

Parramatta LEP 2011 - 5 Hunter Street, Parramatta

Proposal Title : **Parramatta LEP 2011 - 5 Hunter Street, Parramatta**

Proposal Summary : **The proposal seeks to increase the maximum FSR to 10:1 and amend the maximum building height so as to remove the maximum height restriction for land at 5 Hunter Street, Parramatta.**

PP Number : **PP_2016_PARRA_009_00** Dop File No : **16/03819**

Proposal Details

Date Planning Proposal Received :	29-Feb-2016	LGA covered :	Parramatta
Region :	Metro(Parra)	RPA :	Parramatta City Council
State Electorate :	PARRAMATTA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	5 Hunter Street		
Suburb :	Parramatta	City :	Sydney
		Postcode :	2150
Land Parcel :	Lot 1 DP613960		

DoP Planning Officer Contact Details

Contact Name : **Lillian Charlesworth**
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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Terry Doran**
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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :

MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings 142
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been No
meetings or
communications with
registered lobbyists? :

If Yes, comment : The Lobbyist Contact Register was checked on 2 March 2016 and indicated no contact with lobbyists regarding this planning proposal.

Supporting notesInternal Supporting
Notes :

The Site has an area of 991 square metres and currently comprises of a two storey commercial building. The proposal has the potential to establish 142 residential dwellings, retail and commercial services.

External Supporting
Notes :**Adequacy Assessment****Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? Yes

Comment : The planning proposal seeks to amend the Parramatta Local Environmental Plan 2011 to increase the permissible density of mixed use development on land at 5 Hunter Street, Parramatta.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : **PROPOSAL**

The planning proposal seeks to apply the following planning controls to land at 5 Hunter Street, Parramatta:

- increase the maximum FSR from 6:1 to 10:1;
- amend the maximum building height in the Height of Buildings Map so as to remove any affection from the site;
- insert a new site specific clause in Part 7 consistent with Council's resolution to allow the consent authority to grant consent to development on land to which this clause applies with a maximum floor space ratio of 10:1 (excluding any design excellence bonus granted pursuant to Clause 7.10); and
- amend the Special Provisions Area Map to include the site to relate it to the FSR exceptions clause.

DEPARTMENT COMMENT - REASONS FOR NOT PROCEEDING

The above proposal to remove numerical height controls and increase the FSR to 10:1 is not supported for the following reasons:

- the site is located within the highly sensitive area in relation to Old Government House;
- the Federal government has indicated that it is not supportive of proposals that are inconsistent with the Conservation Agreement for Old Government House; and
- the site area is 991sq.m and therefore the maximum FSR should be set in accordance with an appropriate sliding scale.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

SEPP No 65—Design Quality of Residential Flat Development

e) List any other matters that need to be considered :

SECTION 117 DIRECTIONS

The proposal is considered to be consistent with relevant section 117 directions, with the exception of the following:

2.3 HERITAGE CONSERVATION

This Direction does apply to the planning proposal as it affects items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance. The site is not identified as a heritage item in the Parramatta Local Environmental Plan 2011, although it is located within the setting of the Old Government House and the Domain (OGHD). This issue is critical to the Planning Proposal as OGHD is World heritage listed. The OGHD is also on the National Heritage List and the NSW State Heritage Register.

A Conservation Agreement between the Federal, State and local government applies in relation to OGHD. Any proposals that are inconsistent with this agreement require the approval of the Commonwealth Department of the Environment. A planning proposal for the Justice Precinct in Parramatta was forwarded to the Federal government for comment (post signing of the Conservation Agreement) and received the following reply:

"Development on or within the Highly Sensitive Area, that does not comply with the controls specified in the Agreement, will generally be refused under the Environment Protection and Biodiversity Conservation Act and will only be approved in exceptional circumstances."

Given that Council has not indicated any exceptional circumstances that warrant a breach of the Conservation Agreement, it is considered that the proposal is unlikely to obtain Federal Government support and should not proceed.

3.5 DEVELOPMENT NEAR LICENSED AERODROMES

The planning proposal in its current form is inconsistent with this Direction as it proposes a maximum height of buildings that would penetrate the Obstacle Limitation Surface (OLS) for either the Bankstown or Sydney airports. It is recommended that the planning proposal not proceed and therefore this Direction would no longer apply. However, should the planning proposal proceed, it is recommended that the proposal to remove the maximum height from the site not be supported on the basis of potential for

significant impact on Old Government House and the Domain.

