

## Plan finalisation report

**Local government area:** City of Parramatta

### 1. NAME OF DRAFT LEP

Parramatta Local Environmental Plan 2011 (Amendment No 31).

### 2. SITE DESCRIPTION

The draft LEP applies to land at 184-188 George Street, Parramatta. The site (Figure 1) consists of three separate lots known as Lot 11 DP1115353, Lot 30 DP1115365 and Lot 20 DP1115360 with a total area of 2183m<sup>2</sup>. The site is vacant.

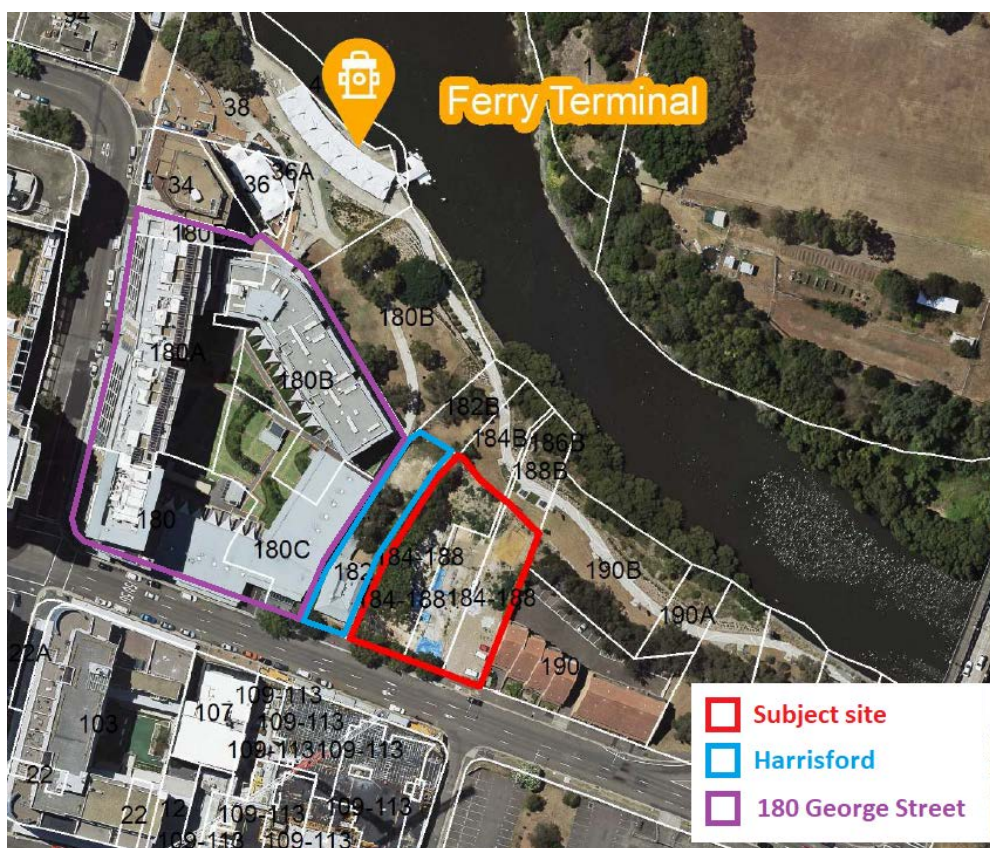


Figure 1: Locality plan (source: planning proposal).

Harrisford, a state-listed heritage item, immediately adjoins the site at 182 George Street. Further to the west is 180 George Street. A development application is being considered for 180 George Street (DA480/2018) for a mixed-use development comprising two towers of 57 and 66 storeys. On the eastern side of the site is a small two-storey commercial development. Immediately to the north of the site is Queens Wharf Street Reserve, Parramatta River and a ferry terminal.

On the southern side of George Street is a mixture of vacant sites, commercial premises and a mixed-use building. The site is within 150m of the Parramatta Ferry Wharf and within a 500m radius of Parramatta Station.

