

Greater Sydney, Place and Infrastructure

IRF20/4084

Gateway determination report

LGA	City of Parramatta
PPA	City of Parramatta Council
NAME	Planning proposal to amend development controls for 197 and 207 Church Street and 89 Marsden Street, Parramatta
NUMBER	PP_2020_COPAR_010_00
LEP TO BE AMENDED	Parramatta LEP 2011
ADDRESS	197 and 207 Church Street and 89 Marsden Street, Parramatta
DESCRIPTION	Lot 1 DP 710335 and Lot 1 DP 233150
RECEIVED	12 August 2020
FILE NO.	IRF20/4084
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal was initially lodged in May 2016 and sought a maximum FSR of 15:1 (excluding design excellence) and to exclude the application of Clause 4.3 Height of Buildings and Clause 4.6 Exemptions to Development Standards. Solar access was a critical issue in considering the initial proposal.

A Gateway determination was issued on 13 July 2017 which included three conditions relating to solar access. These conditions effectively required a reduction in controls to prevent overshadowing of a portion of Parramatta Square between 12-2pm, year round. The Gateway required that once revised, the proposal was to be submitted to the Department for endorsement prior to exhibition.

A Gateway Review was requested by the proponent in relation to solar access conditions seeking their deletion. The Independent Planning Commission considered the request and determined to uphold the conditions of the Gateway determination in July 2018.

On 29 July 2020, an Alteration of the Gateway determination was issued to remove conditions which have since become redundant and to extend the timeframe for completion.

On 12 August 2020, Council submitted a revised planning proposal seeking the Department's endorsement to allow for public exhibition to occur. The revised planning proposal allows for a maximum height of part 105m and part 12m, with a maximum FSR of 10:1, excluding existing 15% design excellence bonus.

The proposal has been subject to a number of changes including a shift from a supporting development scheme incorporating mixed use development to hotel and commercial uses and was issued a planning proposal number which correlates to the previous Parramatta LGA. In light of Council's request for endorsement, it is considered appropriate for a new Gateway determination to be issued which will allow the proposal to proceed to exhibition.

The planning proposal (**Attachment A**) seeks to amend Parramatta Local Environmental Plan 2011 (PLEP2011) by:

- allow a maximum building height of part 105 metres and part 12 metres;
- allowing a maximum FSR of 10:1;
- include an additional site specific clause requiring:
 - a mandatory 1:1 of commercial floor space;
 - allowing any additional commercial premises floor space in excess of this to be exempt from the maximum FSR;
 - maximum car parking rates in accordance with the Parramatta CBD Strategic Transport Study and resolution of Council on 10 April 2017; and
- applying a satisfactory arrangements clause to enable contributions towards the funding of State public infrastructure.

1.2 Site description

The site includes two lots (Lot 1 DP 710335 and Lot 1 DP 233150) and is known as 197 and 207 Church Street and 89 Marsden Street, Parramatta. The site has an area of 4,308m² and frontages to Church, Macquarie and Marsden Streets.

