

ECONOMY AND DEVELOPMENT

ITEM NUMBER	7.16
SUBJECT	Planning Proposal for land at 5–7 Parkes Street, Parramatta
REFERENCE	RZ/2/2014 - D03305491
REPORT OF	Project Officer- Land Use Planning

PURPOSE:

To seek Council's endorsement of a planning proposal for land at 5–7 Parkes Street, Parramatta for the purposes of forwarding it to the Department of Planning and Environment for consideration under the Gateway process.

RECOMMENDATION

- a) **That** the planning proposal at **Attachment 1** to amend the Parramatta City Centre LEP 2007 to increase the maximum floor space ratio from 4:1 to 6.5:1 and to increase the maximum building height from 18m to 72m (24 storeys) be endorsed and forwarded for Gateway determination by the Department of Planning and Environment in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*.
- b) **That** Council proceed with negotiations for a Voluntary Planning Agreement (VPA) with the landowner in relation to the planning proposal.
- c) **That** delegated authority be given to the CEO to negotiate the VPA on behalf of Council.
- d) **That** the negotiated outcome of the VPA be reported to Council for consideration prior to its public exhibition with the planning proposal.
- e) **That** Council advises the NSW Department of Planning and Environment that the CEO will be exercising the plan-making delegations for this planning proposal as authorised by Council on 26 November 2012.
- f) **Further, that** Council authorise the CEO to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan-amendment process.

THE SUBJECT SITE AND SURROUNDINGS

1. The site is located at 5-7 Parkes Street, Parramatta on the south eastern corner of Parkes and Anderson Streets. The site has an area of 2016m². Refer to **Figure 1**.

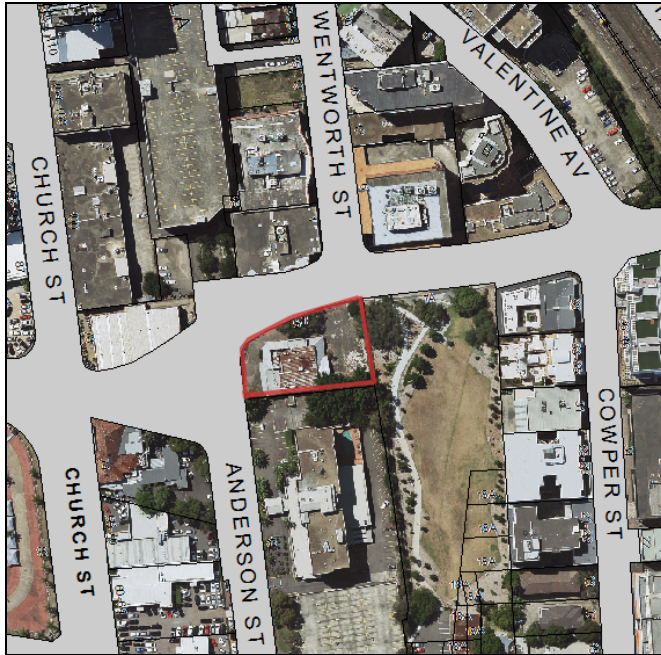


Figure 1 Aerial of the site

2. Existing site development comprises a single storey building which was previously used as a restaurant.
3. The site adjoins Jubilee Park to the east and the Holiday Inn hotel to the south. The site is located on the fringe of Auto Alley. Commercial office buildings are located to the north of the site. Land to the south and south west, known as Auto Alley, incorporates a variety of major car dealerships and associated service centres. The uses to the east of the site on the opposite side of Jubilee Park are predominantly residential in nature. The Parramatta Interchange and Railway Station are within 300m walking distance of the subject site to the north west.

CURRENT PLANNING CONTROLS

4. The site is zoned B4 Mixed Use under the Parramatta City Centre LEP 2007. Land to the north is also zoned B4 Mixed Use whilst land to the north east of the intersection of Wentworth and Parkes Streets is zoned B3 Commercial Core. Land to the south of the site along Anderson Street is zoned B5 Business Development
5. The maximum building height permitted for the subject site and adjacent land to the south is 18m. Land to the north has height limits determined by the Sun Access Plane provisions for Jubilee Park in Parramatta DCP 2011. The sun access plane permits indicative heights of between 36m and 72m for the subject site. Refer to **Figure 2**.

