

**INNOVATIVE**

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| <b>ITEM NUMBER</b> | 18.5   |
| <b>SUBJECT</b>     | FOR APPROVAL: Planning Proposal and draft Development Control Plan for land at 197 and 207 Church Street and 89 Marsden Street, Parramatta |
| <b>REFERENCE</b>   | RZ/4/2015 - D07358670  |
| <b>REPORT OF</b>   | Project Officer Land Use   |
| <b>LAND OWNER</b>  | Holdmark Properties Pty Ltd  |
| <b>APPLICANT</b>   | DFP Consultants  |

**DEVELOPMENT APPLICATIONS CONSIDERED BY CENTRAL SYDNEY PLANNING PANEL: Nil****PURPOSE**

To seek Council's endorsement to publicly exhibit a revised Planning Proposal and a draft site-specific Development Control Plan for the subject site at 197 and 207 Church Street and 89 Marsden Street, Parramatta and to enter into negotiations for a Planning Agreement.

**RECOMMENDATION**

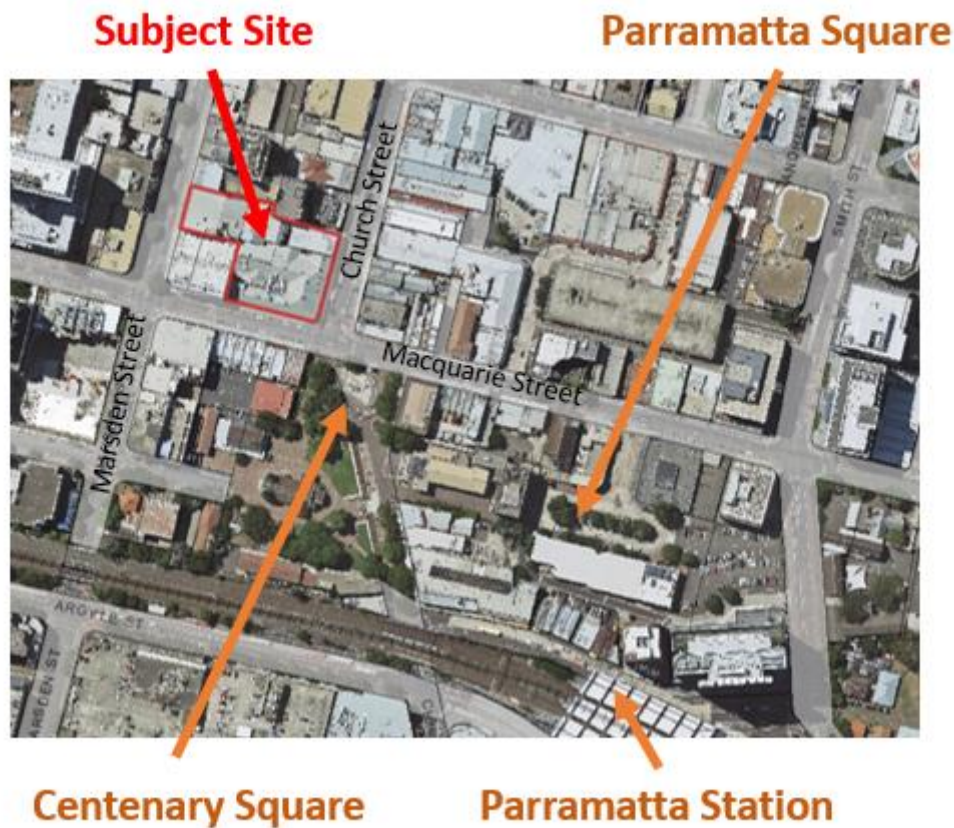
- (a) **That** Council endorse the Planning Proposal for 197 and 207 Church Street and 89 Marsden Street, Parramatta for the purposes of public exhibition (included as **Attachment 1**), subject to the following amendments:
- Apply an FSR of 10:1
  - Apply a height of part 105m part 12m;
  - Include provisions that require a minimum 1:1 commercial floor space be provided in any redevelopment and allow for unlimited commercial floor space to be provided;
  - apply the full range of car parking rates specified in the current draft Parramatta CBD Planning Proposal; and
  - ensure it reflects the amendments requested by the Gateway Determination conditions excluding those described in (b) below.
- (b) **That** Council request that amendments be made to the Gateway Determination to ensure that:
- The requirement to consult with relevant aeronautical agencies prior to exhibition is no longer required;
  - It is clear that the clause implementing the solar access protections requested in the Gateway conditions has already been implemented via a separate Planning Proposal. No further amendments are proposed to be made to the solar access clause notwithstanding some changes may be required to the height of buildings map; and
  - The requirement for a satisfactory arrangements clause seeking contributions to fund state provided public infrastructure be removed.