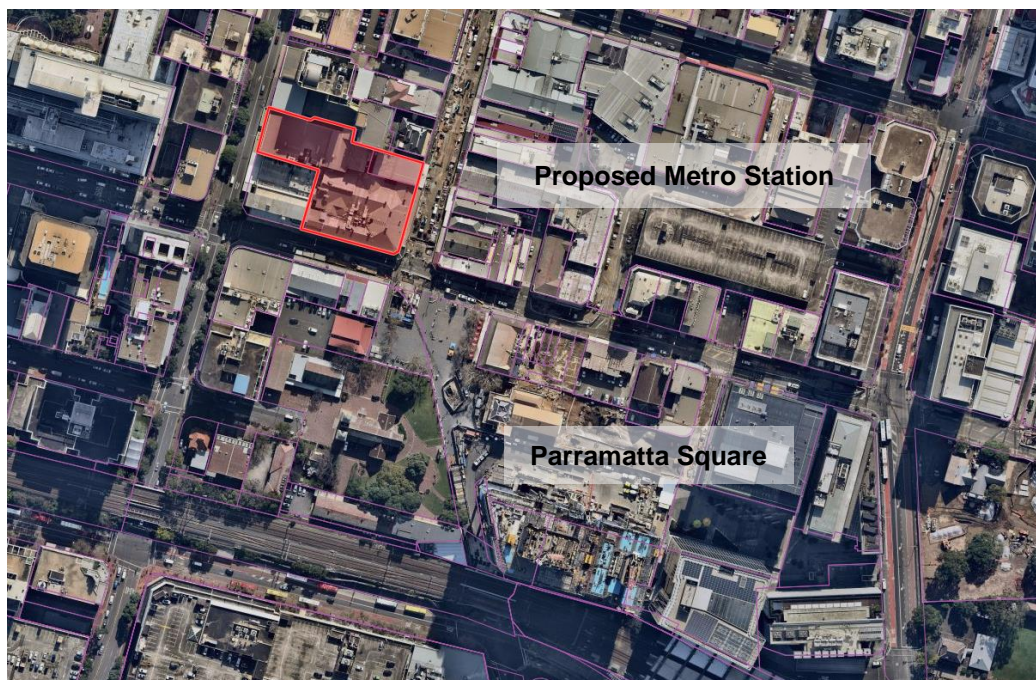


Figure 1: Planning proposal site location.

The site currently contains three retail and commercial buildings of two to three storeys. One of the buildings is an item of local heritage significance referred to as 'Shop (and potential archaeological site)' in PLEP2011.

The site is at a prominent corner in the Parramatta CBD being adjacent to the culmination of the pedestrianised portion of Church Street and Centenary Square. Recent development of Parramatta Square is to the south east, including open space to which solar access is protected under the PLEP2011. Land to the east currently includes a mix of commercial and retail uses and is the proposed location of the Parramatta Station of Sydney Metro West.

The site is affected by flood and is within the area inundated in flood events up to and including the Probable Maximum Flood (PMF).

1.3 Existing planning controls

Under the Parramatta LEP 2011 the site has the following planning controls:

- zoned part B4 Mixed Use (**Figure 2**);
- maximum building height of part 12m and part 36m (**Figure 3**);
- maximum FSR part 3:1 and part 4:1 (**Figure 4**);
- the site contains an item of local heritage; and
- is subject to Clause 7.4 – Sun access to protect the adjacent Parramatta Square.

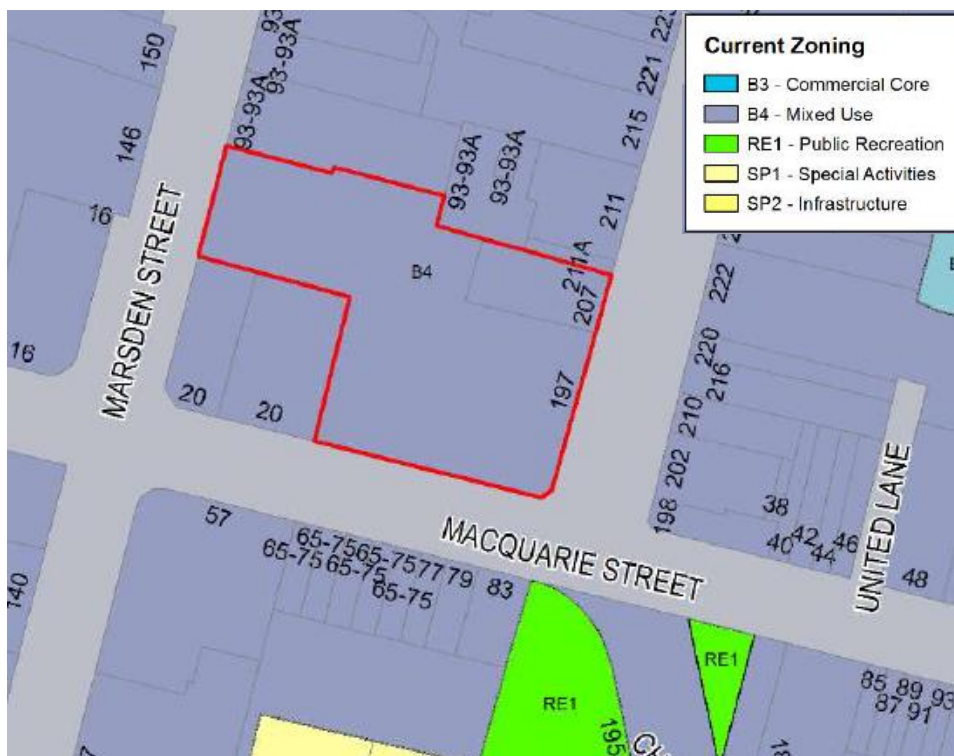


Figure 2: Current B4 Mixed Use zoning with site bound in red (Source: planning proposal).

