



**Parramatta LEP 2011 - Remove building height and increase FSR at 197 and 207 Church Street and 89 Marsden Street, Parramatta (600 dwellings)**

Proposal Title : **Parramatta LEP 2011 - Remove building height and increase FSR at 197 and 207 Church Street and 89 Marsden Street, Parramatta (600 dwellings)**

Proposal Summary : **The proposal seeks to remove the maximum height of building control from the site, increase the maximum FSR to 15:1 (excluding 15% design excellence bonus), exclude the site from clause 4.6 (Exemptions to Development Standards) and clause 4.3 (Height of Buildings) and exclude certain areas from the gross floor area calculation.**

**This proposal will deliver 600 dwellings.**

PP Number : **PP\_2016\_PARRA\_015\_00**      Dop File No : **16/06869**

**Proposal Details**

Date Planning Proposal Received : **09-May-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 : **197**

Suburb : **Church Street**      City : **Parramatta**      Postcode : **2125**

Land Parcel :

Street : **207**

Suburb : **Church Street**      City : **Parramatta**      Postcode : **2125**

Land Parcel :

Street : **89**

Suburb : **Marsden Street**      City : **Parramatta**      Postcode : **2125**

Land Parcel :

**Parramatta LEP 2011 - Remove building height and increase FSR at 197 and 207 Church Street and 89 Marsden Street, Parramatta (600 dwellings)**

**DoP Planning Officer Contact Details**

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**Land Release Data**

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	<b>Metro West Central subregion</b>	Consistent with Strategy :	<b>Yes</b>
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	<b>0</b>	No. of Dwellings (where relevant) :	<b>600</b>
Gross Floor Area :	<b>0</b>	No of Jobs Created :	<b>0</b>

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

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

If Yes, comment :

**Supporting notes**

Internal Supporting Notes :

External Supporting Notes : **The site is zoned B4 Mixed Use and has a total site area of 4,307 square metres. The site is currently occupied by a mix of two and three storey retail and commercial buildings including a heritage item known as the Murray Brothers department store.**

**Adequacy Assessment**

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**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **The proposal seeks to increase the site density to enable a landmark tower building.**

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

Is an explanation of provisions provided? **Yes**

Comment : **The proposal seeks to amend Parramatta Local Environmental Plan 2011 to introduce the following controls for the subject site:**

**- amend the height of buildings map to remove the current height limit applying to the site (currently 12m fronting Church Street and 36m for the remainder of the site);**

**- increase the maximum FSR from part 3:1 and part 4:1, to 15:1 (excluding 15% design competition bonus);**

**- introduce a site specific clause that requires an international design excellence competition, excludes the site from the provisions of clause 4.3 Height of Buildings and clause 4.6 Exemptions to Development Standards and excludes private balconies, communal open space, publicly accessible spaces and any areas for the exclusive use of Council or its nominees from the gross floor area calculation.**

**DEPARTMENT COMMENTS**

**The proponent seeks either removal of the numerical maximum building height control or a maximum building height of 250m (including 15% design excellence bonus and equivalent to 80 storeys). Council staff recommended that the proposal be amended to remove the numerical height controls, consistent with Council's adopted Parramatta CBD Strategy. It is recommended that the maximum building height be determined in accordance with both solar access controls and an appropriate height relative to the proposed Aspire Tower.**

**The proposed increase in FSR to 15:1 is also not supported. It is recommended that a maximum FSR of 10:1 should apply consistent with Council's CBD planning proposal.**

**These matters are further discussed below under the heading "Environmental, Social, Economic Impacts".**

**Justification - s55 (2)(c)**

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

**2.3 Heritage Conservation**

\* May need the Director General's agreement

**3.1 Residential Zones**

**3.4 Integrating Land Use and Transport**

**4.3 Flood Prone Land**

**6.3 Site Specific Provisions**

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

**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 :

**Based on the information provided within the planning proposal and supporting documents, the proposal is consistent with all relevant Section 117 Directions and SEPPs, except as follows:**

**SECTION 117 DIRECTION 2.3 HERITAGE CONSERVATION**

**The subject site includes a State listed heritage item known as the former Murray Brothers Department Store. The concept design indicates that it is intended to retain**

only the facade of the heritage building. Council's heritage assessment does not agree with the findings of the proponent's Heritage Assessment Report and recommends that:

- (a) redevelopment should preserve and incorporate the heritage item, rather than only the facade; and
- (b) overshadowing will impact on other heritage items, including the St Johns Church in Centenary Square.

