

30 March 2020

The Chief Executive Officer
City of Parramatta Council
126 Church Street
Parramatta NSW 2150

Attention: Marko Rubcic – Project Officer Land Use Planning

Dear Marko

**Peer-Review of Planning Proposal Assessment Report –
12-14 Phillip Street, Parramatta**

We refer to the instructions from Council to undertake a peer review of the Planning Proposal Assessment Report for 12-14 Phillip Street Parramatta. The purpose of this peer review is to consider and advise on whether the Council assessment of the Planning Proposal request has addressed and satisfied the relevant statutory requirements for the preparing of a Planning Proposal. In terms of the actual policy position of proceeding with the Planning Proposal, this is a decision of the Local Planning Panel and Council to make.

We note Council's advice that Council previously had an interest in this site and accordingly is seeking this independent peer review. We are aware that the site was previously owned by Council and operated and an at-grade car park and that there was a previous commercial agreement for Council to take ownership of space within the building for a cultural (information and education) facility.

The Planning Proposal

For the purposes of this peer review, the following information has been relied upon:

- The Planning Proposal assessment report prepared by Council officers for the Local Planning Panel (LPP) meeting of 21 April 2020 and;
- The Planning Proposal report prepared by Ethos Urban dated 12 February 2020. We understand however that there are two versions of the Planning Proposal report dated the same. Accordingly, and for clarity, we have attached to this peer review, the version we understand to be the most recent.

We understand that Council is in receipt of a Planning Proposal for 12-14 Phillip Street and 331A and 339 Church Street, Parramatta, to resolve the RE1 Public Recreation zone boundary and issues relating to use of the approved building floorspace within the RE1 zone. For the purposes of this peer review, we have taken the *Background* and the *Issues with the current zoning scheme* sections of the Council officers report to the LPP to be correct. By reference to the report to the LPP, we note the Planning Proposal specifically seeks to:

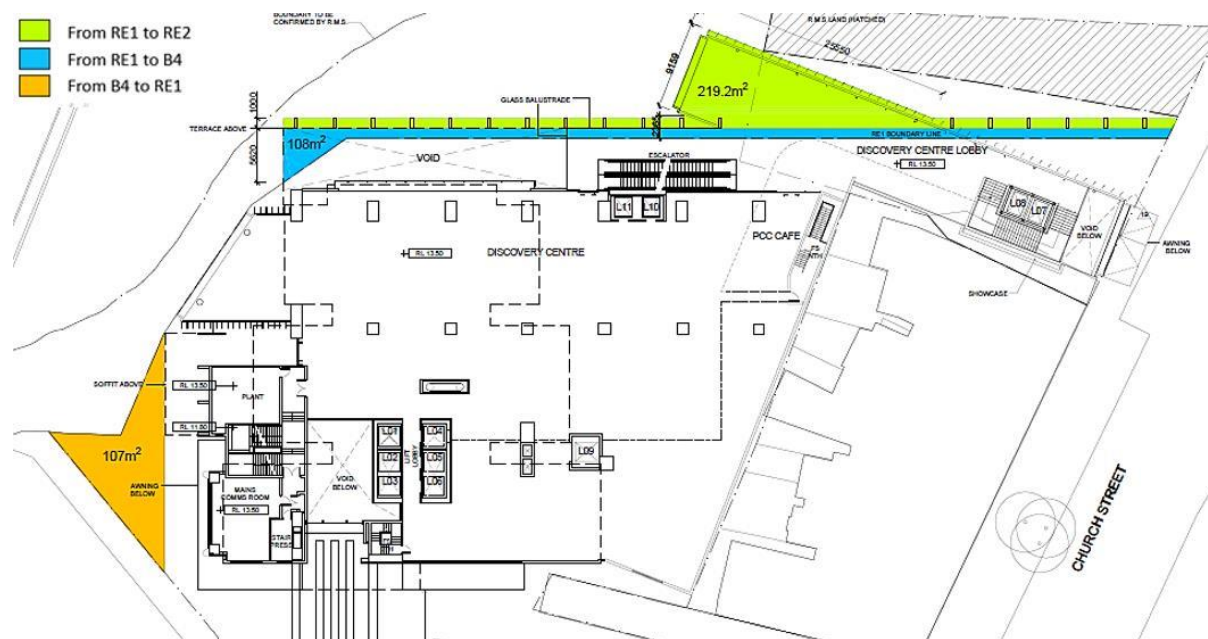
1. *Re-zone part of the site from B4 Mixed Use to RE1 Public Recreation*
2. *Re-zone part of the site from RE1 Public Recreation to RE2 Private Recreation*
3. *Re-zone part of the site from RE1 Public Recreation to B4 Mixed Use and apply a floor-space ratio control of 0:1 for this part of the site*
4. *Make adjustments to the floor-space ratio maps in the areas to be rezoned for the purposes of requesting a Gateway Determination from the Department of Planning, Industry and Environment.*