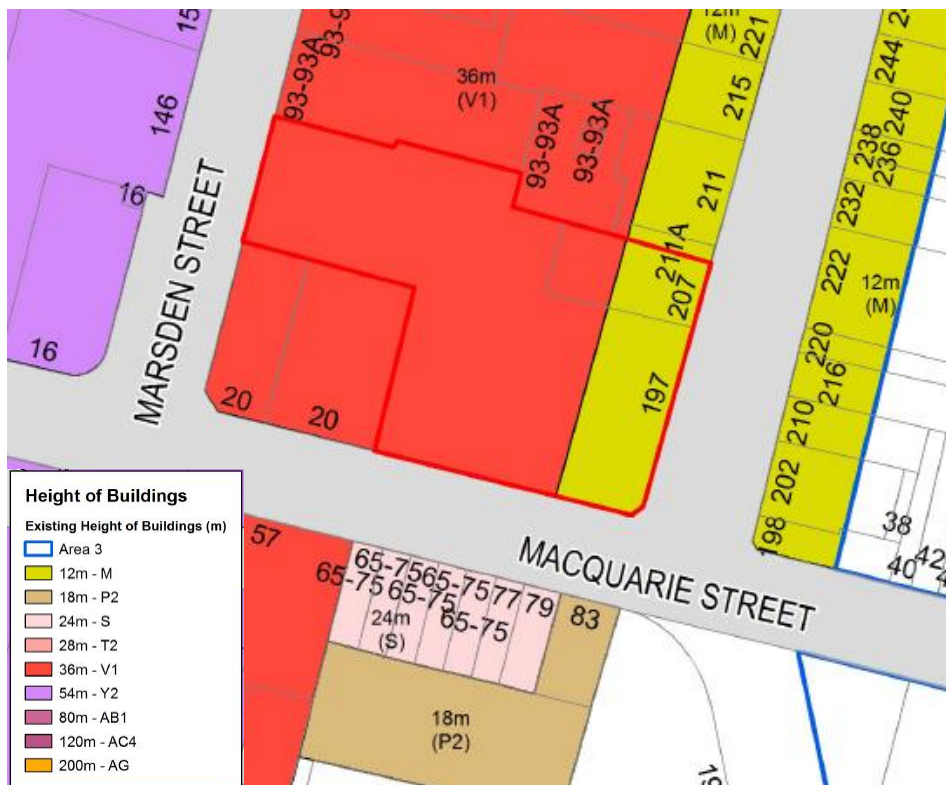


Figure 3: Current maximum height of buildings, part 12m and part 36m, with site bound in red (Source: planning proposal).