- (c) **That** Council endorse the draft Development Control Plan (DCP) at **Attachment 2** for public exhibition, subject to amendments contained in **Attachment 5** of this report.
- (d) **That** delegated authority be given to the Chief Executive Officer (CEO) to negotiate and endorse for exhibition a draft Planning Agreement that takes into consideration the Applicant's letter of offer (**Attachment 6**) and the following negotiating position:
- consistent with Council's Planning Agreements Policy and draft framework relating to Community Infrastructure in the Parramatta CBD;
  - require any contribution payable to be based on the Community Infrastructure policy in place at the time the contribution is paid rather than the current rate;
  - secure a 2m right of public access over the 2m ground floor setback along Marsden Street.
- (e) **That** Council grant delegated authority to the CEO to correct any minor anomalies to the Planning Proposal and draft DCP that may arise during the amendment process.
- (f) **That** Council no longer require an international design competition to be run for the subject site.
- (g) **Further, that** the Planning Proposal, draft DCP and draft Planning Agreement be publicly exhibited concurrently and the outcome of the public exhibition be reported back to Council.

## **BACKGROUND**

### THE SITE

1. The subject site is located on the north-western corner of the intersection of Church Street and Macquarie Street, Parramatta. This is a prominent location within the Parramatta City Centre as it is directly north of Centenary Square and Parramatta Square; two key elements of the public domain within the City Centre.
2. The subject site consists of two lots (Lot 1 DP 710335 and Lot 1 DP 233150) with a total site area of 4,307.4m<sup>2</sup>. It is an irregular shape and has a frontage to Church Street to the east, Macquarie Street to the south, and Marsden Street to the west. It is approximately 250m north of the Parramatta Transport Interchange and 420m south of the Parramatta River (see **Figure 1**).



**Figure 1: Subject Site Location**

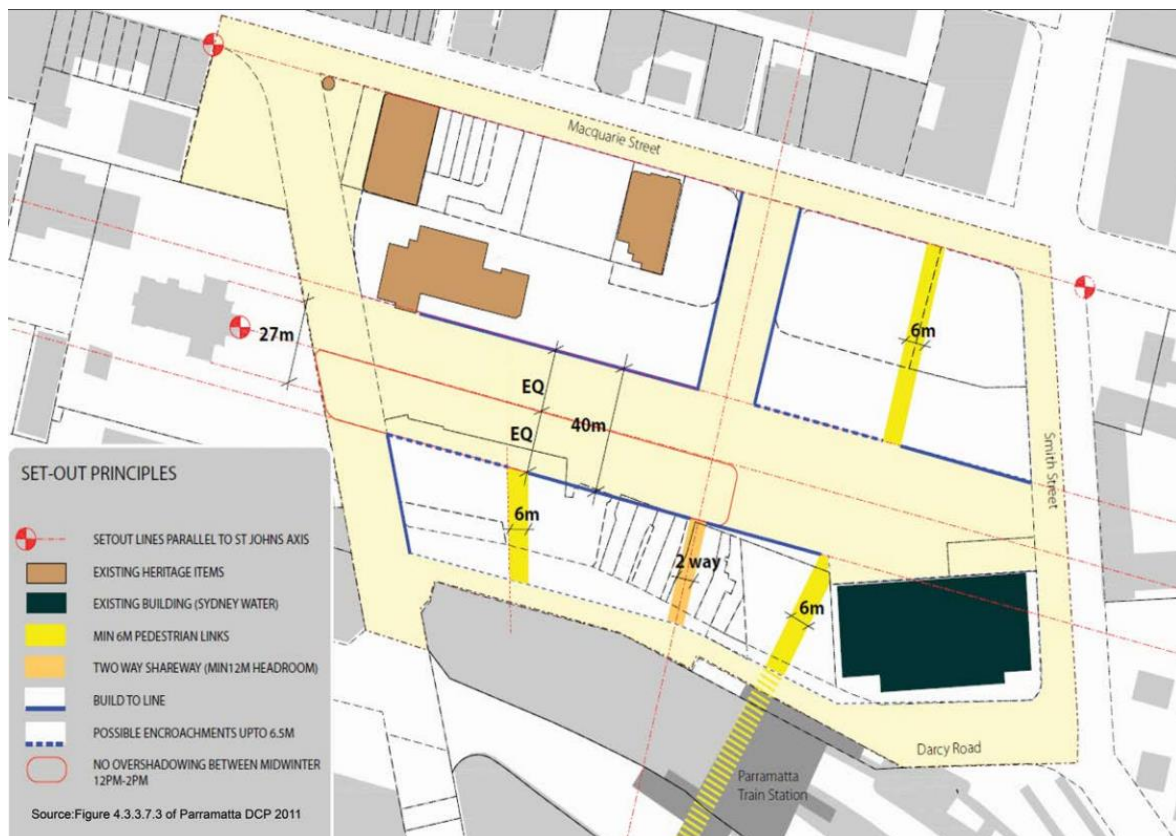
3. A mix of two and three storey retail and commercial buildings currently occupy the site, which includes Heritage Item No.655 (shop and potential archaeological site). The Heritage Item, referred to as the Murray Brothers department store, was built in 1925 with the original façade marking the beginning of Church Street and its fine grain retail component. The surrounding development consists of a mixture of commercial and retail uses.