It is considered that the heritage values of the site and surrounding items will be protected given that:

- (a) the State heritage listing means that the Office of Environment and Heritage will be the consent authority for any future development application. The planning proposal should be referred to the Office of Environment and Heritage for comment;
- (b) a site specific clause is proposed requiring an international design competition; and
- (c) solar access provisions will apply and are intended to ensure that the final building height is determined in accordance with protecting the amenity of the public domain.

#### **SECTION 117 DIRECTION 3.5 DEVELOPMENT NEAR LICENSED AERODROMES**

Although the planning proposal seeks to remove the numerical height of building controls, the planning proposal indicates that this Direction is not applicable. This should be corrected prior to public exhibition.

This Direction requires a proposal for development that would intrude into prescribed airspace, in this instance 156m, to obtain Federal government permission prior to community consultation stage.

The Gateway determination will be conditioned to ensure that, prior to exhibition, consultation is undertaken with the Department of Infrastructure and Regional Development.

#### **SECTION 117 DIRECTION 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. This Direction applies as the proposal seeks to include a site specific provision to:

- (a) require an international design competition;
- (b) ensure heritage conservation and/or interpretation and provision of appropriate publicly accessible open space;
- (c) enable exemption from clause 4.3 Height of Buildings; and
- (d) indicate that clause 4.6 Exemptions to Development Standards does not apply.

With the exception of exclusion from clause 4.3, inconsistency with this Direction is considered to be justified on the basis of minor significance given that a site specific clause is deemed necessary to give effect to the desired outcomes for the site.

Exemption from the numerical height of building controls (clause 4.3) is discussed under the heading "Environmental, Social and Economic Impacts." A Gateway condition is required to amend the Explanation of Provisions prior to public exhibition to remove the proposed exemption from clause 4.3.

#### **SEPP 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? **Unknown**

If No, explain :

**As the site is State heritage listed, consultation during public exhibition with the Office of Environment and Heritage is required to ascertain consistency with Section 117 Direction 2.3 Heritage Conservation.**

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**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment : **The mapping is considered adequate for public consultation purposes.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment : **The proposal does not include any details with regard to proposed consultation with the community. A Gateway condition is recommended to address this prior to public exhibition.**

**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 well provided with public transport and close to employment opportunities.**

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Consistency with strategic planning framework :

**PARRAMATTA CBD PLANNING STRATEGY**

The proposal is partially consistent with this strategy adopted by Council on 27 April 2015, that intends to increase the maximum FSR to 10:1 (plus a 15% design excellence bonus) for the majority of the city centre area subject to further urban design testing. The strategy does not indicate proposed maximum building heights but rather seeks to remove maximum building height controls for the CBD.

This strategy has not been endorsed by the Department of Planning and Environment.

**PARRAMATTA CBD PLANNING PROPOSAL**

The Parramatta CBD Planning Strategy has been refined and translated into the CBD planning proposal for implementation. This planning proposal was recently submitted to the Department for Gateway determination.

The CBD proposal identifies precincts within the CBD, the site is located within the City Centre-Core precinct. The CBD proposal proposes to retain the current B4 - Mixed use zone, with a maximum incentive Floor Space Ratio of 10:1 (plus a 15% design excellence bonus).

**DRAFT WEST CENTRAL DISTRICT PLAN**

The site is located within the West Central District, however as the planning proposal was lodged prior to the Draft Plan being released, the proposal does not address the the Draft West Central District Plan .

The Draft Plan identifies the site within one of the three 'economic anchors' for the The West Central District's economy. The planning proposal aligns with the actions of the Draft Plan as it will provide employment opportunities on the site, helping to grow a vibrant Parramatta City with a productive and diversified economy

Therefore, the Department considers that the planning proposal is consistent with the Draft Plan. However, the Gateway determination has been conditioned to require the planning proposal be amended to address consistency with the Draft West Central District Plan prior to public exhibition.

