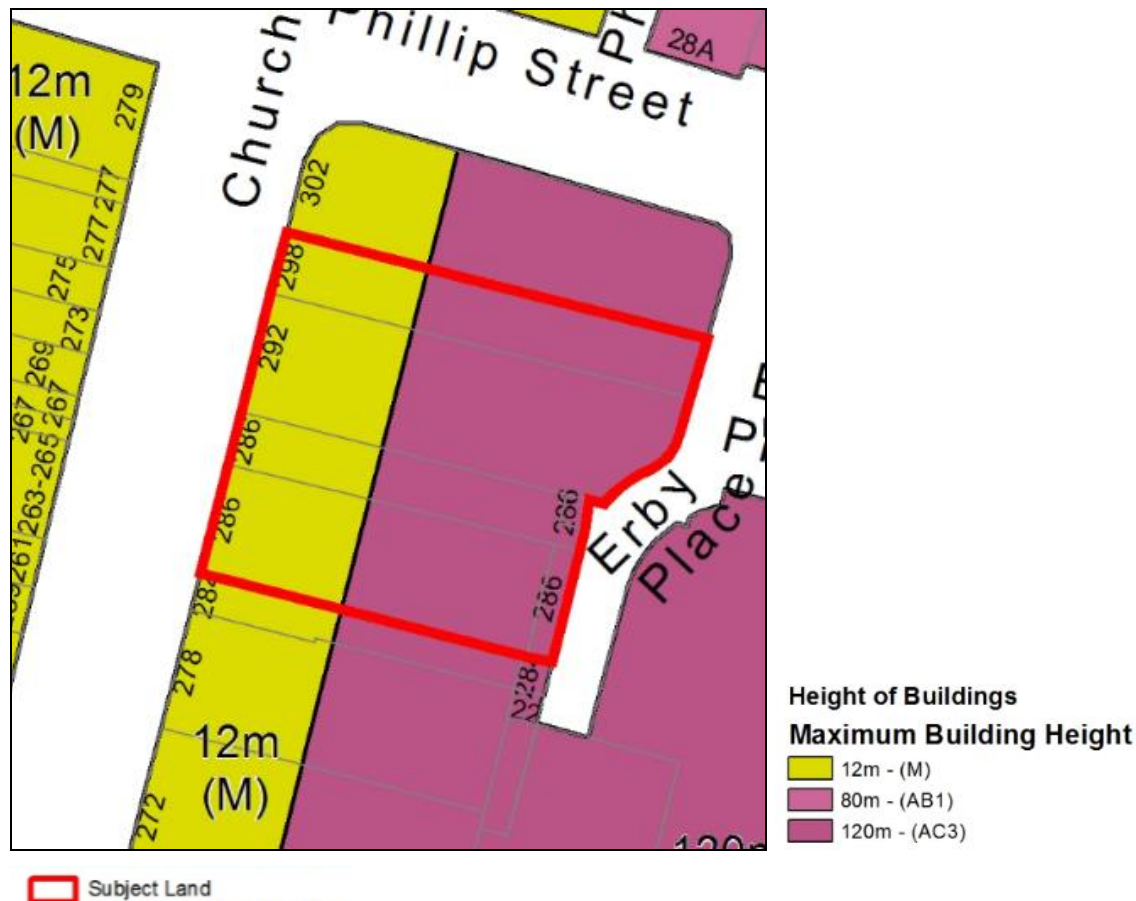


Figure 5 Current Maximum Height of Buildings (PLEP 2011)

12. There are two local heritage items listed under the PLEP 2011 that sit within the site (refer **Figure 3**):
 - a) Heritage Item I672 (Sandstone and Brick Wall) – located to the rear of 286, 288 and 290 Church Street;
 - b) Heritage Item I677 (Shop and Potential Archaeological Site) – identified as 302 Church Street. It is noted that this item, Council Officers have reviewed the heritage inventory sheets and conclude that the listing has been incorrectly described and labeled, with the heritage fabric described attributable to the front façade of 300 Church Street, and sandstone wall shared by 300 and 302 Church Street, which is part of the subject site.
13. The State Heritage Inventory also lists 292 (rear) Church Street, Parramatta (Sandstone and Brick Wall). Following discussion with the proponent's heritage consultant and Council's Heritage Advisor, it is agreed that this is likely a reference to the northern wall of 292 Church Street (i.e. Local Heritage Item I672).
14. The subject site is located in Parramatta Archaeological Management Unit 3079, which is described on the State Heritage Register as having "exceptional archaeological research potential".