### 3. PURPOSE OF PLAN

The draft LEP seeks to amend the Parramatta Local Environmental Plan (LEP) 2011 by:

- amending the maximum height in the height of buildings map (Sheet HOB\_010) from 36m to 120m;
- amending the maximum floor space ratio (FSR) in the FSR map (Sheet FSR\_010) from 4:1 to 10:1; and
- including a maximum car parking rate in accordance with the CBD Strategic Transport Study as follows:
  - a) residential parking rates

Type of apartment	Spaces/unit
3 bedroom	1 space/unit
2 bedroom	0.7 spaces/unit
1 bedroom	0.3 spaces/unit
Studio	0.1 spaces/unit

- b) commercial parking rates

If the FSR > 3.5:1

$M = (G * A) / (50 * T)$  where:

M = maximum number of parking spaces;

G = GFA of all office/business premises in the building (m<sup>2</sup>);

A = Site Area (m<sup>2</sup>);

T = Total GFA of all buildings on the site (m<sup>2</sup>).

The draft LEP maps are provided at **Attachment Maps**.

The site is zoned B4 Mixed Use under the Parramatta LEP 2011, with a maximum FSR of 4:1 and a maximum building height of 36m.

The draft LEP, which is supported by an urban design report (**Attachment F**), indicates that the site can accommodate approximately 267 residential dwellings within a residential flat building. Ground-floor non-residential uses will contribute to the activation of George Street and employment opportunities.

City of Parramatta Council also proposes to amend the Parramatta Development Control Plan (DCP) 2011 to ensure appropriate development controls are established to support the intent of the draft LEP.

A voluntary planning agreement (VPA) has been entered into for the strategic delivery of infrastructure in the locality. The VPA will deliver an easement from George Street to the Parramatta River foreshore. It will also deliver a cash contribution of \$1 million for the embellishment of the foreshore area.

### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Parramatta state electorate. Dr Geoff Lee MP is the State Member.

The site falls within the Parramatta federal electorate. Ms Julie Owens MP is the federal member.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** There are no donations or gifts to disclose and a political donation disclosure is not required.

## 5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 12 June 2015 (**Attachment C**) determined that the proposal should proceed subject to conditions.

Three Gateway alterations (**Attachments D1–D3**) were issued to extend the time permitted to complete the amendment to the draft LEP. The Gateway alterations were issued on the following dates:

- Alteration 1 – 12 July 2016;
- Alteration 2 – 6 April 2017; and
- Alteration 3 – 22 February 2018.

The draft LEP was due for finalisation on 19 June 2018. The Department received Council's request to finalise the draft LEP prior to this date; however, the finalisation was delayed as:

- advice was required from Council to determine if consultation was carried out in accordance with the Gateway conditions (which is discussed further in the report); and
- Council requested that the plan not be made until the VPA was executed and the VPA between Council and the proponent has only recently been agreed on.

The Gateway determination required several matters to be considered and the planning proposal/draft LEP to be amended to address several concerns. Some of the key matters that required further consideration are:

- cumulative overshadowing of Robyn Thomas and James Ruse Reserves resulting from this planning proposal/draft LEP and the planning proposal for 142 to 154 Macquarie Street, assuming both achieve the maximum permitted height subject to bonus height and FSR provisions (**Attachment G**). This is discussed further in section 9 of this report;
- revised heritage commentary addressing the adjacent Paramatta wetlands, Old Government House and Domain (**Attachment B**);
- the potential impacts on the adjoining state-listed heritage item, Harrisford; and
- flooding advice supporting the proposal (**Attachments H1–H2**).

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

## 6. PUBLIC EXHIBITION

In accordance with the Gateway determination, public exhibition occurred between 5 April and 10 May 2017.

Two submissions were received from the community raising the following concerns:

- the proposal is inconsistent with Council's Charles Street Square Strategy;
- the indicative height is inconsistent with and will create overshadowing of Harrisford, diminishing its heritage value;

- the proposal will overshadow the solar panels on the property to the south (109 George Street), reducing their effectiveness/efficiency; and
- the proposal will likely result in negative impacts on the locality (social, security, environmental and traffic).