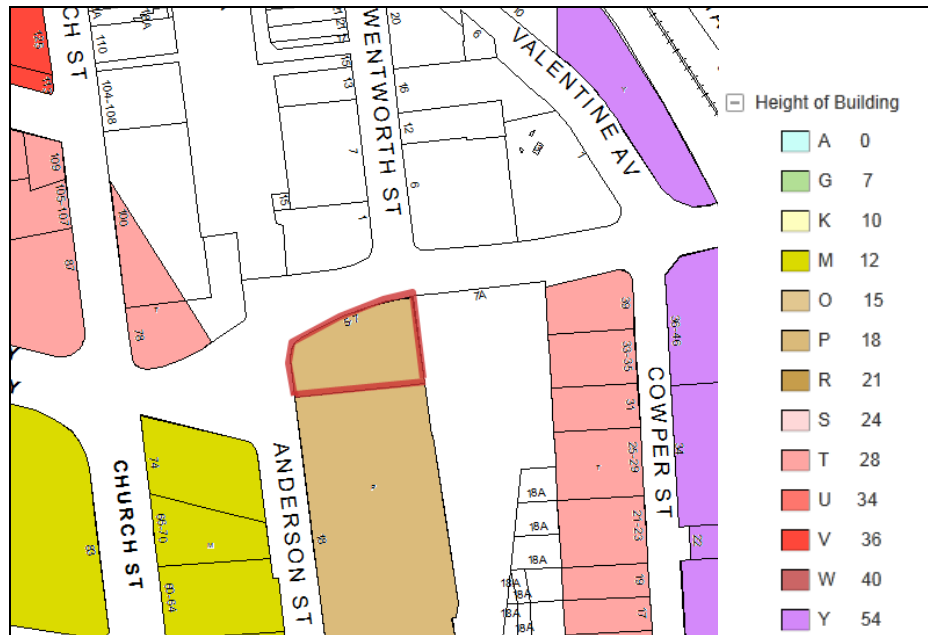


Figure 2: Height of Buildings Map Extract

6. The maximum floor space ratio (FSR) permitted for the subject site and adjacent land to the south is 4:1. Land to the north has a maximum FSR of 6:1. Refer to **Figure 3**.

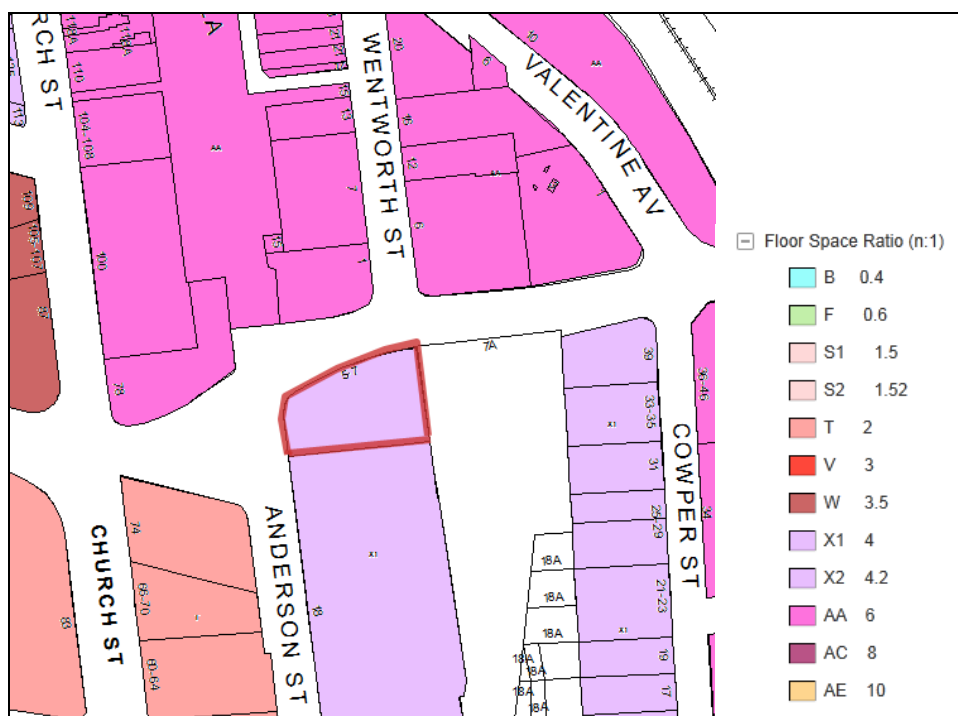


Figure 3: Floor Space Ratio Map extract

7. The Flood Prone Land Map in Parramatta City Centre LEP 2007 identifies the subject site as being flood prone. In addition, Council's data shows that the property is located within an area affected by high hydraulic flood hazard conditions.