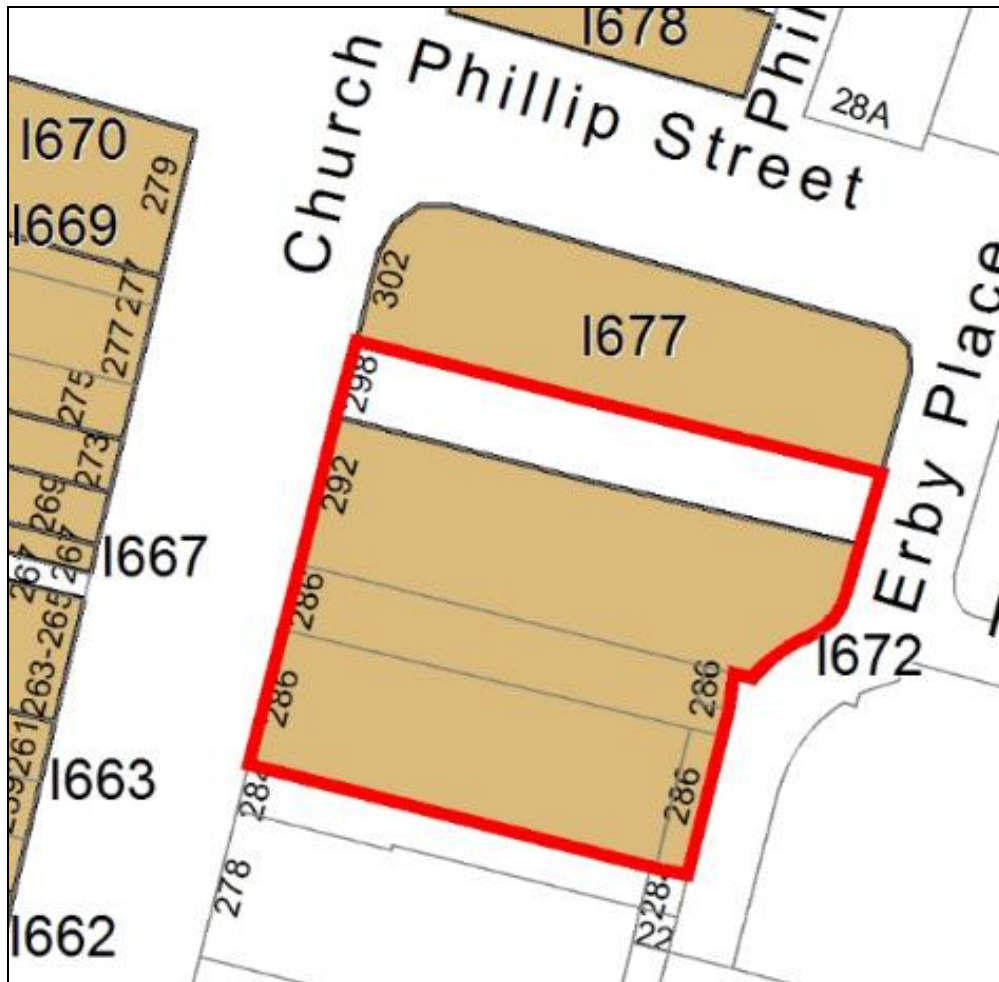


Figure 6 Heritage Items under the PLEP 2011

KEY MATTERS FOR CONSIDERATION

15. As will be discussed further in this report, this Planning Proposal raises the following two key policy issues that require Council consideration:
 - Amendments to the street wall and tower setback to Church Street; and
 - Opportunity site provisions (as defined by the Parramatta CBD Planning Proposal and sought by this proposal).
16. The position that Council takes in relation to the above matters as part of this Planning Proposal may result in a policy shift that may impact on the draft controls in the CBD PP that is currently with the DP&E for Gateway Assessment.

Street wall height and tower setback to Church Street

17. This planning proposal seeks an amended street wall building height to Church Street of 12m and an upper level (or tower) setback of 10m. This is inconsistent with the upper level (tower) setback required of 18m in PLEP 2011 and the proposed Parramatta CBD Planning Proposal.
18. As summarised in the other report included in this business paper the 12m street wall height and 18m upper level setback became the planning controls

for the subject site and the adjoining sites when Parramatta City Centre LEP 2007 (PCC LEP 2007) came into force on 21 December 2007, with the updated instrument, PLEP 2011, preserving the controls.

Urbis Heritage Study

19. In developing the evidence base to support the draft Parramatta CBD Planning Proposal to amend the planning controls in PLEP 2011, Council engaged planning and heritage consultants, Urbis, in July 2015 to undertake a heritage study. The objective of the study was to deliver recommendations that would both support Council's vision for the growth of the CBD while also respecting its significant heritage items and values.
20. In December 2015, Urbis presented the "Heritage Study – CBD Planning Controls" to Council. The Study noted that the Church Street Precinct, particularly between Macquarie Street and the Parramatta River demonstrated through its built form "the early urban and commercial development" of Parramatta, and demonstrated "a variety of architectural styles which together provide a consistent streetscape character which is dominated by 2-3 storey commercial development that collectively contributes strongly to the townscape" (refer **Figure 4**).



VIEW NORTH ALONG CHURCH STREET FROM CENTENARY SQUARE



VIEW TOWARDS HERITAGE ITEMS AT 213 AND 215 CHURCH STREET



STREETSCAPE VIEW NORTHEAST SHOWING THE FORMER WESTPAC BANK AT THE INTERSECTION OF GEORGE STREET



VIEW NORTH ALONG CHURCH STREET SHOWING THE FORMER ANZ BANK AT THE CORNER OF PHILLIP STREET

Figure 7 Various vistas along Church Street (north). (Source: Heritage Study – CBD Planning Controls, Urbis 2015)

21. Further, the Study found that "the majority of the sites generally do not allow for substantial redevelopment, due to the size of the lots, and in some instances,

the significance of the individual items ... except in conjunction with site amalgamation". Refer to **Attachment 2** for the relevant extract of the Urbis Heritage Study.

22. In summary, the Study recommended an FSR of 3:1 and height controls of up to 12m (or 3 storeys) along Church Street should be applied, and to preferably maintain a minimum upper level setback of 18m from the street frontage to both the eastern and western sides of Church Street to ensure that any redevelopment retains the consistent 2-3 storey streetscape character. Of note, the Study specifically recommended that these controls should also be applied to corner lots around Macquarie, George and Phillip Streets along Church Street.

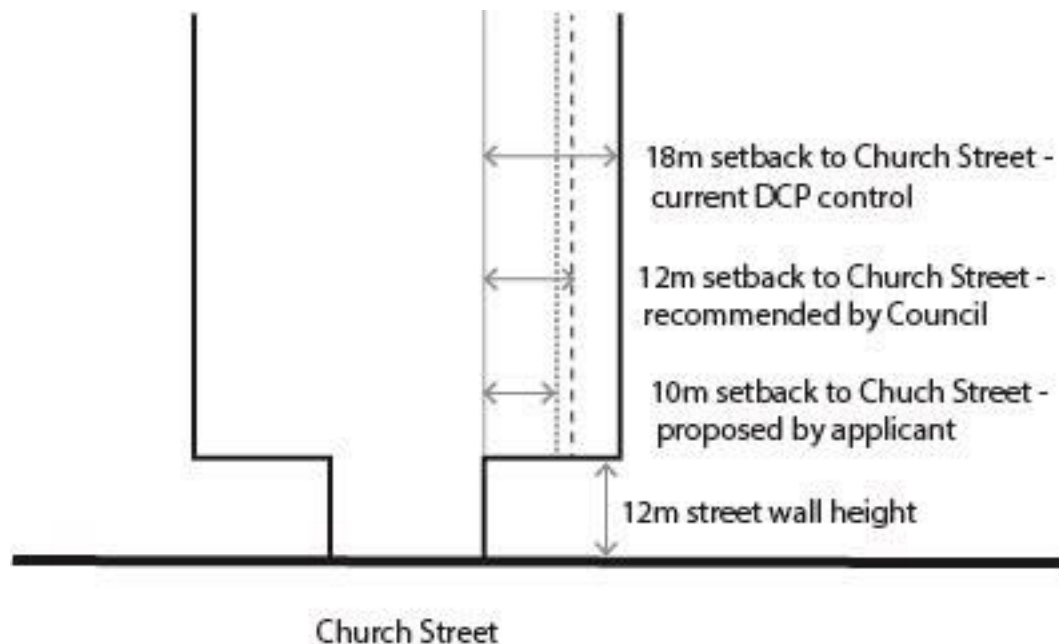


Figure 5 – Cross Section showing setbacks to Church Street recommended in Urbis Report

Draft Parramatta CBD Planning Proposal

23. On 14 December 2015, Council considered a report on the draft Parramatta CBD Planning Proposal which outlined options for various planning matters, including height and FSR controls in the context of heritage issues. The two options were:
- (1) That heritage items in the CBD core (i.e. area shown as 10:1 in the Architectus Study) have FSRs similar to adjoining properties, except for the following: Church Street between the river and Macquarie Street given the strong concentration of heritage items (with an FSR and height as per the Urbis Heritage Study), and
 - (2) That Council allow similar FSRs/heights for heritage items to those of adjoining properties for all areas of the Parramatta CBD.
24. Council resolved at this meeting for sites fronting Church Street between Macquarie Street and Parramatta River (which includes the subject site):-
- a base height control of 12m for the first 18m and then 120m for the rear of the site. The incentive height controls was 12m for the first 18m then no height for the rear of the site

- the base FSR endorsed by Council was part 3:1 (the first 18m of the site are shown as 3:1) with the rear of the site permitted 10:1. The incentive FSR allows for 10:1 across the entire site.