4.1 ACID SULFATE SOILS

The proposal is inconsistent with this Direction as an acid sulfate soils study, required when an intensification of land uses is proposed, has not been prepared.

This inconsistency is considered to be justified on the basis of minor significance, given that:

- (a) the affection is by class 5 acid sulfate soils; and
- (b) the matter will be further considered at development application stage under clause 6.1 of Parramatta Local Environmental Plan 2011.

4.3 FLOOD PRONE LAND

This Direction does apply to the planning proposal as it will create, remove or alter a zone or a provision that affects flood prone land. Small portions of the site are within the 1:100 year floodplain and the entire site would be inundated in the event of a probable maximum flood.

The planning proposal is inconsistent with this Direction as it has not included provisions that give effect to and are consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. This inconsistency is justified on the basis of minor significance of flooding impacts on the site. The applicant will be required to submit details of appropriate design features and evacuation measures as part of the Design Excellence and Development Application processes. As part of the planning proposal process this level of detail is considered appropriate for the level of flooding that applies to the subject site.

Should the planning proposal proceed it should be referred to NSW State Emergency Service for comment during the exhibition period.

6.3 SITE SPECIFIC PROVISIONS

This Direction seeks to prevent specific development details and controls being included on a site by site basis in a local environmental plan.

The proposal is inconsistent with this Direction as it seeks to introduce a site specific control. The inconsistency is considered to be justified on the basis that the proposed site specific clause is of minor significance.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 - REMEDIATION OF LAND

Contamination and remediation of land has not been (adequately) addressed within the planning proposal. An appropriate condition is recommended.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The maps are adequate for public exhibition purposes.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council intend that the planning proposal be advertised in the local newspaper, displayed on Council's website, and written notification provided to adjoining owners.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The principal LEP was made in October 2011.

Assessment Criteria

Need for planning proposal : The planning proposal is required to implement the Council's plan to provide dwellings in an area that is served by public transport and close to employment opportunities.

Consistency with strategic planning framework : **A PLAN FOR GROWING SYDNEY**
This Direction does apply to the planning proposal as the land is within the Parramatta local government area (LGA). This planning proposal is consistent with the plan as it will contribute to the provision of dwellings for the subregion and Greater Parramatta. It will also enable more residential floor space on a site that is in close proximity to existing transport infrastructure and employment opportunities. The planning proposal will contribute to mixed-use development by activating employment uses on the site.

PARRAMATTA CBD PLANNING PROPOSAL

As the site is located within the highly sensitive area in relation to Old Government House it has been excluded from the CBD planning proposal. This proposal is therefore inconsistent with the CBD planning proposal which does not intend to increase development density in the highly sensitive area.

Environmental social economic impacts : **OLD GOVERNMENT HOUSE AND THE DOMAIN**
The OGH Conservation Agreement identifies the maximum height of buildings for the site as 80m and the maximum FSR as 6:1 i.e. the controls that were in place at the time the Agreement was signed. Given that the proposal is inconsistent with the Conservation Agreement and that the Federal government has already indicated in terms of the Justice Precinct that it will only permit a change to planning controls in exceptional circumstances it is recommended that the proposal not proceed.

FSR SLIDING SCALE

A maximum FSR of 6:1 currently applies to the site, although the achievable FSR is 4:1 due to the FSR sliding scale at clause 7.2 which restricts the FSR for sites below 1,800sq.m. (the site area is 991sq.m.). The proposal would require an exemption from the sliding scale provisions in order to achieve the maximum FSR proposed.

The CBD planning proposal intends to continue to apply a sliding scale to development within the CBD, although this has yet to be assessed and endorsed by the Department. The sliding scale seeks to ensure that development scale is relative to site constraints, supports good design outcomes and the minimises impacts on the redevelopment potential of adjoining sites. It is recommended that the FSR for this site specific proposal be amended prior to finalisation to ensure consistency with FSR controls within the CBD planning proposal. It should be noted that the Department will undertake a detailed assessment of the proposed CBD planning proposal prior to exhibition which may result in amendments to the suite of FSR controls proposed.