Council has adequately addressed the concerns in its staff planning report (**Attachment E**), noting:

- the planning proposal, draft DCP and VPA seek to provide connection from George Street to the foreshore area via an easement, which is consistent with the Charles Street Square precinct and Parramatta City River Strategy. The VPA allows for a monetary contribution of \$1 million towards public domain upgrades along the Parramatta River foreshore area as identified in the Parramatta City River Strategy;
- the concept includes a draft DCP, which includes controls relating to a podium to be of a scale consistent with Harrisford and provided with setbacks, minimising impacts on the heritage item. Shadow diagrams submitted with the reference design suggest that solar access will be maintained to Harrisford (noting overshadowing occurs between the hours of 9am and 11am as a result of the proposed built form; however, this would also occur under the existing permitted height control);
- Council staff have acknowledged that this planning proposal, and the finalisation issued for 180 George Street, are likely to combine and overshadow solar panels on the roof of 109 to 113 George Street between the hours of 10am and 3pm in midwinter. At midsummer there is no overshadowing from either development. The current Parramatta DCP (3.3.5) identifies controls that suggest development should minimise the extent of shadows it casts on solar collectors of adjoining development. This matter can be further considered at the development application stage; and
- there is no reasonable expectation that development of the site will result in detrimental social, security, environmental and traffic impacts. The development of the site is consistent with the vision for the Parramatta CBD outlined in the Central City District Plan.

It is considered that Council has adequately addressed the issues raised by the community submissions and they do not warrant amendment to the draft LEP.

## 7. ADVICE FROM PUBLIC AUTHORITIES

Council consulted the Office of Environment and Heritage, the Department of Education, the NSW Aboriginal Land Council, Transport for NSW – Sydney Trains, Roads and Maritime Services, the NSW State Emergency Service (SES), the Department of Primary Industries – Water, the Department of Primary Industries – Fisheries), Telstra, Sydney Water and Endeavour Energy in accordance with the Gateway determination.

The Gateway determination required consultation with the Sydney Catchment Authority (SCA), now the Department of Primary Industries – Water (DPI Water). Advice provided by DPI Water identified that it has the power to respond to matters the SCA would have provided commentary on and it has no objections to the draft LEP. Based on this, the Gateway condition has been satisfied.

Submissions were received from public authorities in response to the consultation process. Council's staff report (**Attachment E**) addresses each of the public agency submissions. Comments from NSW SES and the Heritage Council of NSW are discussed below as their comments warrant further consideration. Some of the comments provided in response to the consultation process relate to the future development application process and the provision of services, such as those from Sydney Water and Endeavour Energy.



## NSW SES

The site is affected by the probable maximum flood (PMF), which represents the largest possible flood that could conceivably occur. The site is also subject to flood planning area. This consists of land below the flood planning level, which is defined as the level of a 1:100 average recurrent interval (ARI) flood event plus 0.5m freeboard.

The NSW SES submission (**Attachment I**) objects to the draft LEP on grounds relating to flooding. It raised the following issues:

- the proposed management and development strategy that relies on sheltering in place or deliberate isolation in a flood event is not equivalent in a risk management context to evacuation;
- the Parramatta CBD is subject to flash flooding, which is characterised by a short warning time. During flood events, the proposed occupants will have their access to and from the building cut and will become isolated;
- shelter in place should only be used where evacuation is not possible due to greater risks of evacuating. There is no analysis of whether it will be tolerable for the future occupants of the site to be isolated in a flood;
- there are risks in relation to human behaviour during flooding, secondary emergencies and risks to emergency personnel; and
- concerns with the proposed underground car parking.

The issues raised by SES were not resolved by Council prior to the request for finalisation of the draft LEP. However, Council believes the issues raised by SES have been resolved via the approach recently accepted by SES and the Department for 180 George Street.

It is agreed that the concerns raised by SES are similar to those raised in the finalisation of 180 George Street (PP\_2016\_PARRA\_016\_00). SES initially objected to that planning proposal but later accepted that a shelter-in-place strategy may be appropriate subject to a site-specific design being developed as part of a development application process that adequately deals with flooding. Based on this evolving position, a similar approach can be applied in the consideration of this draft LEP.

Council has advised that it is confident the flooding issues can be resolved by the design of a building as part of any future development application. The Parramatta LEP 2011 and the Parramatta DCP 2011 have controls that address flooding and building on flood-prone land. Both documents have been developed in accordance with the *Floodplain Development Manual*.

A development application (DA769/2011) has been approved over the site for a 12-storey mixed-use development comprising 84 apartments, four home offices and commercial tenancies over two levels of basement car parking with strata subdivision. The development application was considered against the Parramatta LEP 2011 and the Parramatta DCP 2011.