It is noted that draft Parramatta CBD Planning Proposal introduces base and incentive FSRs and height controls as a planning mechanism to capture some of the financial value resulting from the uplift to the residential FSR. The base FSR and heights are the existing planning controls in the current LEP A copy of the Councillor resolution for the 14 December 2015 Council Report on this item is provided at **Attachment 3**.

25. A report on the draft Parramatta CBD Planning Proposal was again considered by Council on 11 April 2016. The purpose of the report was to seek Council's endorsement to forward the planning proposal to amend the planning controls for the Parramatta CBD to the NSW Department of Planning and Environment for Gateway determination. Council resolved at this meeting inter alia that *"(a) That, consistent with Council's resolution made on 14 December 2015, Council endorses the Planning Proposal at Attachment 1 to amend the planning controls for the Parramatta CBD and forwards it to the NSW Department of Planning and Environment for Gateway determination"*. At the time of writing this report, Council is still awaiting a Gateway Determination from the DPE.
26. More broadly, the 11 April 2016 Council adopted a position on the draft Planning Proposal for the Parramatta CBD (CBD PP) that generally sought to increase the FSR of most sites within the Parramatta CBD to between 6:1 and 10:1, and to remove height limits subject to a number of conditions. However, in endorsing the CBD PP, Council also resolved to retain the 18m setback to Church Street, for tower elements above the 12m street wall.
27. The assessment of this Planning Proposal has confirmed that it is not possible to retain the controls in the CBD PP for Church Street that limits the height of building to 12m for the first 18m of the site and achieve viable built form that complies with setback requirements for the Apartment Design Guidelines and achieves an acceptable built form outcome whilst achieving an FSR of 10:1 or greater. This issue was identified in previous reports to Council. The report of 11 April 2016 includes the following statement: *"It is Council Officers recommendation to reduce the FSR to reflect the proposed height control of 12 metres on those sites where this height limit applies to the entire property. However, Council may wish to consider another option of reducing the area where the 12 metre height limit applies to a portion of the site fronting Church Street."*

Other Church Street Planning Proposals

28. Other site-specific planning proposals and State Significant Development Applications that have sought a variation to the 18m Church Street upper level tower setback control. The sites where a setback inconsistent with the 18m has been considered or approved are:
 - 295 Church Street, Parramatta; (Planning Proposal)
 - 197 – 207 Church Street and 89 Marsden Street, Parramatta (Planning Proposal); and
 - 330 Church Street, Parramatta (State Significant Development Application approved by State Government).

295 Church Street, Parramatta

29. In relation to the planning proposal at 295 Church Street, Council considered a Planning Proposal prior to considering the CBD PP controls and resolved to support a Planning Proposal that permitted an FSR of 10:1 (11.5:1 with design excellence) at its meeting of 12 October 2015. In doing so Council also endorsed height controls that required the 12m height to be retained for only the front 10m of the site rather than the first 18m of the site (when measured from the Church Street frontage). The primary argument for this is that the subject site is a very small site and retention of any setback greater than 10m to Church Street would have made development of this site unviable. This proposal was considered by Council prior to the Urbis Heritage Study being presented to Council.
30. A Gateway Determination has been issued by DP&E for amending maximum building height for the site as part 12m (front of Church Street for the first 10m of the site) and part 150m (remainder of the site). The Proposal is yet to be exhibited as the ownership of the site changed and the new owners submitted an amended Planning Proposal seeking to amend or replace the Gateway Determination issued with a new Gateway Determination. However the applicant has now withdrawn the proposed amendment and indicated they wish to proceed with the existing Gateway Determination.

197 - 207 Church & 89 Marsden Streets, Parramatta

31. Council resolved on 7 December 2015 to support a Planning Proposal on the subject site. The site-specific planning proposal as endorsed by Council sought an increase in FSR for the site from a split FSR of 3:1 and 4:1 to 15:1 (excluding design excellence) and removal of the current height controls of 12m and 36m. The Council resolution required the Planning Proposal to be consistent with the "45 Minute Rule" in relation to the extent of overshadowing of Parramatta Square that would be permitted with the building height be determined by an international design competition.
32. The Design Competition was undertaken but design excellence was never awarded because the Gateway Determination issued by the Department of Planning contained amendments to the proposed planning controls which meant that none of the Design Competition entries were consistent with the Gateway Determination. In particular the Gateway Determination introduced a requirement for Parramatta Square not be overshadowed between 12 noon and 2pm midwinter instead of overshadowing being permitted in accordance with the "45 minute rule" nominated by Council. However, in the design brief endorsed for the competition the issue of the tower setback to Church Street was dealt with as follows:-
- '...a minimum setback of a tower from the podium to Church Street of 18m, however ... a minimum of 12m ... is acceptable'.*
33. The issue of the Gateway Determination and a request the applicant has made to the Department of Planning to have the Gateway Condition relating to overshadowing removed was dealt with in a report to Council on 26 February 2018. This matter is not discussed in detail in this report because the key issue for this assessment is not related to overshadowing of Parramatta Square but instead the fact that this process was contemplating a building height of 12m for only 12m of this site (rather than the 18m). Of the four design competition entries submitted the proposed setbacks for the tower element to Church Street achieved a minimum of 12 metres tower setback to Church Street.

34. However, it is noted that if the Department of Planning retains the solar access protections and Council insisted on an 18m setback for the tower element from Church Street that the FSR achievable on this site would be reduced. In this case Council was willing to contemplate a setback of the tower elements of 12m rather than the 18m currently required by the Parramatta LEP 2011 or the CBD PP.

330 Church Street, Parramatta

35. A state significant development application for 330 Church Street (Meriton site) was first granted development consent on 19 October 2012 by the NSW Government Planning Assessment Commission utilising the former Part 3A provision in the *Environmental Planning and Assessment 1979*. This building has now been constructed.
36. This building is not consistent with the current Parramatta LEP 2011 provisions. The building fronting to Church Street has a number of steps in the built form. It has a podium with height of approximately 12m along the Church Street frontage and the western tower is setback between 14m and 18m from Church Street. However, one level, which sits directly above the podium, has a variable setback, which in one place, is as little as 3m from the Church Street boundary. This site, as originally approved, achieves an FSR of approximately 6.5:1.

Implications of Proposed Development for Church Street sites on CBD PP

37. In summary, three sites on Church Street have sought a variation to the 18m Church Street upper level tower setback control with varying levels of endorsement – 10m for 295 Church Street via a Gateway Determination; 12m for 197 – 207 Church Street and 89 Marsden Street via a Design Competition Brief; and a variable upper level setback to Church Street via a NSW Government development consent for 330 Church Street (Meriton site). These variations, together with the assessment of the site-specific planning proposal for the subject site, highlights that it is not feasible to retain the controls in the CBD PP that limit the height of building to 12m for the first 18m of the site and achieve an FSR of 10:1. Council will need to make a decision on whether to reduce the setback, for which there is precedent, or whether to reduce the FSR proposed on these sites in the CBD PP to levels consistent with what is currently permitted.
38. This report has been assessed on the basis that the setback controls should be relaxed, in accordance with the precedent set in the Council decision on some of the matters described above but should Council wish to reconsider its position on the CBD PP the assessment of this Planning Proposal would change accordingly.