## HISTORY

4. Prior to the Planning Proposal for the subject site being lodged with Council a Preliminary Planning Proposal (PPP) was lodged for the subject site in April 2014. At the same time PPPs were also lodged for adjoining sites at 20-22 Macquarie Street and 220-230 Church Street and 48 Macquarie Street, Parramatta.
5. Preliminary Planning Proposals are lodged with Council prior to a formal detailed Planning Proposal being lodged when there is a key issue which requires Council direction. Usually the direction then given by Council is key to the preparation and content of any subsequent Planning Proposal or may mean the lodgement of a Planning Proposal is not feasible or appropriate. In the case of the PPPs described above the two key issues were related to height and overshadowing.
6. At the time these were being considered the Parramatta CBD Planning Proposal was in a preliminary stage involving the preparation of documents to request a Gateway Determination. While Council had not formally resolved to prepare a Planning Proposal Council had endorsed a position where an FSR of

10:1 and unlimited building height was being considered for the precinct containing the three PPPs.

7. In particular allowing tall slender towers as proposed in the three PPPs would result in overshadowing of a portion of the public domain of Parramatta Square (refer to Figure 2 which shows portion to be protected) which was at that time protected by a control in the Parramatta LEP 2011 which referenced supporting controls in the Parramatta DCP 2011. The key issue was whether Council should allow some overshadowing of the protected portion of the Parramatta Square Public domain to allow tall slender towers to be feasible on these sites.



**Figure 2: Portion of Parramatta Square to be protected from overshadowing outlined in red**

8. **Attachment 3** contains a more detailed summary of the Preliminary Planning Proposals and their assessment. Following a number of Councillor Briefings and reports to Council it resolved to allow the proposals to be considered on their merit with an FSR of 10:1. This decision resulted in a formal Planning Proposal being lodged for each site.
9. The Planning Proposal for the subject site was lodged on 9 March 2015. The proposal as originally submitted sought to allow a height of 250m or 80 storeys and a GFA of 71,000m<sup>2</sup> as well as exemptions from design competition processes and other LEP clauses. However, during the assessment the applicant made some amendments to the proposal. The final proposal from the applicant reported to Council sought to:
- increase maximum FSR from 3:1 and 4:1 to 16.5:1 (inclusive of Design Excellence) instead of a Gross Floor Area control of 71,000 m<sup>2</sup> within a Site Specific Clause