It is evident that via the position established in the finalisation for 180 George Street and the planning controls in the Parramatta LEP 2011 and the Parramatta DCP 2011 that development of the site is possible. It is not considered that the matters raised by SES warrant amendment to the draft LEP.

## Heritage Council of NSW

The Heritage Council of NSW submission (**Attachment J**) notes its outstanding objection to the Parramatta CBD planning proposal and requests that its broader concerns in relation to the proposed increased densities across the CBD be considered before any

other site-specific planning proposal seeking a density increase is approved. The Department notes the concern but also recognises the ability for each site-specific planning proposal to be considered on its merits.

The Heritage Council provided comments in relation to the subject draft LEP should it proceed ahead of the CBD planning proposal. It raised concerns about the impact of the proposal and cumulative impacts on increased densities and on Harrisford, impacts of the proposal on historical archaeological relics, setbacks along Parramatta River, inconsistencies between DCP controls for adjoining developments (i.e. 184-188 and 180 George Street) and controls for podium heights.

The Heritage Council noted its support for the through-site link and VPA and provided comment on the width of the link as well as controls to be incorporated in the DCP.

A Department assessment of the site-specific matters raised by the Heritage Council suggests that most of the issues are more appropriately addressed by incorporating them into the detailed site-specific controls within Council's draft DCP and through any subsequent development application process.

As discussed earlier in this report, Council previously approved a development application for the site, which provided a 3.5m setback to the western boundary and a pedestrian link to the foreshore area. The draft DCP seeks to increase this setback, which ranges from 3m to 5m, and provides for a splayed building line to George Street, allowing views to Harrisford.

The Heritage Council raised concerns with the previous archaeological works on the site relating to a section 140 approval issued under the *Heritage Act 1997* for development that has occurred on-site. This is an enforcement issue relating to the previous consent. Any new excavation or works associated with the subject planning proposal will require a detailed investigation of archaeological significance under any future development application process.

It is not considered that the matters raised by the Heritage Council warrant amendment to the draft LEP.

## 8. POST-EXHIBITION CHANGES

An amendment has been sought to the draft LEP seeking to introduce a site-specific control placing a maximum number of parking spaces that may be provided by any development of the site. The provision of parking spaces is based on the following:

### a) Residential parking rates

Type of apartment	Spaces/unit
3 bedroom	1 space/unit
2 bedroom	0.7 spaces/unit
1 bedroom	0.3 spaces/unit
Studio	0.1 spaces/unit

### b) Commercial parking rates

If the FSR > 3.5:1

$M = (G * A) / (50 * T)$  where:

M = maximum number of parking spaces;

G = GFA of all office/business premises in the building (m<sup>2</sup>);

A = Site Area (m<sup>2</sup>);

T = Total GFA of all buildings on the site (m<sup>2</sup>)

Council advised that based on the current LEP (clause 7.3), 320 car parking spaces would be required for the reference design submitted with the draft LEP. Based on the proposed amendment, the maximum number of parking spaces permitted would be capped at 182 for the same design.

The proposed amendment is consistent with the Council-endorsed Parramatta CBD Strategic Transport Study and has been accepted by the Department to address cumulative traffic-generation issues associated with the likely development of the Parramatta CBD.

It is not considered that the change warrants re-exhibition of the draft LEP as it does not alter the outcome for the site and is in response to comments made by Roads and Maritime Services.

## **9. ASSESSMENT**

### **Overshadowing**

As discussed in section 5 of this report, the Gateway determination required further assessment of cumulative overshadowing of Robyn Thomas and James Ruse Reserves resulting from this planning proposal/draft LEP and the planning proposal for 142 to 154 Macquarie Street.

The Department has considered the overshadowing impacts presented in Council's overshadowing study (**Attachment G**). The subject site does not contribute to significant overshadowing of the public reserves to the east of the site in midwinter. There is an overshadowing impact on Robyn Thomas Reserve after 2pm in midwinter and there are potential cumulative impact effects on this reserve resulting from nearby planning proposals. However, the individual impact of the proposed development is not considered to warrant amendment to the proposed height of building control.