Environmental social economic impacts :

**SUN ACCESS CONTROLS FOR PARRAMATTA SQUARE**

Solar access to Parramatta Square is currently controlled by clause 7.4 Sun Access, and a requirement introduced to Parramatta Development Control Plan 2011 on 23 November 2015 that states:

- "overshadowing is to be minimised within the area outlined in red in Figure 4.3.3.7.3. Individual buildings shall be designed so that no single point of the area outlined in red is in shadow for a period greater than 45 minutes between 12pm-2pm mid-winter."

The control seeks to protect 3,000sqm of Parramatta Square, and is known as the "45-minute rule". Prior to the 45-minute rule, previous controls required no additional overshadowing of the protected area of Parramatta Square between 12pm and 2pm.

**197 and 207 Church Street and 89 Marsden Street Parramatta:**

Council's assessment of the proposal at 197 and 207 Church Street and 89 Marsden Street Parramatta reported to Council on 7 December 2015 indicates that the proposal will impact on solar access to the protected area of Parramatta Square.

The proponent has advised the following:

- overshadowing of the protected area will commence from 12.41pm;
- at 1pm, approximately 53% of the protected area will have solar access. Conversely this means that at 1pm 47% of the protected area will be overshadowed; and
- at 2pm other buildings and shade trees overshadow approximately 44% of the protected zone. The proposal will increase shading of the protected area by a further 24%. This will result in a total of 68% of the protected area being in shadow at 2.00pm.

**Cumulative overshadowing impacts:**

The above estimates consider only the subject proposal and do not consider any cumulative impact of overshadowing of the protected area by other buildings.

The cumulative impact of overshadowing of the protected area by the proposal along with three other proposals (20-22 Macquarie St, 48 Macquarie St and 220-230 Church St and 5 Parramatta Square) is indicated by the proponent's shadow diagrams for overshadowing at 10am, 12 noon, 2pm and 3pm.

The Council prepared shadow diagram that shows the cumulative impact of the subject site and 48 Macquarie St, Parramatta.

The proponents shadow diagrams at Tab H include 20-22 Macquarie St and include the preferred design competition scheme for the subject site. Conversely, Council's shadow diagram does not include 20-22 Macquarie St and includes the earlier 'Boomerang' scheme for the subject site.

These shadow diagrams show that there is an impact on Parramatta Square. Given the preferred outcome is 'no additional overshadowing' of the Square, the impact between 12pm and 2pm is considered unacceptable.

**Gateway determination for 48 Macquarie St, Parramatta.**

The issue of the sun access control, particularly through the potential cumulative impact of multiple buildings overshadowing the protected area within the square, was discussed in relation to the Gateway determination issued 17 June 2016, for 48 Macquarie Street and 220-230 Church Street Parramatta, (qA389056 – PP\_2016\_PARRA\_004\_00, 48). That Gateway determination required the solar access control for Parramatta Square be amended to ensure no overshadowing between 12pm and 2pm, and required the control to be inserted in clause 7.4 of Parramatta Local Environmental Plan 2011, rather than the Parramatta Development Control Plan 2011. This Gateway determination is currently subject to a post-Gateway review in relation to this condition.

**Greater Sydney Commission response to sun access controls for Parramatta's public spaces and the Gateway determination for 48 Macquarie St:**

On 12 July 2016, an article was published in the Sydney Morning Herald (Parramatta deserves not to be left in the shadows) written by the Chief Commissioner of the Greater Sydney Commission (GSC).

The article cites international examples of 'great public spaces', and discusses the importance of solar access, and the growth of Parramatta as Sydney's second CBD. In particular, the Chief Commissioner noted that the 'scale of development in the pipeline offers an extraordinary opportunity for us to get the basics right in planning for this emerging CBD'.

In the article, the Chief Commissioner articulated values and principles of 'great city building' which guide decisions of the GSC in relation to solar access. These include:

- o ensuring good urban design and place making leads to greater liveability;
- o protecting access to sunlight and high-quality open spaces;
- o recognising and protecting the cultural importance of Centenary Square, Parramatta Square and Parramatta Park;
- o acknowledging the opportunity for Parramatta to become a CBD that is exemplar of great buildings and urban spaces;
- o ensuring the highest standards for Parramatta's public spaces; and
- o public spaces should not be cold, sunless and windswept.

• The Chief Commissioner also commented on the Gateway determination for 48 Macquarie St, noting the decision to protect sunlight in the middle of the day in winter at the new Parramatta Square reflected those values and principles, and further noted that

the GSC would "challenge growth that puts the quality of public spaces at risk" (SMH article 12 July 2016).