- remove the application of a Maximum Building Height control, or if Council considered a height control necessary increase maximum Building Height from 12 metres and 36 metres to 250 metres (inclusive of Design Excellence)
  - pursue an International Design Competition at an appropriate stage of the development process.
10. On 23 November 2015 Council had resolved to amend the DCP controls that applied to the Parramatta CBD at that time to protect a portion of the Public Domain of Parramatta Square. Council sought to introduce a “45 minute rule” which allowed any development to the north of the Parramatta Square to overshadow the protected portion if the shadow moved quickly across Parramatta Square. In order to comply, the shadow cast by any development on June 26 should move across the Square so no single point of the protected portion remained in shadow for more than 45 minutes between 12 noon and 2pm.
11. The assessment of the Planning Proposal was considered by Council on 7 December 2015 and Council’s resolution included the following:
- (a) **That** Council endorse the Planning Proposal in Attachment 1 subject to it being modified as follows:
- To incorporate the recent changes proposed by the applicant detailed in the section of this report titled ‘Final Planning Proposal’ for 197-207 Church Street, Parramatta.
  - Provide an increase in FSR to 15:1 (excluding design excellence) subject to compliance with the sun access provisions of Clause 29E of PCCLEP 2007, including the “45-minute rule” for overshadowing of the solar zone of Parramatta Square and SEPP 65.
  - Inclusion of a clause requiring an international design competition.
  - A height to be determined by the design competition as described in (b).
- (b) **That** the applicant work collaboratively with the CEO to draft a brief for an international design competition to design a building on the site, demonstrating compliance with the sun access provisions (Clause 29E of PCCLEP 2007) including the “45-minute rule” for overshadowing of the solar zone of Parramatta Square and SEPP 65. In particular, any future building on the site must demonstrate a built form that appropriately addresses the building separation controls of the ADG to ensure future development on adjacent sites is not compromised (including 20-22 Macquarie Street, Parramatta).
12. On 13 July 2017, a Gateway Determination was received by Council on behalf of the Greater Sydney Commission that the Planning Proposal should proceed subject to a number of conditions. Conditions required the following amendments of relevance to the subject Planning Proposal:

- (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 Policy 65 Apartment Design Guide.*
13. The Gateway Determination issued for the subject site did not support the 45 minute rule endorsed by Council. It sought to put in place a control that would supersede the “45 minute rule” Council included in the Parramatta CBD DCP. The Department of Planning considered that the level of overshadowing of the protected portion of Parramatta Square was inappropriate. It raised concern that the “45 minute rule” allowed for numerous developments north of Parramatta Square to overshadow the protected portion of Parramatta Square and that the cumulative shadow impact from all these developments resulted in unacceptable levels of overshadowing.
14. Between July 2017 and August 2018 the applicant sought via the Gateway Review process, which allows Council or the applicant to appeal against any condition of the Gateway Determination, to appeal to have the condition relating to shadowing of Parramatta Square removed from the Gateway Determination. The applicant was seeking to have the “45 minute rule” remain as the policy that would determine the level of overshadowing permitted over Parramatta Square. The outcome of the review process was that the Independent Planning Commission issued advice on 2 July 2018 that supported the retention of the solar access conditions of the Gateway determination made on 13 July 2017.
15. It should be noted that a similar condition requiring a new clause to supersede the Council’s “45 Minute rule” was also required in Gateway Determinations issued for 20-22 Macquarie Street and 220-230 Church Street & 48 Macquarie Street. The Planning Proposal for 220-230 Church Street and 48 Macquarie Street has been finalised so Clause 7.4(2) in Parramatta LEP 2011 is in effect and it protects the relevant portion of Parramatta Square from overshadowing between 12 noon and 2pm all year round. While the 45 minute rule remains in the current Parramatta Town Centre DCP 2011 it is superseded by Clause 7.4(2) and has no effect.
16. In addition in finalising the Parramatta CBD Planning Proposal for submission to the Department of Planning, Industry and Environment for a Gateway Determination, so the Parramatta CBD Planning Proposal can be endorsed for exhibition Council resolved on 25 November 2019 to apply a control that seeks to protect the relevant portion of Parramatta Square from any overshadowing between 12 noon and 2pm on 26 June.