Opportunity Site Provisions

39. On 11 April 2016, Council adopted the Parramatta CBD Planning Proposal which generally sought to increase the FSR of most sites within the Parramatta CBD to between 6:1 and 10:1, and to remove height limits subject to a number of conditions. Some sites within the B4 Mixed Use zone have been identified as 'Opportunity Sites' which allows the FSR for the site to increase up to a maximum of 15:1 where a development meets certain conditions and provides for community infrastructure. This is known as 'Phase 2 community infrastructure'.
40. The intent of the Opportunity Sites provision is to allow additional residential development within the B4 Mixed Use zone provided the site has a land area

greater than 1800sqm and be 40m wide; and the applicant demonstrates via a site-specific DCP (or a Stage 1 DA) that the site can accommodate the additional FSR, design excellence is achieved, the building is a high performing building and community infrastructure is provided.

41. The Opportunity Sites draft provision are contained in **Attachment 4** provision, however the following is an extract of the provision as it relates to the performance criteria that would be required to be included in a site specific DCP.

“7.16 (7) The development control plan must provide for all of the following:

- a. requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain,*
- b. requirements to minimise the detrimental impact of proposed development on view corridors,*
- c. how the proposed development addresses the following matters:*
 - (i) the suitability of the land for development,*
 - (ii) the existing and proposed uses and use mix,*
 - (iii) any heritage issues and streetscape constraints,*
 - (iv) the impact on any conservation area,*
 - (v) the inclusion of community infrastructure,*
 - (vi) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (vii) the bulk, massing and modulation of buildings,*
 - (viii) street frontage heights,*
 - (ix) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,*
 - (x) the achievement of the principles of ecologically sustainable development,*
 - (xi) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,*
 - (xii) the impact on, and any proposed improvements to, the public domain,*
 - (xiii) achieving appropriate interface at ground level between the building and the public domain,*
 - (xiv) the excellence and integration of landscape design,*
 - (xv) the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.”*

42. It is acknowledged that the subject site complies with the minimum numeric standard, as the site has a primary street frontage of approximately 43m and a site area of 2097.3sqm. However, the intention of Opportunity Site provisions (as outlined in Clause 7.16(7) above) a high level of performance standards in terms of built form, design, public domain and heritage etc is required to be met.

43. As detailed in the assessment below Council staff consider that the provisions of contained in Clause 7.16(7), specifically parts (c)(iii)(vi) and (xi), cannot be met by the current proposal for the following reasons:

- The subject site isolates 302 Church Street (the corner site) and sterilises the ability of the site to benefit from uplift provided for in the

Opportunity Sites provisions in the Parramatta CBD PP. Inclusion of 302 Church Street would also result in a superior urban design and heritage outcome.

- The opportunity site provisions should not be used to further impact on Church Street in terms of the scale or development fronting onto Church Street. Already, due to the inconsistency between the FSR and height provisions concessions are being made to the setbacks which are bringing larger building forms closer to Church Street. Allowing the additional FSR via opportunity sites for sites fronting Church Street will have a further increase the bulk and scale of buildings fronting Church Street, which will have a further negative impact in the way Church Street can be interpreted from a heritage viewpoint.
- If it could be demonstrated that the Opportunity Site provision could be applied and an FSR in the order of 15:1 (which is the FSR permitted when the opportunity sites FSR bonus of 3:1 is added to the 10:1 FSR, 1.5:1 Design Excellence Bonus and 0.5:1 High performing building Bonus) then it might be appropriate for the Opportunity Site bonus to be applied for site in Church Street because the optimal heritage setback outcome is being achieved. However, a concession to the 18m setback must be given just to allow 10:1 to be achieved on all sites assessed to date. So it is considered that the Opportunities sites bonus should not be permitted on any Church Street site unless it can be demonstrated that the 18m setback is achievable.

ASSESSMENT

Land Use

44. The planning proposal is considered to align with the intentions and principles of the State Government's metropolitan strategy - the *Greater Sydney Region Plan - A Metropolis of Three Cities* and the *Central City District Plan*. These strategies seek to support Parramatta as Sydney's Central City by increasing housing density and employment opportunities in strategic locations. The Planning Proposal is also generally consistent with the relevant State Environmental Planning Policies and Section 9.1 (formerly Section 117) Ministerial Directions.

Consistency with Parramatta CBD Planning Proposal

45. Under the Draft Parramatta CBD Planning Proposal (CBD PP), which was resolved by Council on 11 April 2016, the following potential future planning controls would apply to the subject site:
 - A 'base' maximum height of buildings of part 12m along Church Street to a depth of 18m and part 120m;
 - An Incentive maximum height of buildings of part 12m along Church Street to a depth of 18m and part no numerical height limit (instead determined by aeronautical limitations);
 - A Base FSR of part 3:1 along Church St and part 10:1 and an Incentive FSR of 10:1 (of which 1:1 FSR is commercial);
 - Design Excellence Bonus applies (15%) increase in FSR of 1.5:1;

- High Performing Buildings Bonus 0.5:1 additional FSR applies to sites over 1,800sqm.
 - Additional commercial FSR (no limit) is available for sites over 1,800sqm.
 - Identified as an 'Opportunity site' which would allow up to 3:1 additional FSR if certain criteria are met.
46. As discussed earlier in this report, two key considerations raised through the assessment of this Planning Proposal was how to approach the existing upper level setback control contained in both the current PLEP 2011 and would be retained in the CBD PP and the proposed 'Opportunity site' clause in the CBD PP. Material to both policy matters is the site's relationship with the adjoining corner site at 302 Church Street.

Upper level setback to Church Street

47. This Planning Proposal seeks to vary the maximum height limit of 12m along Church Street from a depth of 18m to 10m. The proponent argues that there is negligible difference between 10m or 12m in terms of achieving an acceptable urban design outcome for Church Street. The proponent's heritage consultant also provided further documentation that states that "a 10m setback for the tower is sufficient to make the street wall (podium) a distinct urban form that blends with the traditional scale of commercial development along both sides of Church Street".
48. As detailed below, Council's Urban Design Officers have reviewed the amended urban design documentation and have concluded that a 10m upper level setback could be acceptable as an absolute minimum to achieving an acceptable relationship between the street, the street wall, and the tower form. Notwithstanding this advice, it is contrary to the Urbis report recommendation that it was more appropriate to seek to maximise the setback to address the significant heritage issues and the position endorsed by Council when it endorsed the CBD PP that this should be as much as 18m. Therefore, it is Council Officer's position that on heritage grounds a setback should be maximized and be as close to 18m as possible but that the minimum permitted tower setback should be 12m to Church Street.
49. This is the position that was pursued by Council for 197 Church Street (refer to comments previously in the report). The only site that has been allowed a setback of 10m is 295 Church Street which is a much smaller site and which was considered before the CBD PP was endorsed.
50. It is recognised that it not achievable to retain the controls in the CBD PP that limit the height of building to 12m for the first 18m of the site and achieve an FSR of 10:1. Notwithstanding, Council Officers consider that a future development could be realised by maintaining a minimum 12m height limit along Church Street with a setback of 12m, and still achieve an FSR of 10:1, plus bonuses due to design excellence (1.5:1) and high performing building (0.5:1) - a total FSR of 12:1. The applicants request for an additional 1:1 of commercial to allow an FSR of 13:1 could also be acceptable with a 12m setback.