**Objectives of ensuring sun access to Parramatta Square and other public spaces**

The article by the Chief Commissioner states that the amenity of the public domain is central to the GSC's vision of Parramatta. The Chief Commissioner notes that the 'right balance can be struck, with developments rising up around public open spaces without overshadowing them', noting Hyde Park, the Domain and the Royal Botanic Gardens are all protected from overshadowing.

This amenity and cultural importance of Parramatta Square will be achieved through the quality of sunlight (illumination and warmth) provided by direct solar access to this, and other public spaces in Parramatta. Provision of amenity afforded by solar access can be achieved by lowering building heights or alternative design solutions, provided these solutions achieve the same quality of light (including illumination and warmth) as would otherwise be experienced by direct solar access.

**Impacts on proposed building heights on retaining solar access:**

**197 and 207 Church Street and 89 Marsden Street Parramatta**

The Proponent has indicated that a reduction in the height of the building will adversely impact the economic viability of the development.

**48 Macquarie Street, Parramatta**

Similar to the advice from Proponents of the current proposal, the Proponent for 48 Macquarie Street has also indicated that a reduction in the height of the building will adversely impact the economic viability of the development.

The Proponent has suggested that the Gateway determination for their site will reduce the development potential of a significant component of the CBD, create nervousness and uncertainty in the industry, and therefore undermine the long term growth of the CBD.

**20-22 Macquarie Street, Parramatta**

As a consequence of the Gateway determination for 48 Macquarie Street, the proponent for 20-22 Macquarie Street, Parramatta, provided preliminary advice to the Department and City of Parramatta Council, which demonstrated a building on that site may potentially be designed which utilises a Floor Space Ratio of 10:1 (plus design excellence), as well as satisfying the sun access controls. This proposal has not yet been formally lodged by City of Parramatta Council for a Gateway determination.

**153 Macquarie Street, Parramatta**

A planning proposal for 153 Macquarie Street, Parramatta is currently with the Department for finalisation. This proposal will provide a maximum gross floor area of 46,200sqm of commercial floor space, with a Floor Space Ratio consistent with the Parramatta CBD Planning Proposal: 10:1 (plus a 15% design excellence bonus). The planning controls for this site will not result in any overshadowing of the protected area of Parramatta Square between 12pm and 2pm mid-winter. Further, the City of Parramatta's Community Hub proposal has been redesigned to comply with the condition of no additional overshadowing.

**Department Comment – Lowering building heights**

It is acknowledged that lowering of building heights will have an economic impact on the proposed developments. Two proposals have demonstrated that the reduction of building



height or a design solution can achieve economic outcomes for those sites whilst protecting solar access to the protected area of Parramatta Square. However, no information is available to determine if the same would apply to the proposal and 48 Macquarie Street.

The Chief Commissioner of the Greater Sydney Commission articulated the importance of protecting the solar access to Parramatta Square as it contributes to the quality of urban spaces and that growth should not put the quality of public spaces at risk.

Lowering building heights to retain the solar access to the protected area of Parramatta Square, which represent only 31.5% of the total area of the Square, on balance, a greater public benefit than that represented by the individual planning proposals and achieves the principles of the Greater Sydney Commission's vision for the second CBD as outlined by the Chief Commissioner.

#### **Technical solution**

The proponent for the subject planning proposal requested the Department consider the use of a technical solution (heliostat) rather than reduction in the height, to satisfy the solar access requirements.

The proponent has made submissions, including a workshop where the potential use of a heliostat was outlined to staff representatives of the GSC, City of Parramatta and the Department.

#### **Heliostat effectiveness**

Available information on heliostats indicates that natural light loses approximately 10% of its solar potential on each reflected surface. Therefore, the resulting light is approximately "80% of 1 x sun", representing a 20% loss in the resulting light.

Published international research into various heliostats identifies the following challenges and difficulties with heliostat solutions:

- effective channelling of daylight without distorting its composition;
- performance measurement is dependent on detailed design, considering sun-path angles, geographic location, pollution levels and software to calculate and track sunlight;
- uncertainties with heat gains during warmer months and glaring;
- potential for heliostat systems to become overshadowed or obstructed by future development;
- ongoing maintenance obligations; and
- potential overshadowing caused by the heliostat structure itself.