AUTO ALLEY PRECINCT

8. Council on 8 September 2014, considered a proposed planning framework for the Auto Alley Precinct, including draft planning controls referred to as “Option 2D (modified)”, for preliminary community and public authority consultation.
9. Option 2D (modified) is based on the following key principles:
 - Firstly, commercial-only uses will be the focus along Church Street, through retention of the B5 Business Development zoning and the application of FSRs up to 10:1.
 - Secondly, on either side of the commercial-only spine, land will generally be zoned B4 Mixed Use and subject to FSRs (ranging from 2:1 to 4:1) that will provide an ‘uplift’ to encourage redevelopment but still enable an acceptable transition from the proposed towers on Church Street, to the low to medium rise development forms that exist (or are planned) for the adjoining residential areas.
10. The subject site is on the fringe of the Auto Alley Precinct, adjoining the commercial-only spine, as shown in **Figure 4**. Option 2D (modified) provides for a permitted height for the site of 20 storeys (65m) and 24 storeys (72m) with design excellence. A maximum FSR of 6.5:1 is provided for under this option.



Figure 4: Auto Alley Precinct

BACKGROUND

11. In April 2012, development consent (DA/948/2010) was granted for the construction of a 5 storey mixed use development on the site, including ground floor commercial tenancies and 56 residential apartments.

12. On 22 April 2013, a preliminary planning proposal was reported to Council, which sought to increase the permitted building height from 18m to 60m and increase the maximum permitted floor space ratio (FSR) from 4:1 to 8:1. Council resolved:

- (a) **“Th**
at Council endorse Option 1 as described in this report with an addition to ensure design excellence, the planning proposal must include a condition for a design competition for the future development of the site.
- (b) **Further, that Council advise the applicant of this decision.”**

13. Option 1 as described in the Council report was as follows:

That the applicant prepares and submits a stand-alone planning proposal for the subject site, providing a fully documented proposal to justify an increase in building height only. It is suggested that the maximum building height should not exceed 36m.

A stand-alone planning proposal must include the following supporting analysis:

- o *Flood Impact Report*
- o *Traffic Impact Assessment*
- o *Urban Design Analysis*
- o *Overshadowing Analysis*

The planning proposal should also explore public benefit opportunities, such as the opportunity on the site for initiatives such as the Design Parramatta Clay Cliff Creek Parkland to be integrated with the design of development on the subject site, such as incorporating a setback along the boundary with Jubilee Park to accommodate a walkway.

14. On 20 February 2014, a planning proposal was received from the applicant which sought to:
- increase the permitted height of buildings from 18m to 60m and
 - increase the maximum permitted floor space ratio for the subject land from 4:1 to 8:1.
15. Following consideration of the planning proposal, Council staff advised the applicant that whilst there was general satisfaction with the proposed building height it was considered that the proposed FSR of 8:1 would result in a building form of excessive bulk that had not been adequately justified. Further justification of the proposed built form for the subject site and its impact on surrounding land/development was requested.
16. In response to this request, further design analysis and testing was undertaken by the applicant which resulted in a revised height of 72m and a maximum FSR of 6.75:1.
17. Council staff advised the applicant that there was support for a maximum height of 72m and a maximum FSR of 6.5:1 for a built form option comprising a podium and tower. An additional 10% can be achieved under Clause 22B of

the Parramatta City Centre LEP 2007 through a Design Excellence Competition Process. This would equate to a maximum FSR of 7.15:1.

THE PLANNING PROPOSAL

18. The planning proposal supported by Council staff is to:

- increase the maximum FSR of the site from 4:1 to 6.5:1; and
- increase the maximum building height from 18m to 72m (24 storeys).