Site consolidation – 302 Church Street

51. In relation to consolidation with the adjacent corner site of 302 Church Street, Council Officers have worked with the proponent to address the issue of site isolation, which is seen as a key obstacle to whether the Planning Proposal is

able to demonstrate the ability to comply with the performance criteria of the Opportunity Site provision.

52. Council acknowledges that the proponent has made genuine and repeated attempts to acquire 302 Church Street, including an offer that reflected the site's potential value uplift. To date the landowner of 302 Church Street has rejected all offers. The proponent sees no reason why the failure to amalgamate with 302 Church Street at this point in time should prevent the progression of the Planning Proposal.
53. However, Council Officers have sought to investigate the implications of this site isolation issue. Following extensive consultation with the proponent on this issue, the amended urban design report provides an analysis of the development potential of the corner site were it to develop in isolation to the subject site. The amended documentation provided four potential development scenarios, which are summarised in **Table 1** and illustrated in **Figure 6** below.

Option	Urban Design Outcomes
A	The tower at 302 Church St is not feasible and would not present as an optimal urban design outcome to the street corner.
B	Results in a 6.6m wide floor plate up to 9 storeys, before ADG compliance prevents 302 Church St tower from increasing in height. Requires a blank wall /non-habitable rooms for the first 8 levels to tower on subject site. Poor urban design outcome and inefficient floorplate to 302 Church Street. Poor transition to heritage dome opposite.
C	A single loaded corridor is possible with a 7.62m wide floorplate tower at 302 Church Street. Poor urban design outcome, and poor transition to heritage dome opposite.
D (Proponents Preferred)	Can achieve an acceptable relationship to adjoining site and heritage dome opposite, however it is unclear what purpose the 4th level could serve. Is the least worst option, and would result in highest development potential available to the site without amalgamation.

Table 1: Potential Development Scenarios without amalgamation of Subject Site and 302 Church Street.

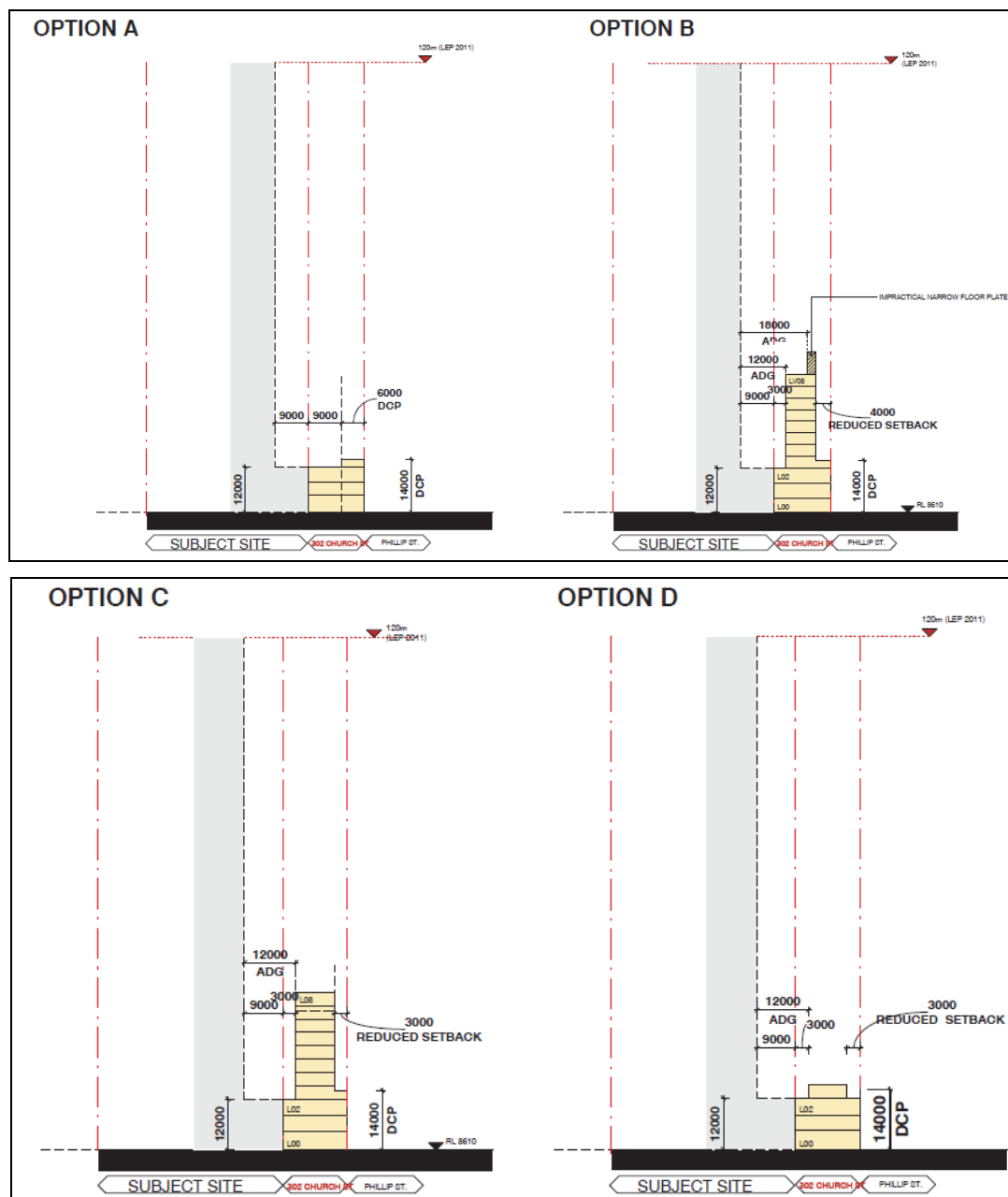


Figure 6 Development scenarios for 302 Church Street (Source: Amended Urban Design Report, PTW)

54. On reviewing the built form options presented in the amended urban design report, both the proponent and Council Officers agree that the corner site has extremely limited development potential were it to develop in isolation with the subject site. The proponent's own analysis states that Option D is the only satisfactory built form outcome for the corner site, which in effect would be a three to four storey "attachment" to the podium for the subject site. Other development scenarios would likely be economically unviable, or result in an unacceptable impact to the heritage item to the immediate north of the site.
55. It was also noted that the inclusion of 302 Church Street with the subject site would result in a less constrained development site, and allow for an alternate design that shifted the location of the tower footprint further to the north of an enlarged site, and allow for an increased upper level setback to Church Street.
56. Based on this assessment, Council Officers have concluded that the most efficient and practical means to achieving an excellent urban design outcome that improves the public domain would be for these two sites to be

consolidated and developed as one site. In the absence of this outcome being achieved, the applicant has met the requirements of the Land and Environment Court Direction on Site isolation and this should not hold up the Planning Proposal proceeding to public exhibition. However, if a submission was received from the isolated landowner during any public consultation phase Council would need to consider any issues raised by that landowner before finalizing the Planning Proposal.