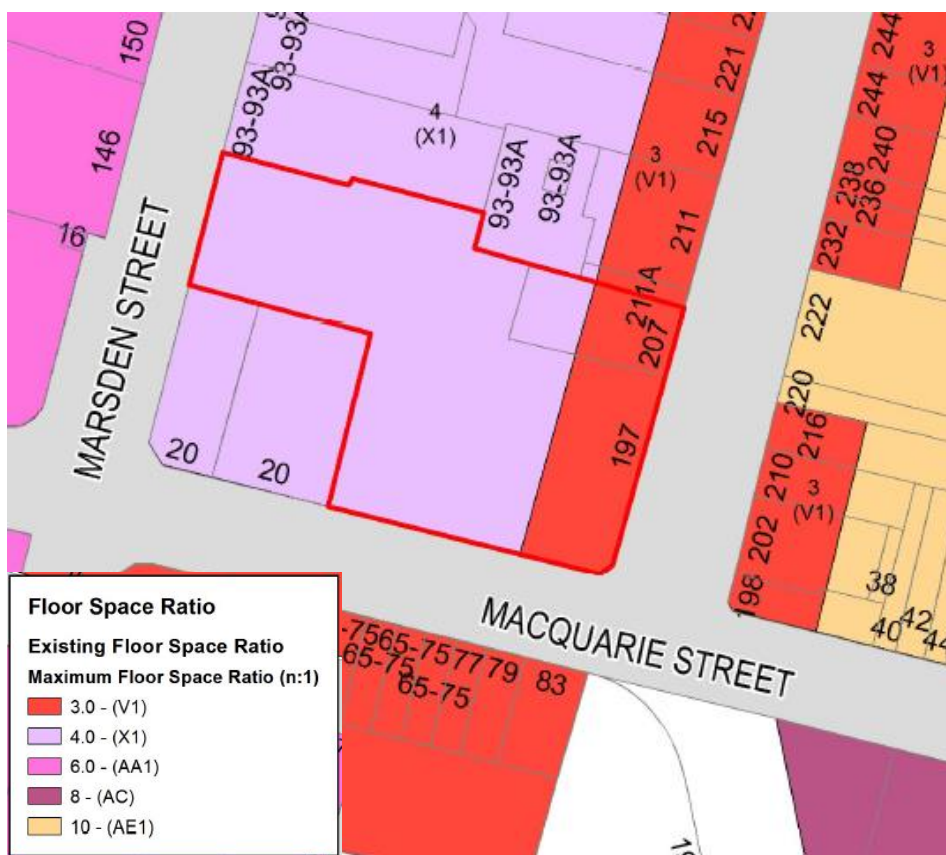


Figure 3: Current maximum FSR, part 3:1 and part 4:1, with site bound in red (Source: planning proposal).

1.4 Surrounding area

The site is in the Parramatta CBD which is going through a transition phase with uplift and development occurring through a combination of traditional development applications and site-specific planning proposals (and subsequent development applications). Several planning proposals have been pursued nearby and are at varying stages of completion.

A Gateway determination has been issued for the Parramatta CBD Planning Proposal which seeks to deliver the vision of the Central River City through a revision of development controls. The CBD PP is discussed further below in Section 4.2.

The site is on a prominent corner of Church Street, Parramatta's eat street with a number of restaurants and retail frontages which are typically older buildings with many heritage items. Further to the north is the Parramatta River and Foreshore paths.

Parramatta rail station and Parramatta Westfield are located approximately 200m to the south of the site. The anticipated Parramatta Light Rail route runs east-west along Macquarie Street and north-south along Church Street. The closest stops are Parramatta Square on Macquarie Street and Eat Street on Church Street.

To the east is the Justice precinct, a collection of Court and civic buildings of varying ages and sizes. Beyond sits Parramatta Park and Old Government House which form part of the World Heritage listed Australian Convict Sites.

1.5 Summary of recommendation

It is recommended that the planning proposal proceed with conditions as it has the potential to result in an outcome which is consistent with the Central City District Plan and the vision for the Central River City.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to facilitate high density development including contributing to employment generating floor space in the Parramatta CBD. The proposal does not identify a future use composition, instead suggesting this will be in line with the current zoning.

It is noted the most recent reference design (**Attachment A1**) is for a non-residential development which includes retail, commercial and hotel uses across two towers. Despite this, the ultimate development may include any variety of permissible uses which could include a residential component.

2.2 Explanation of provisions

The planning proposal seeks to amend the Parramatta LEP 2011 as follows:

- increase the maximum building height on the Height of Buildings Map (Sheet HOB_010) to part 105 metres and part 12 metres (at Church Street);
- increase the maximum FSR on the Floor Space Ratio Map (Sheet FSR_010) to 10:1;
- identify the site on the Special Area Provision Map (Sheet CL1_010);

- insert a site specific provision to require a minimum commercial floor space area equivalent to an FSR of 1:1 and allow for any additional commercial floor space in excess of this to be excluded from the maximum FSR;
- insert a new reference within the existing “Clause 7.14 Car Parking in Certain Land in Parramatta City Centre” to apply the parking rates in this Clause to the site; and
- include provision for a satisfactory arrangements clause to enable levying for contributions towards the funding of State public infrastructure.

It is noted the last proposed amendment was included as a result of the previous Gateway determination. This is address further in Section 4.3.

2.3 Mapping

The proposal seeks to amend the following mapping:

- Height of Buildings Map (HOB_010);
- Floor Space Ratio Map (FSR_010); AND
- Key Sites Map Special Provisions Map Sun Access Protection Map (CL1_10).

The proposal includes maps to demonstrate the intended amendments. The maps are clear and suitable for public exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The site-specific planning proposal is the result of a landowner application seeking to broadly apply the development potential proposed through the Parramatta CBD Planning Proposal. The planning proposal is therefore not the only means to enact the change sought with the Parramatta CBD Planning Proposal currently on exhibition and proceeding ahead of this proposal.