Council also raised the following concerns in relation to the use of heliostats:

- the setting of precedent;
- poor urban design outcomes with potentially several heliostats which would not achieve the desired vision for Parramatta CBD or its public spaces;
- the effectiveness of a heliostat could be severely compromised by future development of adjoining or surrounding sites;
- ongoing management issues; and
- all development should be subject to the same planning controls for solar access, the cumulative impact of allowing developments to utilise heliostats rather than natural sunlight in the Square would result in a decline in the amenity.

The effectiveness of a heliostat relies on protection of the solar pathway to the heliostat, and from the heliostat to the Square. A heliostat would not be able to function if solar access to or from the heliostat was compromised. Therefore any heliostat would need to be accompanied by its own set of sun access controls, to ensure its ongoing performance into the future. This would require a complex and interrelated system of planning controls, that could unfairly restrict surrounding development as the maximum heights would be restricted to ensure solar access to the heliostats. An additional concern would be the accumulative visual impact of multiple heliostats on the skyline of the Parramatta CBD.

**Department comment – Technical solution**

The values and principles expressed by the Chief Commissioner indicate that the quality of public open spaces is intrinsically linked to solar access and development of Parramatta should ensure the highest possible standards for Parramatta's public spaces. Research indicates that performance of a heliostat is dependent on the technical design however the quality of the reflected light is less than direct sunlight.

A current approved development proposal at Rhodes indicates that 20% of light will be lost through the use of the heliostat solution therefore resulting in a compromise in the quality of light experienced in the public space. While the Sydney Central Planning Panel recently approved a development application at 6-14 Walker Street and 11-23 Marquet Street, Rhodes, which contained a heliostat, the Panel Report (dated 1 December 2016) noted that the proposal:

"will have adverse imposed overshadowing of public and private space and visual impact. However, the Panel is aware that the proposal complies with the Floor Space Ratio (FSR) and height in metres of the Local Environmental Plan ... the Panel feels that an FSR of nearly 10:1 is far too high for this site [however], it must accept that the LEP, and therefore the development standards in it, now have legal force."

In this case, the heliostat assisted in ameliorating the impact of overshadowing "Rhodes Town Square", a small (1000m<sup>2</sup>), locally significant public space delivered and maintained as part of a Mirvac development, opposite Rhodes Station. Conversely, Parramatta Square is a regionally significant, premier public space with existing solar access that can be protected, rather than compromised. Parramatta Square is the central public domain for the emerging City with a significant investment by the State Government and City of Parramatta into infrastructure provision to create a world class public space.

A crucial point of difference between the use of a heliostat at Rhodes, and a potential heliostat at Parramatta, is a heliostat at Rhodes was necessary to mitigate the adverse impact of overshadowing arising from with the existing planning controls for FSR and building heights. Conversely, this Planning Proposal seeks controls which would result in, what is considered to be, unacceptable levels of overshadowing.

The appropriate stage to ensure that the planning controls are consistent with the strategic intent for Parramatta Square is at this Gateway determinate stage, by eliminating any additional overshadowing rather than accepting a potential technical solution which would compromise the amenity of the public domain.

Further, it is recommended that ensuring the planning controls are consistent with the strategic intent for Parramatta Square would avoid creating the expectation to realise the proposed FSR and building height for the site.

Given the reduced quality and quantity of reflected light from a heliostat ( $\leq 20\%$ ), it is considered that direct sunlight is the best option to provide open space consistent with the vision of the GSC.

It is therefore considered that planning controls should protect the solar access for the peak usage period between 12.00 and 2.00 to promote delivery of this vision, noting that the protected area only represents 31.5% of the Square. Evidence shows that use of a heliostat will not provide the same quality and quantity of light and therefore will not achieve the desired level of protection and amenity.

**Procedural fairness:**

The Proponent has argued that given the considerable time and cost of progressing their proposals in reliance upon Council resolutions (which permitted the building envelopes sought), and in the interests of procedural fairness, the 45-minute rule should be retained for the subject Planning Proposal and 48 Macquarie Street, which were lodged with the

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Department before 17 June 2016 or an alternative solution investigated.

Parramatta Square has had solar access controls in place since 1999 under the Sydney REP No.28, while the 45-minute rule was only introduced on 23 November 2015. The planning proposal was under review by Council since late 2014, and therefore was with Council prior to the 45-minute rule being adopted. It is noted that the proposal was lodged with the Department after the 45 minute rule was in place.