19. The planning proposal is supported by urban design, flood risk and traffic impact studies.

ASSESSMENT

Land use planning and urban design

20. The planning proposal is considered acceptable for the following reasons:

- (i) The proposal will allow the provision of more commercial/retail and housing on the site within the city centre. The opportunity will be provided to take advantage of nearby public transport facilities including Parramatta Railway Station and Transport Interchange that are within 300m of the site. The proposal is consistent with the State Government's strategic planning framework to strengthen Parramatta's role as Sydney's premier regional city and to locate new homes around existing transportation hubs and urban centres.
- (ii) The controls being considered for the Auto Alley precinct support the opportunity to increase the height and intensity of development on the subject site beyond the current 18m height and 4:1 FSR limits. The height and FSR controls of the planning proposal are consistent with Option 2D (modified) for Auto Alley.
- (iii) The FSR of 6.5:1 is appropriate in ensuring the viable development potential for the subject site and will contribute to the future regeneration of Auto Alley. The resulting building mass should be responsive to the site's context as well as ensuring satisfactory design outcomes.
- (iv) The application of a proposed height of 72m is appropriate as it will allow compliance with the sun access requirements relating to Jubilee Park. This requirement will make it necessary for the taller tower element to be situated to the west of the site and allow a podium element to be provided in the eastern part of the site, adjoining Jubilee Park. This form of development is appropriate for the site, being based on a detailed design analysis, and in line with the building form considered most suitable for the redevelopment of the Parramatta City Centre.
- (v) Mid-winter shadow diagrams included at **Attachment 2** demonstrate compliance with the sun access plane for Jubilee Park with no overshadowing until early afternoon. There is some overshadowing from 2pm which is considered acceptable in mid-winter.

- (vi) The requirement for a design competition will provide the opportunity for the design of the proposed buildings for the site to be refined in order to achieve excellence in architectural and urban design outcomes. Clause 22B Design excellence of the Parramatta City Centre Local Environmental Plan 2007 requires a design competition for buildings that will be greater than 55m or 13 storeys in height. The applicant has indicated that the design competition process will commence once there is reasonable confidence that the height and FSR amendments will proceed. The design competition will assist in defining and justifying the built form for the subject land. The design competition is to be undertaken in accordance with guidelines of the Department of Planning and Environment and Council.

Council also resolved on 22 April 2013:

That Council endorse Option 1 as described in the Council report with an addition to ensure design excellence, the planning proposal must include a condition for a design competition for the future development of the site.

21. The planning proposal addresses all relevant matters outlined by the Department of Planning and Environment's guidelines to preparing a planning proposal, including compliance with all relevant State Environmental Planning Policies and consistency with applicable Ministerial Directions (s.117 directions). Refer to **Attachment 1** for details.

Flooding

22. The planning proposal includes a review of the flooding implications of the proposal. The proposal notes that in 2011, HKMA Engineers prepared a Flood Risk Assessment Report in support of the subsequently approved mixed use development proposal on the subject land. In preparing the planning proposal, HKMA Engineers were appointed to review the Urban Design Study prepared by Aecom (in support of the planning proposal) and make comments in relation to the applicability of the 2011 Flood Risk Assessment Report.
23. HKMA Engineers concluded that the planning proposal: *'will not generate additional impacts beyond the findings of our original reports from the recently approved development application'*. They note that *'in terms of storm water disposal and on-site water detention, the basis of the designs are area based and the height of the proposed buildings does not impact on these designs'*. Further, *'with regard to flood, the key components are the ground floor and basement levels. If these levels are maintained and the void area between ground floor and basement roof retained, an increase in height of buildings does not affect or alter the findings of the flood report'*.
24. According to Council's data, the property is located within an area affected by high hydraulic flood hazard conditions where basement car parking would not be desirable from a floodplain risk management perspective. HKMA Engineers has advised after detailed modelling that the footpath area around the site is only inundated by depths between 40mm and 160mm which is not a

high hazard area that presents a risk to persons on the site. Therefore, basement car parking is considered acceptable. In addition, the approved DA for the site provides for two levels of basement parking and above ground parking would lead to poor urban design outcomes. Approved DAs for developments at 39 and 36 – 46 Cowper Street, Parramatta situated within the high hazard flood area also provide for basement car parking.

25. It is considered that satisfactory compliance with the S117 Direction for flood prone land has been demonstrated.

Transport and Traffic

26. Council's Traffic Services Team has commented that there are no traffic related objections to the planning proposal. However, there is an opportunity for a VPA to include a provision for the dedication of land on Parkes Street to Council for road widening. The proposed road widening is critical in improving pedestrian safety in Parkes Street and implementing the City Ring Road.