The site-specific proposal provides some opportunity to bring about the change ahead of the CBD proposal given the significant progress that has already been made on the site-specific planning proposal on resolving issues prior to exhibition. The planning proposal progressing provides some certainty to the landowner and it is recommended to proceed with a 9-month timeframe to finalise the proposal.

4. STRATEGIC ASSESSMENT

4.1 Central City District Plan

The Central City District Plan provides a 20-year plan to manage growth to achieve the vision of Greater Sydney. It is a guide for implementing the Greater Sydney Region Plan at a district level and forms a line of sight between metropolitan and local planning.

The planning proposal is broadly consistent with the key Planning Priorities as outlined in the District Plan:

- C1 Planning for a city supported by infrastructure

The planning proposal encourages growth through delivery of a combination of commercial, retail and hotel uses which will support existing, planned and new infrastructure (e.g. public transport projects). The site is in close proximity to

Parramatta Station, the Parramatta light rail route and a proposed metro station encouraging effective usage of the relevant infrastructure.

- C5 Providing housing supply, choice and affordability, with access to jobs, services and public transport

The planning priority seeks to increase housing supply in suitable locations with an aim of increasing affordability and diversity.

While the proposal is currently supported by a design scheme which does not include residential uses, the zone and increased development standard could allow for an alternative residential scheme. Should this occur it would assist in providing additional dwellings increasing housing supply and choice in the area. The site is the Parramatta CBD and near the Parramatta rail station, Parramatta light rail and bus interchange area. In this regard, the planning proposal is consistent with this priority.

- C6 Creating and renewing great places and local centres, and respecting the District's heritage

Due to the prominent location of the site it has a strong opportunity to contribute to place outcomes in the heart of the Parramatta CBD. Providing development potential through increased height and density will allow for revitalisation of the site and will support the renewing of the Central River City.

- C7 Growing a stronger and more competitive Greater Parramatta

This priority seeks to encourage growing a stronger and more competitive Greater Parramatta. The planning proposal seeks to deliver more employment generating floor space within the CBD strengthening the role of the CBD as the core of the Central River City. The planning proposal may also deliver more housing choice within the CBD and hotel accommodation which will support commercial operations and jobs within the CBD.

- C9 Delivering integrated land use and transport planning and a 30-minute city

The vision for Greater Sydney is one where people can access jobs and services in their nearest metropolitan and strategic centre.

The planning proposal seeks to provide commercial, hotel accommodation and potentially residential uses within the Parramatta CBD and near public transport. The proximity to public transport will provide easy access to and from the site in a manner which is consistent with this priority.

The planning proposal gives effect to the District Plan by delivering housing and employment opportunities in the locality as required by section 3.8(2)(a) of the *Environmental Planning and Assessment Act 1979*.

4.2 Local

Parramatta 2038 Community Strategic Plan

Parramatta 2038 is a long-term Community Strategic Plan for the City of Parramatta and it links to the long-term future of Sydney. The plan formalises several big and transformational ideas for the City.

The planning proposal is generally consistent with the plan in that encourages development of the city centre contributing to the importance of the CBD as the focal

point of the district. It will also provide additional employment opportunities and may result in additional housing opportunities.

Local Strategic Planning Statement

Council's Local Strategic Planning Statement: City Plan 2036 (LSPS) outlines Greater Parramatta's 20-year vision for land use planning, population, housing, economic growth and environmental management.

The proposal is consistent with the priorities and actions of the LSPS which seek to build the economic focus and liveability of Sydney's central CBD. The proposal supports the Parramatta CBD in becoming increasingly competitive and productive (Priority 11).

The Department is satisfied that the proposal gives effect to the local strategic planning statement.

Local Planning Panel

The planning proposal was resolved to be submitted for Gateway determination by Council on 7 December 2015 prior to the issuing of the Local Planning Panels Direction. It is noted that as part of the finalisation process, Council may consider seeking the advice of the Local Planning Panel.

Parramatta CBD Planning Proposal

A Gateway determination has been issued for the Parramatta CBD Planning Proposal (PP_2017_COPAR_002_01) which seeks to deliver the vision of the Central River City through a revision of development controls. The planning proposal has since been endorsed for exhibition by the Department.

The CBD PP retains the B4 Mixed Use zoning for the site and provides a base and incentive control for both height and density. The incentive FSRs can only be achieved if sites have the minimum land size required and the development includes community infrastructure.