In the Department's A guide to Preparing Local Environmental Plans (2016) it states:

The Gateway determination is a checkpoint for planning proposals before resources are committed to carrying out investigative research, preparatory work and consultation with agencies and the community. It enables planning proposals that lack strategic planning merit to be stopped early in the process before time and resources are committed.

The Gateway determination is part of the plan making process and the approval of the Department should not be assumed. The Gateway process provides an opportunity for the Department to undertake an assessment of the strategic merit of the proposal.

Parramatta is identified in A Plan for Growing Sydney as the second CBD recognising a need to create a dynamic place to work, live and play. The Chief Commissioner has stated "as more and more people live, work and study in and enjoy the Parramatta CBD, access to sunlight and high quality open spaces will be even more important." In the draft District Plan, Productivity Priority 4 for a growing and vibrant Parramatta City requires, amongst other actions, that planning proposals demonstrate the enhancement of the urban amenity of the centre. The suggested heliostat would only deliver reflected light, rather than direct sunlight. It is therefore not considered to enhance the amenity of the Parramatta Square, nor is it consistent with the vision for Parramatta as articulated by the Chief Commissioner, and therefore inconsistent with this Priority.

It is considered that while the site demonstrates strategic merit for an increase in height and FSR, the increase should be consistent with the broader strategic considerations outlined in A Plan for Growing Sydney and by the GSC for the protection, enhancement and delivery of a public space of the highest quality.

Based on the evidence to date, the performance and limitations of heliostats, noting at least a 20% reduction in the quality of light, a heliostat will not provide the same quality of light as direct solar access and will therefore not provide an acceptable outcome considering the importance of the Square, the small size of the protected area (31.5%) and the GSC's vision for Parramatta. Further, there are legitimate unresolved concerns regarding the long-term effectiveness in relation to heliostat performance potentially compromised by future development of adjoining or surrounding sites.

It is clear from the evidence that a heliostat would not be able to meet the standards set by the Chief Commissioner for public amenity in the protected area of the square. In particular, to be approved at development application stage the heliostat would need to be both consistent with the principles set out by the Chief Commissioner and to meet either a 'like-for-like' or 'substantially the same' test for natural sunlight. As a consequence, there would be no utility requiring a proponent to go to any additional expense in further developing its heliostat proposal.

It is therefore recommended that the Gateway determination include a condition that is consistent with the condition imposed on 48 Macquarie Street requiring that the solar access control for Parramatta Square be amended to ensure no additional overshadowing between 12pm and 2pm for the protected area and that the controls be inserted in the clause 7.4 of Parramatta Local Environmental Plan 2011, rather than the Parramatta Development Control Plan.

#### **MAXIMUM FSR**

In accordance with Council's resolution, the proposal seeks a Floor Space Ratio of 15:1 (which represents an FSR of 16.5:1 with 15% design excellence bonus).

The Council report dated 7 December 2015 recommended a maximum FSR of 10:1, subject to compliance with sun access provisions and the State Environmental Planning Policy No.65 (SEPP 65) Apartment Design Guide, for the following reasons:

- the proposed FSR would produce a built outcome that is out of context with the fine grain character of Church Street;
- the building scale would produce significant overshadowing of the public domain;
- a FSR above 10:1 cannot be supported from a traffic management perspective until traffic studies undertaken for the CBD planning proposal have been finalised;
- a FSR of 15:1 is inconsistent with Council's CBD planning proposal that envisages a maximum FSR of 10:1 for the majority of city centre; and
- insufficient justification has been provided to warrant a significant variation from the CBD planning proposal.

The Department supports the reduction in the FSR, and recommends that the Gateway be conditioned to reduce the maximum FSR to ensure consistency with the Parramatta CBD Planning Proposal.

#### **HEIGHT OF BUILDINGS**

The planning proposal as lodged by the proponent sought a maximum height of buildings of 250m (80 storeys) excluding a 15% design excellence bonus, although the report to Council recommended that no height limit apply to the subject site to achieve consistency with the CBD Planning Strategy.

Given that the Parramatta CBD planning proposal is currently being assessed by the Department, the site-specific removal of a maximum height of buildings control is supported.