### **Section 9.1 Directions**

The Gateway determination found the proposal to be largely consistent with the section 9.1 Directions. Further consideration of Direction 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land is warranted and discussed below.

#### **2.3 Heritage Conservation**

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

The site does not contain any items of European significance. The site immediately to the west is identified as 182 George Street and contains Harrisford, which is a state-listed heritage item (and potential archaeological site). To the north of the site are wetlands on the banks of the Paramatta River, which are identified as locally significant.

The draft LEP, accompanying heritage impact statement (**Attachments K1–K2**) and draft DCP addressed the likely impacts on the items of European significance. The information has been reviewed by the Heritage Council of NSW and the comments provided by the Heritage Council will be appropriately addressed in any development application lodged over the site.

The site is identified as having a high archaeological potential and high Aboriginal heritage sensitivity as identified in reports (**Attachments K2–K3**).

The draft LEP does not offer specific wording about protection of heritage in the locality as the existing provisions of the LEP (clause 5.10) enable the consideration of heritage impacts. No additional controls are required.

The proposal is consistent with this Direction.

#### 4.1 Acid Sulfate Soils

The Gateway determination noted the inconsistency with this Direction as minor and no further approval in relation to this Direction was required.

#### 4.3 Flood Prone Land

This Direction is relevant as the proposal will alter a provision that affects flood-prone land in the meaning of the *Floodplain Development Manual*. Flood-prone land is defined as 'land susceptible to flooding by the probable maximum flood (PMF) event'. The PMF is the largest possible flood that could conceivably occur. The property is affected by the PMF.

The Direction also contains provisions to be considered in a draft LEP 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 0.5m freeboard. The property is partially affected by the FPL.

The draft LEP is accompanied by a report (**Attachment H1**) prepared by an engineer addressing flooding and section 9.1 Directions. **Attachment H2** contains advice from Council's engineer noting that the flooding report has been considered and they are satisfied that it sufficiently addresses the section 9.1 Directions with respect to flooding.

SES has raised concern with the draft LEP as outlined in **Attachment I**. The concerns have been addressed earlier in this report and do not warrant the draft LEP being refused or amended.

The Parramatta LEP 2011 and the Parramatta DCP 2011 have controls that address flooding and building on flood-prone land. Both documents have been developed in accordance with the *Floodplain Development Manual*.

The site can support development in a manner which is consistent with the Directions. No objections are raised in respect to this matter.

#### **State environmental planning policies**

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

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

The Greater Sydney Region Plan (March 2018) outlines a vision and actions for managing the growth of Greater Sydney. The plan establishes Parramatta as Sydney's Central City and recognises Greater Parramatta as a significant contributor to the delivery of housing and jobs in the next 40 years. The draft LEP is consistent with this plan as it will further facilitate and contribute towards the growth of the Parramatta CBD and Greater Parramatta.

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

The site is within the Central City District and therefore the Central City District Plan (March 2018) applies. The Department considers that the draft LEP gives effect to the district plan (in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*) as it will support the growth of the Parramatta CBD (Priority C7), the expansion of employment-generating uses on the site (Priorities C7 and C8), and the provision of new housing with access to jobs and services (Priority C5).

### **10. MAPPING**

There are two maps associated with the draft LEP (**Attachment Maps**), which have been submitted via the ePlanning Portal. These maps have been examined by GIS staff and meet the appropriate technical requirements.



## 11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the Act (**Attachment L**). Council confirmed on 7 November 2018 that it was satisfied with the draft and the plan should be made (**Attachment M**).

## 12. PARLIAMENTARY COUNSEL OPINION

On 12 November 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 13. RECOMMENDATION

The draft LEP is supported. The making of the plan will facilitate further development of the site.

It is recommended that the Minister for Planning's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- it will provide additional dwellings and employment (commercial and hotel uses) near public transport, employment and services;
- it will support the growth of the Parramatta CBD in accordance with the objectives and priorities of the Greater Sydney Region Plan and the Central City District Plan; and
- there is an appropriate regulatory framework, including a site-specific DCP, to ensure the key issues associated with the development of the site (including flood and heritage impacts) can be appropriately considered and addressed through the development application process and, where appropriate, measures taken to mitigate impacts.

26/02/2019

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