The site is proposed to have base controls which are generally consistent with the existing, aside from a reduction in the depth of the extent for the lower 12m height limit along Church Street. The site is proposed to have an incentive FSR of 10:1 and the incentive height is to be determined by a sun access plane to Parramatta Square. Design excellence is intended to be carried forward allowing an additional 15% for height and density. A 5% High Performing Buildings bonus is also proposed providing additional FSR opportunity where certain criteria is met.

The planning proposal seeks to apply a defined height limit, rather than adopt the sun access plane determining height limit. In doing so, the planning proposal includes analysis to demonstrate that the height can be achieved while protecting solar access to Parramatta Square.

At present, PLEP2011 prohibits additional overshadowing of Parramatta Square between 12-2pm year round. It is noted that under the CBD PP this control will be measured at midwinter only and apply to specific properties identified through mapping. The subject site is proposed to be included as one such property and this should continue despite a specific height being identified.

4.3 Section 9.1 Ministerial Directions

Direction 1.1 – Business and Industrial Zones

This direction seeks to protect business and industrial zones to encourage employment generation. The planning proposal seeks to include a minimum commercial floor space requirement. This ensures that irrespective of the final use mix for the site, a portion of the development must contribute to employment generation. Floor space exclusions also provide an incentive to provide additional commercial floor area. The proposal is considered to be consistent with the direction.

Direction 2.3 – Heritage Conservation

The planning proposal site includes an item of local heritage significance. The item is described as 'Shop (and potential archaeological site)'. A number of items of heritage significance exist in the vicinity of the site. The design scheme provided in support of the planning proposal demonstrates a scheme which includes integration of the existing heritage item.

The change and renewal in Parramatta CBD must consider the impact of development adjoining heritage items. An upper level setback along Church Street is a planning control provided to maintain the existing scale and protect the important heritage streetscape while balancing the feasibility of a tower development.

The PLEP2011 includes heritage provisions which require consideration of the impact on heritage items both on site and in the vicinity when assessing development applications. It is considered that with existing provisions and a scheme which intends to integrate the heritage item, the proposal is consistent with this direction.

Direction 2.6 - Remediation of Contaminated Land

The planning proposal does not propose to rezone land and will allow for the intensification of the existing uses permitted on site. Council has considered contamination and suggests this matter will be considered through the DA stage. It is considered that the proposal is consistent with this direction.

Direction 3.4 Integrating Land Use and Transport

Direction 3.4 encourages new development in locations that are accessible to public and active transport. The site is near a future stop of the Parramatta Light Rail (Stage 1), Sydney Metro West, Parramatta rail station and bus interchange area. The proposal is consistent with the Direction.

Direction 3.5 – Development near Licensed Aerodromes

The Airspace above Parramatta CBD is affected by the Bankstown Airport operational requirements. Development above 156m AHD triggers the need to consult with the federal Department of Infrastructure and Regional Development. The planning proposal does not exceed this height and is therefore considered to be consistent with this direction.

Direction 4.1 Acid Sulfate Soils

The site is affected by Class 4 Acid Sulfate Soils under PLEP 2011. The proposal is inconsistent with this Direction as an acid sulfate soils study has not been submitted with the planning proposal to support the intensification of development.

This inconsistency is considered to be of minor significance as this matter can be appropriately considered and addressed at the development application stage in accordance with Clause 6.1 of PLEP 2011 (which requires an acid sulfate soils management plan to be submitted at the development application stage if certain development thresholds are met).

It is therefore recommended that the Secretary's delegate agree that any inconsistency with this direction is of minor significance.

Direction 4.3 - Flood Prone Land

The land is identified as being flood prone land and therefore this Direction applies. The Direction seeks to ensure that future uses are in line with the level of flood risk applying to the land. The Direction also requires consideration of the impact of the proposal to flood risk of both the site and off site.

The site is not within the 1 in 100 year flood level but is affected by the Probable Maximum Flood. Parramatta LEP 2011 and Parramatta DCP 2011 contain controls that address management of flooding and any future development application will need to demonstrate compliance with these controls.

The CBD PP requires occupants of buildings within the PMF area to be able to seek shelter in place above the PMF level or to safely evacuate. This matter can be further addressed at the development application stage.

It is recommended that NSW State Emergency Services are consulted during public exhibition.