It is considered that the maximum height of buildings for this site should be determined at development application stage in accordance with sun access provisions and therefore a Gateway condition is recommended to apply clause 7.4 Sun Access to the protected area of Parramatta Square.

#### **TRAFFIC IMPACTS**

Council's traffic and transport section has reviewed the proposal and indicated that parking and traffic impacts are within acceptable limits. A number of other site-specific planning proposals within the Parramatta CBD have been supported to progress to exhibition, but have been conditioned to be reviewed prior to finalisation, to have regard to the results of the mesoscopic traffic modelling currently being undertaken to support the Parramatta CBD planning proposal.

Council and TfNSW-RMS are currently finalising investigations to determine whether this condition can be replaced with a requirement for lower parking rates. The lower parking rates will be in accordance with the Parramatta CBD Strategic Transport Study, currently being undertaken by Council. Consistent with these investigations, it is recommended that the mesoscopic condition is not required for this proposal and instead apply the lower parking rates to this proposal.

#### **HERITAGE**

The site includes State Heritage Item No.11 – shop and potential archaeological site (formerly part of the Murray Bros department store chain).

Council's Heritage Officer does not agree with the findings of the Heritage Assessment report and raises the following issues:

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- more than just the building façade should be retained to protect the significance of the item;
- the concept design does not adequately integrate the heritage item; and
- future development of the site may impact on adjacent heritage items, including overshadowing of St Johns Church in Centenary Square.

The Council report indicates that these concerns will be addressed as follows:

- a design excellence competition will be required and heritage is one of the design excellence considerations at development application stage under clause 7.10(4)(d) of Parramatta Local Environmental Plan 2011;
- the design competition brief is to be prepared in consultation with the Office of Environment and Heritage, to incorporate adequate heritage considerations; and
- given the State heritage listing, the Heritage Council is the approval authority for any future development application for the site and will assess any application under the provisions of the Heritage Act 1977.

It is considered that the planning proposal should be referred to the Office of Environment and Heritage for comment during the community consultation period and that a decision regarding whether the planning proposal is consistent with Section 117 Direction 2.3 Heritage Conservation should be made prior to finalisation.

**SATISFACTORY ARRANGEMENTS**

A Government direction in November 2015 approved expanding the use of Special Infrastructure Contributions Plans (SIC) to priority precincts and priority growth areas to contribute towards the cost of State infrastructure.

A SIC is therefore being prepared concurrently with the 'GPOP Land Use and Infrastructure Strategy' to recoup costs associated with the Parramatta Light Rail, regional roads and open space, schools and affordable housing.

It is recommended that the Gateway determination be conditioned to include a satisfactory arrangements clause for contributions towards the provision of designated State public infrastructure.

**Assessment Process**

Proposal type :	<b>Inconsistent</b>	Community Consultation Period :	<b>28 Days</b>
Timeframe to make LEP :	<b>18 months</b>	Delegation :	<b>DDG</b>
Public Authority Consultation - 56(2)(d) :	<b>Australian Museum                  Department of Education and Communities                  Office of Environment and Heritage                  Transport for NSW                  Transport for NSW - Sydney Trains                  Transport for NSW - Roads and Maritime Services                  State Emergency Service                  Sydney Water                  Telstra                  Other</b>		

**Parramatta LEP 2011 - Remove building height and increase FSR at 197 and 207 Church Street and 89 Marsden Street, Parramatta (600 dwellings)**

Is Public Hearing by the PAC required? **No**  
 (2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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
Appendix 1 Site Survey.pdf	Proposal	Yes
Appendix 2 - Urban Design Report Part 1.pdf	Proposal	Yes
Appendix 2 - Urban Design Report Part 2.pdf	Proposal	Yes
Appendix 3 Statement of Heritage Impact.pdf	Proposal	Yes
Appendix 4 Traffic Assessment.pdf	Proposal	Yes
Appendix 5 Structural Advice.pdf	Proposal	Yes
Appendix 6 Wind Shear Assessment.pdf	Proposal	Yes
Appendix 7 Letter of Offer.pdf	Proposal	Yes
Appendix 8 SEPPs.pdf	Proposal	Yes
Appendix 9 Section 117 Directions.pdf	Proposal	Yes
Appendix 10 Flood Impact Statement - 197 Church Street, Parramatta.pdf	Proposal	Yes
Appendix 11 Design Excellence Competition Brief and Addendum including Flooding Measures.pdf	Proposal	Yes
Planning Proposal for 197 Church Street, Parramatta - Endorsed by Council 7 December 2015.pdf	Proposal	Yes