PLANNING AGREEMENT

27. A planning agreement can be made under section 93F of the EP&A Act and is a voluntary agreement (VPA) between Council and the developer, under which the developer is required to dedicate land free of cost, pay a monetary contribution or provide other material public benefit, or any combination of these, to be used towards a public purpose. This may be in lieu of a s94A development contribution, as a part substitution or an additional benefit.
28. The Act specifies that a public purpose includes the provision of public amenities or public services, the provision of affordable housing, the provision of transport or other infrastructure relating to the land, the funding of recurrent expenditure relating to any of these, the monitoring of the planning impacts of a development and the conservation or enhancement of the natural environment.
29. Council has an adopted VPA policy which sets out the principles governing such agreements, matters that Council will consider in negotiating agreements, steps in the negotiating process, public probity, notification requirements and implementation. The EP&A Act and Regulation sets out the legal and procedural framework for planning agreements.
30. The negotiation of a planning agreement is at Council's discretion. Key principles of Council's policy are that:
 - planning decisions will not be bought or sold through planning agreements,
 - development that is unacceptable on planning grounds will not be permitted because of the benefits of a planning agreement,
 - the benefits of the planning agreement will bear a relationship to the application,
 - Council will not give undue weight to a planning agreement when making a decision on a development application, and
 - Council will not improperly rely on its position in order to extract unreasonable public benefits under planning agreements.
31. Procedurally, Council's policy requires:

- a Council resolution to undertake negotiations on a planning agreement,
 - appointment of a Council officer with delegated authority to negotiate a planning agreement on behalf of Council (this is not to be an officer with a key responsibility for the development application),
 - consideration of whether an independent person is required to facilitate the negotiations,
 - public exhibition of the draft agreement, once prepared, and
 - the elected Council will ultimately make the decision as to whether to approve the planning agreement.
32. A Voluntary Planning Agreement offer has been made under Section 93F of the Environmental Planning and Assessment Act 1979.
33. A letter of offer was made to Council on 23 July 2014 in relation to the following.
- A 3m setback to Jubilee Park as part of the Design Parramatta Clay Cliff Creek Parkland project. The VPA may include the establishment of a walkway.
 - Land required for road widening of the Parkes Street frontage, would be dedicated to Council.
 - A possible contribution for the provision of affordable housing on the site or alternative arrangements.

This contribution is **in addition to Section 94A development contributions**.

34. There are potential planning and public benefits in the draft VPA proposal that should be further explored. The VPA offer will need to be fully investigated and assessed under the terms of Council's policy & the Act and Regulations. As part of this process, the following will need to be assessed:
- The likely uplift in land value as a result of the increase in FSR;
 - An analysis of value uplift versus public benefit and whether the proportion of public benefit (contribution) proposed is acceptable;
 - Defining to what purpose the contribution would be committed on (including other options); and
 - The public benefits of the proposed contribution.
35. If Council wishes to continue with the process, a cross functional team will be established to assess all aspects of the proposed VPA and to report back to Council for endorsement prior to exhibition.
36. Accordingly, this report recommends that, as required by Council's VPA policy, a formal resolution be made to proceed with negotiations and an appropriate officer be given delegated authority to negotiate the VPA on Council's behalf. It is recommended that delegation be given to the CEO of Council to negotiate the VPA. Following negotiations the VPA will need to be drafted by Council's legal representative.
37. VPAs must be notified publicly under the EP&A Act and Council's policy. Following the negotiation and assessment of the VPA, the matter will be reported back to Council for a decision about whether to proceed with public exhibition of the VPA.

PLAN-MAKING DELEGATIONS

38. New delegations were announced by the (then) Minister for Planning and Infrastructure in October 2012, allowing councils to make LEPs of local significance. On 26 November 2012 Council resolved to accept the delegation for plan making functions. Council also resolved that these functions be delegated to the Chief Executive Officer.
39. Should Council resolve to proceed with this planning proposal, Council will be able to exercise its plan-making delegations. This means that after the planning proposal has been to Gateway, undergone public exhibition and adopted by Council, Council officers will deal directly with the Parliamentary Counsel Office in the drafting of the LEP amendment. When the planning proposal is submitted to Gateway, Council advises the DP&E that it will be exercising its delegation.

NEXT STEPS

40. The planning proposal and the supporting technical documents will be submitted to the DP&E for Gateway determination should Council resolve to support and proceed with this proposal.
41. Upon receipt of the Gateway determination the planning proposal will be placed on public exhibition. It is proposed that in accordance with the DP&Es '*A guide to preparing local environmental plans*' that the planning proposal undergo a 28 day public exhibition period. This period will include consultation with relevant public authorities. It is noted that confirmation of the public exhibition period and requirements for the planning proposal will be subject to the Gateway determination being issued by the DP&E.
42. A report on the outcomes of the public exhibition will be put to Council before the LEP amendment is finalised.

Paul Kennedy
Project Officer
Land Use Planning

ATTACHMENTS:

- | | |
|------------------------------|----------|
| 1 Planning Proposal | 25 Pages |
| 2 Mid-winter shadow diagrams | 1 Page |

REFERENCE MATERIAL