It is recommended that the Secretary's delegate agree that any inconsistency with this direction is of minor significance.

Direction 6.3 - Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. The planning proposal seeks inclusion of a site-specific provision which deals with maximum car parking rates, minimum commercial floor space and exclusion of commercial floor space above this requirement from the maximum FSR.

The site-specific provisions are considered necessary to ensure an appropriate outcome. It is recommended that the Secretary's delegate agree that any inconsistency with this direction is of minor significance.

Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan (LUIIP)

This Direction seeks to ensure development within the Greater Parramatta Priority Growth Area is consistent with the Greater Parramatta Priority Growth Area Interim (LUIIP) dated July 2017.

The Interim LUIIP recognises the need for additional regional infrastructure to support growth and this is proposed to be implemented via a Special Infrastructure Contribution (SIC). At this stage, a SIC has not been formally exhibited for Greater Parramatta.

It is recommended that Council request the proponent to begin discussions with the Department regarding State infrastructure needs. Council should also raise the matter of State infrastructure needs generated by the proposal when consulting State Agencies. It is noted that the proposal currently includes a Satisfactory

Arrangement Clause, and that this is no longer considered appropriate. A condition is proposed to require the removal of this component.

This may ultimately lead to the requirement for a concurrence role for the Department for any subsequent development application. The Department would consider whether any applicable development application has made suitable contributions to meet the State and regional infrastructure needs generated by the proposal in the locality. It is recommended that this Direction remain unresolved until this matter has been further interrogated as the planning proposal progresses.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal will deliver social benefits in the form of employment opportunities, including proposed hotel accommodation. The planning proposal will also aid in the renewal of the Parramatta CBD at a prominent corner in adjacent to key public open space.

5.2 Environmental

The current provisions of PLEP 2011 do not allow any additional overshadowing to occur in the protected area of Parramatta Square at any time of the year between 12-2pm. The protected area makes up 31.5% of the entire square shown hatched in blue in **Figure 4**.

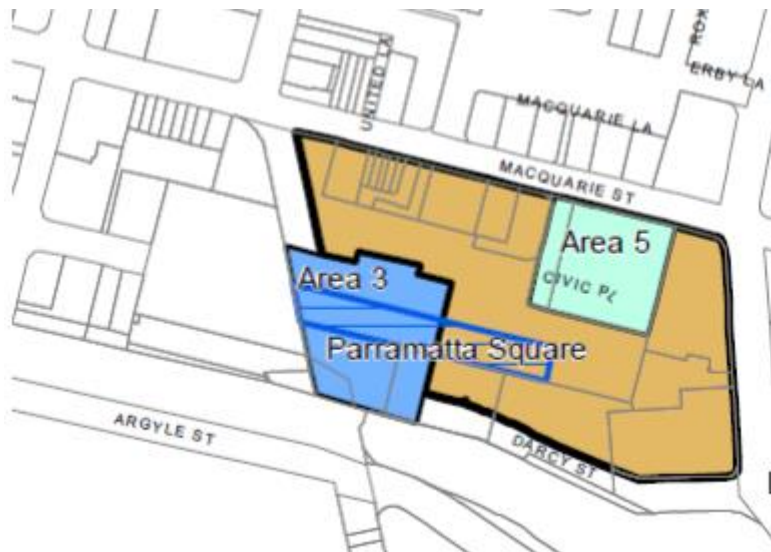


Figure 4 – The protected area of Parramatta Square is shown hatched blue on the sun access protection CL1_10 map of the Parramatta LEP 2011 (source: NSW Legislation).

Protection of this area was a key consideration of the original Gateway determination with conditions imposed to require reductions in height to retain solar access. These conditions were then the subject of a Gateway review and were upheld by the Independent Planning Commission.

The planning proposal includes shadow diagrams (**Figure 5**) that demonstrate the proposed height does not overshadow the protected area of Parramatta Square during 12-2pm at midwinter. This is inline with the proposed controls of the CBD PP. The planning proposal does not demonstrate that the proposed height will not overshadow year-round which is the requirement of the current PLEP2011 provision.



Figure 5: Shadow analysis of supporting development scheme at 2pm midwinter with Parramatta Square protected area shown in green (Source: planning proposal).

Analysis provided in support of the CBD PP suggests that development on the subject land which complies with solar access requirements at midwinter will not result in overshadowing at the Spring and Autumn Equinoxes. As such it is considered that the planning proposal is suitable to proceed, noting that the site-specific planning proposal will be required to consider consistency with the CBD PP at finalisation.