**Planning Team Recommendation**

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 2.3 Heritage Conservation**
  - 3.1 Residential Zones**
  - 3.4 Integrating Land Use and Transport**
  - 4.3 Flood Prone Land**
  - 6.3 Site Specific Provisions**

Additional Information : **SECTION 117 DIRECTIONS**

**It is considered that any inconsistency with s.117 Direction 6.3 Site Specific Provisions is of minor significance.**

**Should the planning proposal proceed, it is recommended the delegate agree that this**

inconsistency is 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 ahead of Council's Parramatta CBD Planning Strategy and associated CBD planning proposal, which have not as yet been officially lodged with, or endorsed by, the Department.

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

**RECOMMENDATION**

It is recommended that the planning proposal proceed subject to the following conditions:

1. Prior to community consultation, Council is to:

(a) consult with the Department of Infrastructure and Regional Development, as required by Section 117 Direction 3.5 Development Near Licensed Aerodromes. The proposal is to be amended, prior to exhibition, in accordance with the outcome of that consultation;

(b) consider whether supporting studies need to be updated to reflect the nature of the planning proposal as amended by condition 1(c) below.

(c) amend the planning proposal to:

(i) address the consistency of the proposal with the Draft West Central District Plan;

(ii) change the Explanation of Provisions to indicate a provision will require a maximum car parking rate in accordance with the Parramatta CBD Strategic Transport Study;

(iii) change the Explanation of Provisions and proposed height of buildings map to indicate that the maximum height of buildings for the site is subject to clause 7.4 Sun Access;

(iv) change the Explanation of Provisions to amend clause 7.4 Sun Access, to ensure direct access of natural sunlight, and no additional overshadowing occurs between 12pm – 2pm of the protected area of public domain within Parramatta Square (Note: this is not intended as a site-specific control but will apply to all land affected by clause 7.4);

(v) amend the proposed maximum FSR to ensure consistency with the FSR controls proposed for the site in the Parramatta CBD Planning Proposal (PP\_2016\_PARRA\_015\_00), and to ensure that the maximum potential FSR, including design excellence bonus, will comply with clause 7.4 Sun Access (as amended by condition 1(c) above) and the State Environmental Planning Policy 65 Apartment Design Guide;

(vi) include a satisfactory arrangements clause for contributions towards the provision of designated State public infrastructure;

(vii) include an assessment of State Environmental Planning Policy No.55 – Remediation of Land in relation to the site;

(viii) include the Council logo on the cover page;

(ix) include the entire street address for the site on the cover page;

(x) incorporate the tables identifying consistency with s117 directions and SEPPs into the

**Parramatta LEP 2011 - Remove building height and increase FSR at 197 and 207 Church Street and 89 Marsden Street, Parramatta (600 dwellings)**

body of the planning proposal (rather than attached as appendices); and

(d) the amended planning proposal is to be submitted to the Department of Planning and Environment for endorsement.

2. 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) the relevant planning authority 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 Local Environmental Plans (Department of Planning and Environment 2016).

3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage – Heritage Division
- NSW Aboriginal Land Council
- Department of Education
- Transport for NSW – Sydney Trains
- Transport for NSW – Roads and Maritime Services
- Sydney Water
- Endeavour Energy

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. 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).

5. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal holds merit as it is consistent with regional, metropolitan and local strategies in terms of facilitating additional housing and employment in an area well served by public transport and infrastructure. This will assist in strengthening Parramatta's role as Sydney's second CBD.

As Parramatta Square is the focal point of Sydney's second CBD and overshadowing plays a key role in ensuring its maximum usage, enjoyment and success, the sun access controls for the protected area of Parramatta Square should be introduced within Parramatta Local Environmental Plan 2011.

Finalisation of the plan should be coordinated with PP\_2016\_PARRA\_004\_00 for land at 48 Macquarie Street and 220-230 Church Street, Parramatta, to ensure that amended solar access controls for Parramatta Square are introduced ahead of, or via, this planning proposal.

Signature:



Printed Name:

Adrian Hohenzollern

Date:

13 / 7 / 2017