T +61 2 9036 6666
GPO Box 187, Sydney NSW 2001
Level 22, Angel Place, 123 Pitt Street
Sydney NSW 2000

We note also that the report to the LPP, states that ... *the approved architectural plans included the Discovery Centre and associated community facilities in one of the levels of the podium. The podium element of the building, including the glass 'entry box', is not wholly contained within the B4 Mixed Use zone and is approved to be partially within the RE1 Public Recreation zone. However, as the Discovery Centre is defined as an 'information and education facility', at the time of assessment this was a permissible use in the RE1 zone. The extent of the podium and glass 'entry box' approved within the RE1 zone. As a result, it is understood that discussions between Council officers and the developers of the site have resulted in an agreement to address the 'zoning misalignment' in a manner which achieves the objectives below being:*

- *That there is no net loss of public open space as a result of the Planning Proposal;*
- *That the Planning Proposal does not result in a compromised urban design outcome on the site or surrounding areas; and*
- *That the Planning Proposal does not result in a greater environmental impact.*

It is understood that the Planning Proposal lodged by Ethos Urban dated 12 February 2020, reflects these objectives. For the purposes of this peer review, we have made the assumption that Council will as a matter of policy and a negotiated outcome, satisfy itself that those agreed objectives have been achieved. As a result, we understand that the Planning Proposal in terms of rezoning will comprise the following as set out in the Council report to the LPP. We note also the proposed adjustments to the applicable FSR in the areas to be rezoned. We understand the extent of the rezoning proposed is as set out below in the Council report to the LPP and also the Planning Proposal.



Planning Proposal peer review

For the purposes of the peer review of the adequacy of the Planning Proposal and the report to the LPP, regard has been given to the S 3.33 of the Environmental Planning & Assessment Act 1979 (EP&A Act), and 'A Guide to Preparing Planning Proposals' (Planning Proposal Guide) prepared by the NSW Department of Planning, Industry and Environment. This peer review describes the matters required to

be addressed by the Planning Proposal Guide and whether they have been satisfactorily addressed in terms of the assessment of the Planning Proposal. Those matters are:

- Objectives and intended outcomes of the amendment to the LEP;
- Explanation of provisions;
- Justification;
- Relationship to strategic planning frameworks;
- Environmental, social and economic impact;
- State and Commonwealth interests; and
- Community consultation.

Matter to address	Comment
<p>Land to which this Planning Proposal applies</p> <p>The Planning Proposal states that the land to which the Planning Proposal applies is Lots 1 and 2 in DP791693 and Lot 3 in DP825045</p>	<p>Council has access to property information and can confirm the legal description of the land. A search of the NSW Government ePlanning Spatial Viewer reveals that the mapped land area comprises three lots. The two lots identified appear to be the correct legal description of 12-14 Phillip Street and 333 Church Street Parramatta. The third lot, 331A Church Street, Parramatta appears to have the legal description Lot 2 in DP791693.</p> <p>It is assumed that Council has satisfied itself that there are no issues in terms of the classification of the land under the Community Lands Management Act.</p>
<p>Objectives and Intended Outcomes (as stated in the Planning Proposal)</p> <p>Rezone the part of the site that is zoned RE1 and subject to the encroachments of the podium of 'The Lennox' building to RE2 Private recreation (approximately 219m² of land) such that there is no future requirement for Council to acquire those parts of the building at B1 and Ground Floor Level. Public access to this part of the site will not be affected by the proposal and will still be achieved by a public right of way easement on the land title.</p> <p>Rezone a portion of the site (approximately 108m²) from RE1 Public Recreation to B4 Mixed Uses to resolve encroachments of the building into the RE1 Zone which has resulted due to mapping errors and to ensure an improved urban design.</p> <p>Allocate an FSR of 12:1 to the land that is rezoned from RE1 Public Recreation to B4 Mixed Uses.</p>	<p>We note that the report to the LPP states the following as the objectives of the Planning Proposal as agreed to between Council officers and the developers of the site.</p> <ul style="list-style-type: none"> • <i>That there is no net loss of public open space as a result of the Planning Proposal;</i> • <i>That the Planning Proposal does not result in a compromised urban design outcome on the site or surrounding areas; and</i> • <i>That the Planning Proposal does not result in a greater environmental impact.</i> <p>It is assumed that Council planners are satisfied that the Objectives as stated in the Planning Proposal reflect those as agreed with Council above. Also that Council is satisfied that the Objectives as stated in the Planning Proposal meet Council's own policy objectives as to the proposed rezoning and amending of the applicable FSR controls.</p>