5.3 Economic

The planning proposal provides for increased employment opportunities and proposes a new hotel in the centre of the CBD. The proposal will facilitate redevelopment which can contribute to the revitalisation of the city centre providing a more attractive and competitive CBD.

5.4 Infrastructure

The CBD PP identifies a 2m wide strip of land on the site along Marsden Street to be reserved for a regional cycleway as shown in **Figure 6**. The planning proposal does not include this component, however Council has recommended that this be negotiated through a local planning agreement.

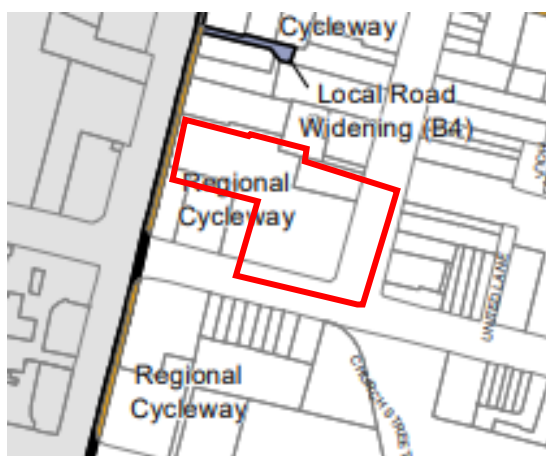


Figure 6: Extract from Parramatta CBD Planning Proposal Land Reservation Map with site shown bound in red (Source: Parramatta CBD Planning Proposal).

The site is adjacent to the proposed Parramatta station of Sydney Metro West. The EIS for the concept and Stage 1 of the project has been recently exhibited with submissions currently under consideration. It is recommended that consultation with Sydney Metro West occurs as part of the public exhibition of the planning proposal to ensure that both the intended outcome of the planning proposal and delivery of this piece of city shaping infrastructure can be considered in concert.

6. CONSULTATION

6.1 Community

A community consultation period of 28 days is considered an appropriate amount of time for public exhibition and is in line with the previous Gateway determination.

Council may need to consider how to respond to changing circumstances resulting from COVID-19.

6.2 Agencies

The original Gateway determination required consultation with the former OEH, NSW Aboriginal Land Council, Department of Education and Transport for NSW. The list of agencies required to be consulted has been reviewed and the following agencies are identified:

- NSW State Emergency Services,
- NSW Aboriginal Land Council,
- DPIE – Environment, Energy and Science Group,
- NSW Heritage,
- Transport for NSW,
- Sydney Metro West, and
- Utility providers.

7. TIME FRAME

The proposed time frame to finalise this planning proposal is to be 9 months, which is considered appropriate. As the proposal has had a long history, Council should proceed to exhibition as quickly as possible. It is noted that should this matter not proceed within the timeframe, consideration of the need for the site specific proposal will be undertaken, accounting for the CBD PP progression.

8. LOCAL PLAN-MAKING AUTHORITY

It is recommended that due to the reduced scale of the amended proposal and the progress of the broader strategic setting provided by the CBD PP, Council should be authorised as local plan making authority.

9. CONCLUSION

The planning proposal is recommended to proceed, subject to conditions, as it is considered to have strategic and site-specific merits and has the potential to give effect to the Central City District Plan. The proposal has potential to facilitate redevelopment of a prominent the site to provide additional employment opportunities contributing to the vision of Parramatta as the Central River City.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions; and
2. note that the consistency with section 9.1 Direction 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan (LUIIP) is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal be amended to remove reference to the need for a Satisfactory Arrangements Clause.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - NSW State Emergency Services,
 - NSW Aboriginal Land Council,
 - DPIE – Environment, Energy and Science Group,
 - NSW Heritage,
 - Transport for NSW,
 - Sydney Metro West, and
 - Utility providers.
4. Prior to finalisation, Council is to ensure that the planning proposal is consistent with the Parramatta CBD planning proposal, having particular regard to the protection of solar access to Parramatta Square.
5. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.



23/10/2020

Jazmin van Veen
Manager, Central GPOP



23/10/2020

Christine Gough
Director, Central (GPOP)

Assessment officer: Jazmin van Veen
Manager, Central (GPOP)
Phone: 9373 2877