Opportunity Sites

57. To achieve the maximum FSR possible under the Parramatta CBD Planning Proposal, the Proposal for the subject site seeks to demonstrate compliance with the draft provision Clause 7.16 – Opportunity Site of the CBD PP. This provision, as previously described, allows for additional FSR (above that already permitted in the CBD PP) of up to 3:1 for residential purposes, provided a site meets the following number of performance related criteria that would be included in a site specific DCP.
58. The justification put forward by the proponent that the Planning Proposal meets the strategic merit of Opportunity Sites (**Attachment 4 – Proponent's response to Council Officer preliminary letter**) is summarised briefly as follows:
 - a) That genuine and repeated endeavors have been made by the proponent to acquire 302 Church Street and an urban design analysis shows that 302 Church Street can be developed on its own in the future;
 - b) Inclusion of the Opportunity Site controls will simply facilitate an outcome that is consistent with Council's endorsed Parramatta CBD PP;
 - c) The site exceeds the numeric standards of Opportunity Site provision (over 1,800sqm and a frontage over 40m);
 - d) A DCP is yet to be prepared for the site and is therefore premature for Council to draw definitive conclusions on the ability of future site specific DCP to be able to provide for the matters specific in draft Clause 7.16(7); and
 - e) An urban design analysis of the block indicates that future tower locations would not be compromised and have an acceptable relationship in terms of separation, setbacks, amenity and urban form.
59. In response, Council Officers are not satisfied that the proposed scheme is able to achieve a number of the performance criteria required to meet the Opportunities Site bonus FSR provisions for the reasons detailed below.
60. Firstly, in failing to amalgamate with the corner site (302 Church Street) the site inhibits the corner site from benefitting from uplift. By including 302 Church Street with the subject site would result in a less constrained development site, and allow for an alternate design that shifted the location of the tower footprint further to the north of the site, allowing for an increased setback to Church Street.
61. For these reasons, it was considered that the inclusion of 302 Church St would result in a superior urban design outcome, and enhance the street corner to Church and Phillip Street. It is acknowledged that this design outcome would be

contingent on further heritage and archaeological investigations of the two locally listed items within the enlarged development parcel.

62. The justification put forward by the proponent that the reference design proposed for the subject site “enables 302 Church Street to be redeveloped in the future in accordance with the relevant planning controls” is not substantiated by the reference design provided, which envisages the corner site developing up to a maximum of 8 levels. This could only be achieved on the basis Council would support the future redevelopment of the corner site with reduced tower setback of 4m from the podium to Phillip Street, and a separation between the two tower forms of only 12m. This would result in a tower form of approximately 5m in width, which given the context and prominence of the corner site is considered an inferior outcome to what otherwise could be achieved in the event the corner site was consolidated with the subject site.
63. Although the Opportunity Site provision does require the preparation of a site specific DCP, Council consistently requires that all site specific planning proposals demonstrate that they can achieve standards through the testing of a reference design. It is not the preferred approach to rely on Design Competition or development application stages to resolve fundamental urban design and site constraint issues. Notwithstanding, the Planning Proposal seeks to amend a LEP planning control (i.e. the maximum FSR and height of building) which like other planning proposals, must considered on its strategic merits.
64. The critical issue is that a concession must be given to the site to decrease the setback from the 18m required by Council in the CBD. PP Given that a concession from 18m to 12m is being given to allow the applicant to achieve an FSR of 13:1 (including design excellence, high performing buildings, and additional commercial floor space), the Proposal is not considered to be consistent with the Opportunity Bonus criteria related to heritage and streetscape (Section c(iii) of the Opportunity sites criteria listed previously in this report). Council Officers are willing to give a concession on the setback to allow at FSR consistent with the CBD PP of 12:1 (13:1 in this case because the landowner is seeking to provide an additional 1:1 of commercial floor space without it being included in the FSR – which is consistent with the CBD PP) but allowing the setback concession and the additional Opportunity Site Bonus is a step too far and would not provide appropriate recognition of the heritage issues associated with Church Street.
65. The Opportunity Site Bonus should only be permitted in this case if an optimal heritage outcome can be achieved (if that is proven to be possible). Council Officers are not satisfied that the Opportunity Site bonus should be applied when setback concessions of down to 12m instead of 18m are being contemplated.

Heritage

66. The issue of the urban form impacts on the way the Church Street has been dealt with above. This section deals with the impact on the fabric of the heritage items found on site
67. There are a number of heritage items and considerations identified on or adjacent to the subject site as follows:
 - Local Item 672 – Stone walls at the rear of 286, 288 and 290 Church Street (refer to **Figure 7**);

- Local Item 677 – Shop (and potential archaeological site) identified as being located at 302 Church Street, but in fact located within the subject site at 298 Church Street (refer to **Figure 8**);
- State Heritage Inventory listing of 292 (rear) Church Street; and
- Site is located within the Parramatta Archaeological Management Unit 3079.



Figure 7 Local Item I672, seen from the rear of 286-290 Church Street (Source: Statement of Heritage Impact)



Figure 8 Local Item I677, located at 298 Church Street Parramatta (Source: Statement of Heritage Impact)

68. A Statement of Heritage Impact (SHI) has been submitted with the planning proposal which details the heritage significance of the remaining fabric on the site, and how this would be treated or remediated as a result of development on the site.
69. One issue identified by the SHI was the mislabeling of Local Item 677. Council's Heritage Advisor agreed that this item likely refers to the 3 storey front sandstone façade (currently obscured by metal cladding) to 298 Church Street, which is not currently listed as a heritage item.
70. The preservation, and restoration of the heritage fabric on the site is considered to be a key public benefit that can be achieved through the rezoning process. **Figure 9** below is an extract from the Statement of Heritage Impact prepared by NBR Architecture. Heritage in support of the Planning Proposal, which identifies the location of the known remaining heritage fabric on the site.