<p>Rezone approximately 107m2 of land from B4 Mixed Uses to RE1 Public Recreation to increase the amount of the site that comprises public open space.</p> <p>Remove any FSR allocated to the part of the site that is rezoned from B4 Mixed Uses to RE1 Public Recreation.</p> <p>Relocate an equivalent amount of FSR to a part of the site is zoned B4 Mixed use - note no increase in FSR proposed.</p>	<p>It is understood, from discussions with Council planners, that the rationale for the B4 mixed use zoning portion was also to permit reasonable use of the narrow strip of 'internal' floor area that currently extends into the RE1 zone for a purpose other than a public purpose (i.e. as part of the commercial or similar use of the wider floor of the building).</p> <p>Recommendation:</p> <p>For clarity, it is recommended words to this effect be added to the stated intended outcomes of the planning proposal.</p>
<p>Explanation of provisions</p> <p>Figures 10, 13 and Table 1 of the Planning Proposal outlines the proposed zoning and FSR amendments.</p>	<p>At the scale of the Figures provided, it is difficult to confirm whether the extent of the proposed amendments is the same as that indicated on the plan within the report to the LPP (and as above in this peer review report).</p> <p>Recommendation:</p> <p>That the scale of the proposed LEP amendment mapping be adjusted to improve the legibility and certainty over the actual land to which the amendment applies.</p>
<p>Justification</p>	
<p>Is the Planning Proposal a result of any strategic study or report?</p>	<p>The Planning Proposal has addressed the strategic basis for the Planning Proposal and it is assumed this reflects Council's policy position. The City of Parramatta has recently adopted its Local Strategic Planning Statement (LSPS). The proposal is not a direct result of that Strategy. Nevertheless, the proposal is considered to be minor and is not inconsistent with any of the planning priorities or policy directions. To the extent that the proposal would enable the approved design, it would facilitate activation of this section of the river front; contributing to creating a high quality and safe walking and cycling network (consistent with policy direction 33).</p>
<p>Is the Planning Proposal the best means of achieving the intended outcome?</p>	<p>The Planning Proposal has addressed whether it is the best means of achieving intended outcome and it is assumed this reflects the prior discussions with Council officers as referred to in the report to the LPP.</p>
<p>Relationship to strategic planning framework</p>	
<p>Does have the Planning Proposal have strategic merit?</p>	<p>The planning proposal request report indicates consistency with the 'State and Regional strategic frameworks'.</p>