Should the proposal proceed, a suitable Gateway condition is therefore recommended to ensure that the planning proposal does not result in an FSR that is greater than that which would be achieved under the FSR sliding scale proposed within the CBD planning

proposal.

OVERSHADOWING

Shadow diagrams have not been prepared beyond a building with an FSR of 10:1, although the applicant has indicated an intention to seek to use the design excellence provisions within the Parramatta LEP 2011 to increase the base FSR by a further 15% to 11.5:1.

The shadow diagrams submitted with the Urban Design Study do not indicate any significant concerns with overshadowing and the proposal will not overshadow any areas of public open space such as parks or public squares. In these circumstances, and should the proposal proceed as adopted by Council, it is considered appropriate that the shadows cast by an FSR of 11.5:1 be modelled and form part of the exhibition material.

EUROPEAN ARCHAEOLOGICAL

The site sits within Archaeological Management Unit No. 3032 and is predicted to have a high archaeological research potential. While the site is disturbed and contains an existing building, the excavation related to future construction may uncover relics.

The recommended management action is to excavate a test trench and reassess. This recommended management action is most appropriately conducted at the development application stage, and an appropriate archaeological assessment is required to be conducted by the applicant in order to inform any relevant development design.

TRANSPORT AND ACCESSIBILITY ASSESSMENT

Further advice from Council's Traffic and Transport team has advised that the increase in traffic generation from the subject site is within the standard deviation of probable outcomes for the traffic modelling within the CBD. However, this advice is provided on the basis of this planning proposal alone. There are cumulative traffic impacts to be considered arising from potential development within the Park Edge Special Area.

The Council has advised that broader traffic modelling is currently being undertaken to support the Parramatta CBD planning proposal that has recently been lodged with the Department. It is recommended that this site specific planning proposal should progress to exhibition, however the proposal should be reviewed prior to finalisation, having regard to the results of the broader traffic modelling when it is completed. This review should include confirmation of the appropriate FSR and the cumulative impacts of the increased FSR across the CBD.

It is recommended that consultation occur with Road and Maritime Services during the exhibition period.

CONTAMINATION

Contamination and remediation of land has not been addressed within the planning proposal. The policy must be addressed to ensure all remediation complies with standards, and ensures land is investigated if contamination is suspected. This will require Council to be notified of all remediation proposals. As the proposal does not seek to change the zone applying to the site, it is considered that further investigations, if required, can be undertaken and completed at the development application stage.

ECONOMIC IMPACTS

The proposal will facilitate the redevelopment of an inner-city retail and commercial block, and is expected to stimulate and attract high quality retail and residential development. This will provide further growth to support the viability of the City Centre.

SOCIAL IMPACTS

This planning proposal will facilitate a supply of housing in an appropriate location resulting in an improved social outcome. This proposal will offer dwellings in close proximity to employment opportunities and other amenities.

Council has also suggested that the minor negative impacts of the proposal are to do with

the impact on existing social facilities and infrastructure, such as child care centres, housing affordability and local open space. Council has also indicated that many of the impacts can be addressed via:

- (a) consultation with state government and other agencies as part of the planning proposal process; and
- (b) through the development application process and Council's DCP controls for community safety and design.

CUMULATIVE IMPACTS

In total there are seven (7) planning proposals for CBD sites currently awaiting Gateway determination that will precede Council's CBD planning proposal which has recently been lodged with the Department for Gateway determination.

As these proposals are likely to collectively generate a significant cumulative impact in terms of infrastructure requirements (including transport, health, social services, education and recreation) as well as raising aviation safety issues, it is recommended that these be simultaneously exhibited and forwarded to public agencies for comment.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Department of Education and Communities Office of Environment and Heritage Transport for NSW - Sydney Trains Transport for NSW - Roads and Maritime Services State Emergency Service Sydney Water Telstra Other		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **It is recommended that the proposal not proceed for the following reasons:**

- the site is located within the highly sensitive area in relation to Old Government House and Domain and is inconsistent with the Conservation Agreement;
- the Federal government has indicated in relation to the Justice Precinct that it is not supportive of proposals that are inconsistent with the Conservation Agreement for Old Government House and the Domain; and
- given the relatively small site area of 991sq.m, the maximum FSR should be set in accordance with an appropriate sliding scale and therefore exemption from clause 7.2 is not considered appropriate.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter.pdf	Proposal Covering Letter	Yes
Council report 14 December 2015.pdf	Proposal	Yes
Planning Proposal February 2016.pdf	Proposal	Yes
Planning Proposal Appendix 1 - Urban Design Study.pdf	Study	Yes
Planning Proposal Appendix 2 - Additional Information.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.3 Site Specific Provisions

Additional Information : **SECTION 117 DIRECTIONS**

It is considered that any inconsistencies with 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions are of minor significance.