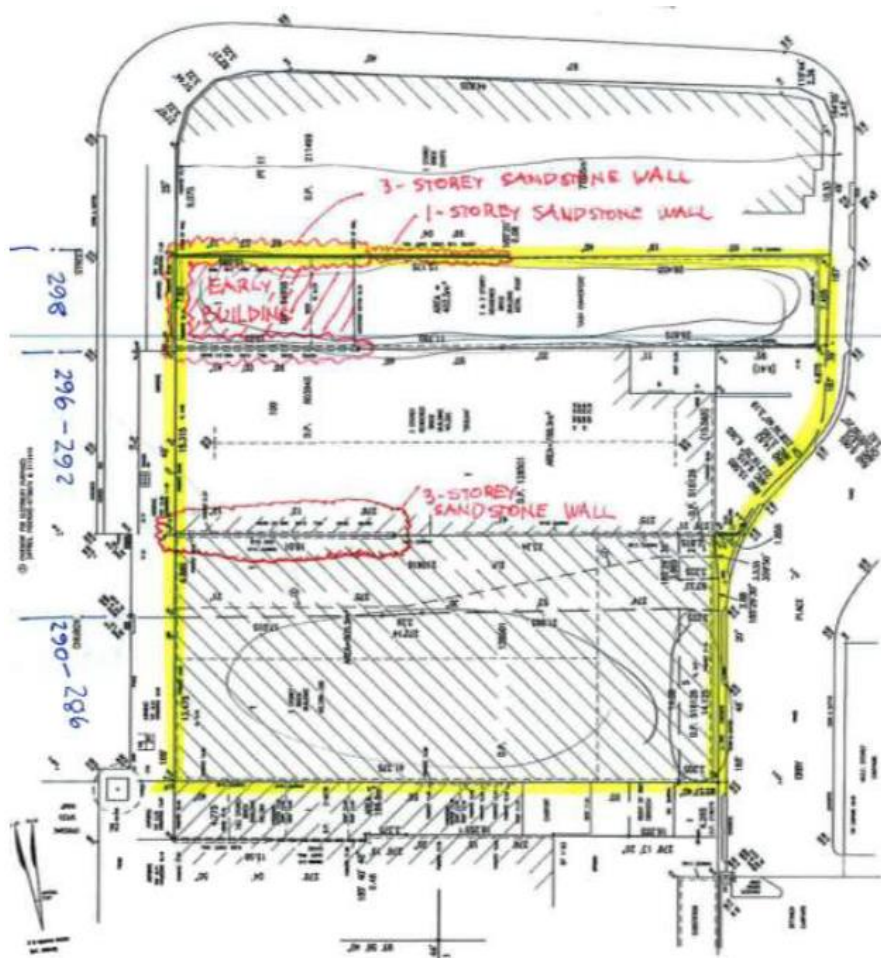


Figure 9 Marked up survey plan showing the location of significant heritage fabric (Source: Statement of Heritage Impact, NBR Architecture Heritage)

71. The original proposal submitted to Council proposed to number, record, and dismantle each sandstone block to the two walls to enable their reinstatement post-demolition. The sandstone façade to Church Street and its northern wall were proposed to be supported and held in place during the excavation.
72. The removal of and reinstatement of the heritage walls was not supported by Council's Heritage Officer, and through discussion with the proponent it was agreed that the items would be retained in-situ during the redevelopment of the

site, and appropriately restored as required. This will be addressed through a site-specific development control plan.

Urban Design

73. Council Officers have worked extensively with the proponent to refine the concept urban design scheme for the subject site. Based on feedback from Council's Urban Design Officers, the urban design scheme has been modified as outlined in the section below.

Street Wall

74. The street wall (or podium) has been amended to respond to the historic fine grain subdivision pattern of Church Street, and to the heritage 3-storey sandstone façade attributable to 298 Church Street. Further, the retail floor space has been reallocated at the ground floor of the street wall to encourage smaller tenancies to Church Street, consistent with historic fine grain development pattern of this section of Church Street.
75. In response to concerns raised by Council's Heritage Advisor, the amended street wall (podium) has been redesigned to provide wall openings that respond to the geometry of the existing heritage item on site, and nearby buildings along Church Street. The revised street wall façade displays qualities that better respond to the buildings with heritage significance along Church Street, with the new façade material to be a contemporary response to the original sandstone.

Laneway

76. The original urban design scheme proposed an arcade through the centre of the site. Council officers did not support on the basis that from a strategic perspective there was little public benefit given the proximity of the arcade to Phillip Street intersection, and the implication this had for the driveway location and activation of Erby Lane.
77. The amended urban design reference scheme has been modified to provide for a 3.5m public laneway to the southern boundary of the site that provides a mid-block through site link between Church Street and Erby Place. The location of the laneway is consistent with Council's Parramatta CBD Laneway Strategy. The provision of the laneway in the location identified in **Figure 10** below will encourage activation of the southern edge of the site for retail or dining purposes, and could be expanded in width should redevelopment of the properties to the south of the subject site be developed in the future.
78. Specific controls relating to the design, function, and materiality of the laneway will be included in a future site specific DCP.

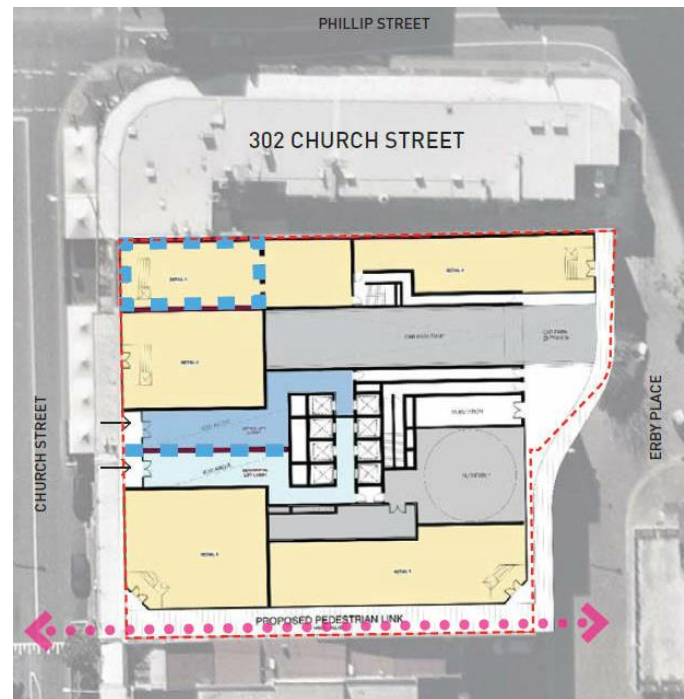


Figure 10 Proposed pedestrian link (Source: Amended Urban Design Report, PTW)

Tower form

79. Without the inclusion of 302 Church Street, the site as proposed is constrained in accommodating a tower form that provides a sufficient setback to Church Street.
80. An assessment of the amended design by Council Officers confirms that a tower can be achieved on the site with a 12m setback to the building line on Church Street; however, the inclusion of the isolated corner site would provide greater opportunity to deliver an improved scheme with even greater setbacks to the street wall. This issue has been addressed in the section relating to Opportunity Sites.

Parking and Vehicle Access

81. The original scheme as presented to Council Officers has been modified to reduce conflict between the pedestrian movements on and through Erby Place, as encouraged in the Parramatta Lanes Framework Plan. Under the amended urban design scheme, basement parking access has been relocated to the northern section of the site to provide separation to the proposed laneway at the southern boundary. In order to avoid service vehicles reversing in the direction of the laneway, a turn table is proposed to allow for front in / front out access to the site for larger vehicles. **Figure 11** below illustrates the proposed scheme.
82. Council Officers are satisfied with the modified design, subject to the separation of pedestrian and vehicle activities being addressed through a site specific DCP.