Is the Planning Proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including Any exhibited draft plans or strategies?)	<p>The Planning Proposal has addressed the objectives and actions of the applicable State and Regional plans and strategies.</p> <p>A specific assessment/review of the Planning Proposal however against the plans and strategies has not been undertaken in terms of policy consistency.</p>
Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?	<p>The planning proposal request does not consider the recently adopted Parramatta Local Strategic Planning Statement (LSPS). The report only indicates consistency with the 'State and Regional strategic frameworks' and briefly discusses the Council's Cultural Plan (which is not a strategy endorsed by the DPIE. For completeness, the LSPS should be referred to in the Planning Proposal.</p> <p>Nevertheless, the proposal is considered to be minor and would give some effect to the recently adopted Parramatta LSPS. To the extent that the proposal would enable the approved design, it would facilitate activation of this section of the river front; contributing to creating a high quality and safe walking and cycling network (consistent with policy direction 33).</p> <p>Recommendation:</p> <p>The Planning Proposal should be amended to include an assessment against the LSPS.</p>
Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP)?	
The Planning Proposal has been considered against the relevant SEPP's.	The Planning Proposal has assessed whether it is consistent with the applicable SEPP's.
Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?	
An assessment against the applicable Ministerial Directions has been undertaken as part of the Planning Proposal.	The Planning Proposal indicates that the Ministerial Direction 1.1 (Business and Industrial Zones) does not apply. This is not correct. The Direction applies where the " <i>...relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary)</i> ".

	<p>The Planning Proposal indicates that the Proposal is consistent with Ministerial Direction 6.2 (Reserving land for public purposes). The Planning Proposal will alter or reduce existing zonings or reservations of land for public purposes. This cannot occur without the approval of the relevant public authority and the Director General (Secretary) of the Department of Planning, Industry and Environment.</p> <p>The Planning Proposal may be inconsistent with terms of the Ministerial Direction if the Planning Proposal provisions are of '<i>minor significance</i>'.</p> <p>Recommendation</p> <p>It is recommended that the Planning Proposal be amended to address Ministerial Direction 1.1.</p> <p>The report to the LPP, should refer to either seeking the approval of the Panel, Council and the Secretary of the Department to the provisions in the Planning Proposal or alternatively, form the view that the Planning Proposal is of minor significance.</p>
Environmental, Social and Economic Impacts	
The Planning Proposal has considered the environmental, social and economic impacts of the Proposal.	It is noted that the Planning Proposal seeks to regularize the zoning of an already approved development that was the subject of a separate planning assessment as part of the development application.
State and Commonwealth Interests	
The Planning Proposal has addressed the State and Commonwealth interests	The Planning Proposal request has addressed the State and Commonwealth interests.
Community Consultation	
The Planning Proposal notes that community consultation will be in accordance with provisions of the EP&A Act; A Guide to Preparing Planning Proposals and the terms of any Gateway Determination.	The Planning Proposal request has provided an outline of on community consultation is noted.
Does the proposal have site-specific merit?	
The Planning Proposal has addressed how it satisfies the site specific merit.	A review of the site specific aspects of the proposed rezoning and FSR has not been undertaken as part of this peer review. It is noted however that the rezoning aims to regularize aspects of the already approved development. The assumption has therefore been made that the design and siting aspects of the proposal and the suitability of the site have already been addressed previously by Council.

Conclusion:

It is noted that the Planning Proposal reflects the changes in the use of certain aspects of the previously approved development over the subject land. Those changes have necessitated the proposed rezoning and FSR amendment in order to regularize the now proposed use.

A review of the Planning Proposal and report to the LPP confirms that the Proposal has been prepared in accordance with the provisions of s 3.33 of the Environmental Planning & Assessment Act 1979 (EP&A Act), and *'A Guide to Preparing Planning Proposals'*. Based on that review, we would make the following recommendations:

1. **That words be added to the stated intended outcomes of the planning proposal to the effect that the proposed B4 Mixed Use zone would permit reasonable use of the strip of 'internal' floor area that currently extends into the RE1 zone as part of the wider commercial or similar use of the floor of the building (i.e. a purpose other than a public purpose that is currently not permitted).**
2. **That the scale of the proposed LEP amendment mapping be adjusted to improve the legibility and certainty over the actual land to which the amendment applies.**
3. **The Planning Proposal should be amended to include an assessment against the LSPS.**
4. **It is recommended that the Planning Proposal be amended to address Ministerial Direction 1.1.**
5. **The report to the LPP, should refer to either seeking the approval of the Panel, Council and the Secretary of the Department to the 'reserve for public purposes' provisions in the Planning Proposal or alternatively, form the view that the Planning Proposal is of minor significance.**

Please do not hesitate to contact me should you have any queries in relation to this matter.

Yours sincerely,

Knight Frank Town Planning
Mark Grayson
Director