Should the planning proposal proceed, it is recommended the delegate agree that these inconsistencies are of minor significance.

DELEGATION OF PLAN MAKING FUNCTIONS

Council has requested that it exercise the Greater Sydney Commission's plan making function for this planning proposal. This request is not supported given the large number of planning proposals recently submitted for Gateway determination within the Parramatta CBD prior to consideration being given to Council's Parramatta CBD Planning Strategy and associated CBD planning proposal, which have not endorsed by the Department.

Accordingly, it is recommended that the delegate not agree to delegation to Council.

RECOMMENDATION

It is recommended that the matter does not proceed.

The reasons supporting the recommendation - not to proceed - are provided under the heading 'supporting reasons' (following).

However, should the Gateway determine that the proposal is to proceed, it is recommended that the following conditions apply:

1. Prior to exhibition, Council is to amend the planning proposal as indicated below:
 - (a) amend the Explanation of Provisions and relevant maps to indicate that the proposal seeks no change to the maximum height of buildings control and no change to the existing FSR controls, other than to remove the application of clause 7.2 of Parramatta Local Environmental Plan 2011 from the subject land.

(b) include an assessment of State Environmental Planning Policy No.55 - Remediation of land, within the planning proposal in relation to the site.

2. Prior to exhibition, Council is to refer the proposal to the Commonwealth Department of Environment (Wildlife, Heritage and Marine Division) to ascertain whether the proposal is a controlled action and to obtain Federal approval if required.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

(a) the planning proposal must be made publicly available for a minimum of 28 days; and

(b) Council must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).

4. Consultation is required with the following public authorities under section 56(2)(d) of the Act, as follows:

- Office of Environment and Heritage - Heritage Division
- Office of Environment and Heritage
- Department of Education and Communities
- Transport for NSW - Ferries
- Transport for NSW - Sydney Trains
- Transport for NSW - Roads and Maritime Services
- State Emergency Service
- Telstra
- Sydney Water
- Endeavour Energy

5. The planning proposal is to be concurrently exhibited and forwarded to public authorities for consultation under a single covering letter, together with six other planning proposals that were issued with a Gateway determination on the same day and are identified in the Department's covering letter to Council.

Each public authority is to be provided with a copy of each of the planning proposals listed above, a copy of the Parramatta CBD Planning Strategy and any relevant supporting material prepared for each proposal and the Strategy, and given at least 28 days to comment on the proposals.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. Prior to submitting the proposal to the Department for finalisation the proposal should be reviewed and amended where necessary:

(a) having regard to the mesoscopic modelling (and consultation with Transport for NSW and Roads and Maritime Services) undertaken for the Parramatta CBD planning proposal. This review should include confirmation of the appropriate site specific FSR in the context of the cumulative traffic impacts of increased FSR controls across the CBD.

(b) having regard to the FSR controls endorsed by the Gateway determination for the CBD planning proposal. In particular, the maximum FSR is to be no greater than that which would be permitted by the CBD planning proposal, taking into consideration the FSR sliding scale and any "FSR out-clause".

8. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

It is recommended that the proposal not proceed for the following reasons:

- the site is located within the highly sensitive area in relation to Old Government House and Domain and is inconsistent with the Conservation Agreement made between the Federal, State and local government;
- the Federal government has indicated in relation to the Justice Precinct that it is not supportive of proposals that are inconsistent with the Conservation Agreement for Old Government House and the Domain; and
- given the relatively small site area of 991sq.m, the maximum FSR should be set in accordance with an appropriate sliding scale and therefore exemption from clause 7.2 is not considered appropriate.

Signature:



Printed Name:

T DORAN

Date:

6/5/16