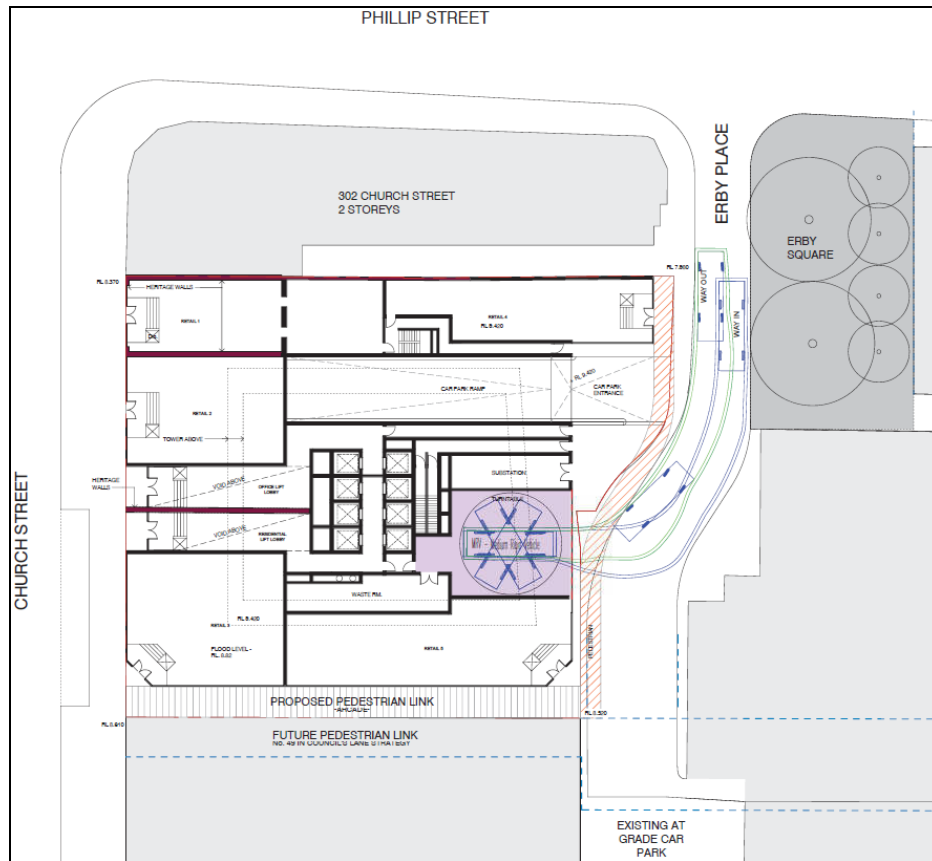


Figure 11 Proposed vehicle access (Source: Amended Urban Design Report, PTW)

Flooding

83. The site is identified as being affected by the Probable Maximum Flood (PMF) of the Upper Parramatta River catchment. Adjacent to the site along Church Street is affected by the 20 year and 100-year Average Recurrence Interval (ARI) flood event (refer **Figure 12**).



Figure 12 Current Flooding Map (Source: City of Parramatta Council's GIS)

84. Further to this, the following flood levels apply to the site:

- 1:20 year ARI flood event – RL 8.8m AHD
- 1:100 year ARI flood event – PL 8.82m AHD
- PMF event – RL 12.5m AHD.

85. On reviewing the original Planning Proposal submitted, Council Officers requested that the proponent provide further detail as to how a future development on the site could be consistent with the Section 9.1 (formerly 117) Ministerial Direction in relation to flood management. Council Officers were also concerned that the Proposal had not adequately considered the impact of flooding to basement parking levels.

86. The proponent has subsequently provided an amended Planning Proposal document, that in the opinion of Council Officers addresses the requirements of the s.117 Ministerial Direction 4.3 by providing additional detail as to how flooding impact can be addressed. The amended Proposal states that a 600mm freeboard can be applied to the site above Council's minimum requirement for a 1:100-year flood event, and that additional design principles and measures, including the provision of early warning system with sirens, refuge areas and ensuring that the lifts in residential lobbies are above the freeboard so that the basement will not be subject to inundation during a 1:100 year event can be addressed in a future design excellence competition and future development application.

VOLUNTARY PLANNING AGREEMENT

87. The applicant has indicated that they will be submitting a letter of offer for a Voluntary Planning Agreement (VPA) for this planning proposal.

88. Council will be seeking the VPA to be consistent with the value sharing rates of the Parramatta CBD Planning Proposal and Council's Draft Planning Agreement Policy (2017).
89. Where proposals are seeking substantial uplift in development potential these contributions should be provided in addition to the requisite future Section 94A (now 7.12 under the new section of the EP&A Act 1979) associated with any subsequent development applications for the site.
90. This report recommends that as required by the Council's VPA policy, a formal resolution be made to proceed with negotiations and that the interim CEO be given delegated authority to explore and negotiate the VPA on Council's behalf. The outcome of any negotiations must be reported back to Council for further consideration prior to public exhibition.

CONCLUSION

91. This Planning Proposal has brought to the attention of Council potential issues with the Council's adopted CBD Planning Proposal. The decision Council makes on this Planning Proposal may have an impact on the controls in the CBD PP and necessitate a review of those controls.
92. It is considered that a concession can be made to the 18m tower setback to Church Street down to as little as 12m to allow an FSR consistent with the CBD PP which envisages 10:1 plus design excellence and other bonuses could be considered by Council but that allowing additional 3:1 FSR on top of this via the opportunity site bonus, which are also provided for in the CBD PP is not appropriate given the heritage issues and constraints.

NEXT STEPS

93. Should Council resolve to pursue a planning proposal for this site the relevant information will be forwarded to the DPE for Gateway Determination.
94. Whilst awaiting Gateway Determination, Council Officers will work with the applicant to prepare a set of site specific DCP provisions to apply to the site consistent with the principles outlined in the body of this report.
95. The applicant will be required to submit a formal letter of offer for a VPA. Both the site specific DCP and VPA will be reported to Council for consideration and then be publicly exhibited alongside the planning proposal after a Gateway Determination has been received.

Joshua Coy
Project Officer - Land Use Planning

Robert Cologna
Acting Service Manager - Land Use Planning

Sue Weatherley
Director Strategic Outcomes and Development

Jim Stefan
Acting Director City Services

ATTACHMENTS:

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|---|---|-----------|
| 1 | Planning Proposal Report for 286-300 Church Street Parramatta | 191 Pages |
| 2 | Extract from the Urbis Heritage Study | 25 Pages |
| 3 | Extract of Minutes of the Council Meeting of 14 December 2015 | 22 Pages |
| 4 | Letter from Ethos Urban on behalf of the applicant | 11 Pages |

REFERENCE MATERIAL