17. In the middle of 2019 the applicant approached Council Officers and advised that they now wish to proceed with the Planning Proposal and wished to proceed with a commercial development that would comply with Clause 7.4(2) and since then Council Officers and the applicant have been working on:
- New reference design and new versions of the planning proposal and supporting documents, such as urban design reports, so that they are consistent with the conditions of the Gateway Determination
  - A Draft DCP to support the Planning proposal controls
  - Negotiating a Planning Agreement in accordance with Council's Community Infrastructure Funding Policy Framework.
18. The subject report seeks to have these documents endorsed by Council so the Planning Proposal and supporting documents can proceed to public exhibition.

### CURRENT PLANNING CONTROLS

19. The current controls that apply to the site under Parramatta LEP 2011 are:
- Zoning - B4 Mixed Use
  - The land fronting Church Street has a maximum building height of 12m (approximately 4 storeys) with the remainder of the site fronting Marsden and Macquarie Street having a height of 36m (approximately 12 storeys)
  - The land fronting Church Street has a maximum FSR of 3:1 with the remainder of the site fronting Marsden and Macquarie Street having an FSR of 4:1 (diagrams showing the zoning, FSR and height controls are contained in **Attachment 4**)
  - The subject site contains Heritage Item I655 – Shop and potential archaeological site which is locally listed under the Parramatta LEP 2011. Figure 6 shows the heritage item and the other heritage items in close proximity to the subject site.

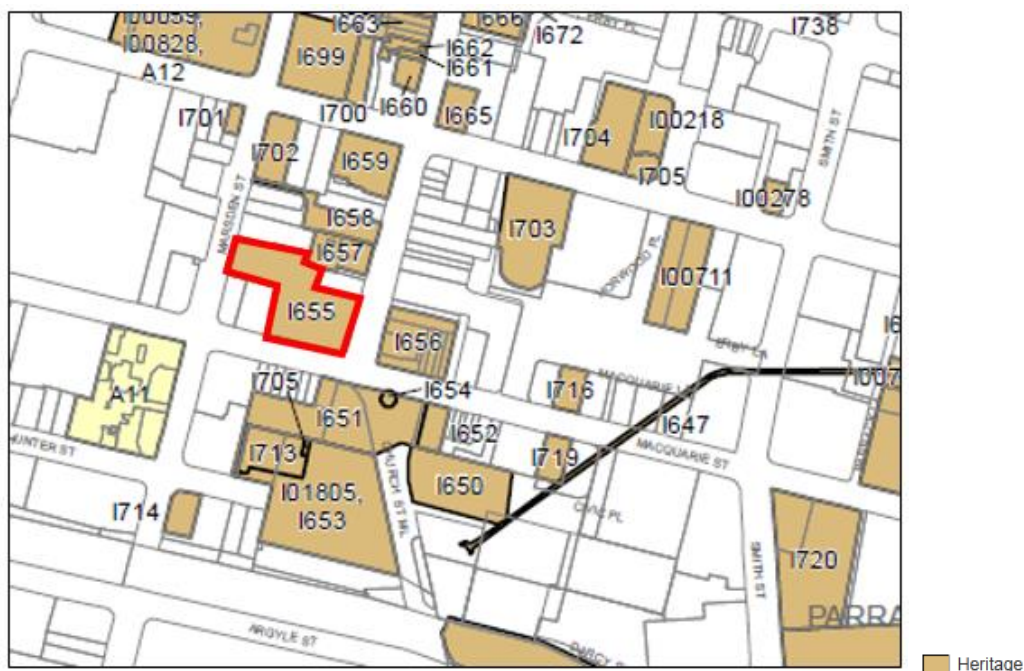


Figure 3: Heritage Map (subject site outlined in red)

## APPLICANT'S NEW DEVELOPMENT PROPOSAL

20. The Council resolution of 7 December 2015 required an international design competition be run. This competition was run but before a competition winner could be formally resolved it became apparent that all the winning designs could not comply with the solar access controls required by the Gateway Determination. A competition winner was not formally announced. The developments in the design competition were mixed-use developments with two buildings, being a commercial building and a residential tower. Figure 4 shows one of the design competition entries to demonstrate the nature of the building previously being considered with a very tall slender tower of approximately 83 storeys.

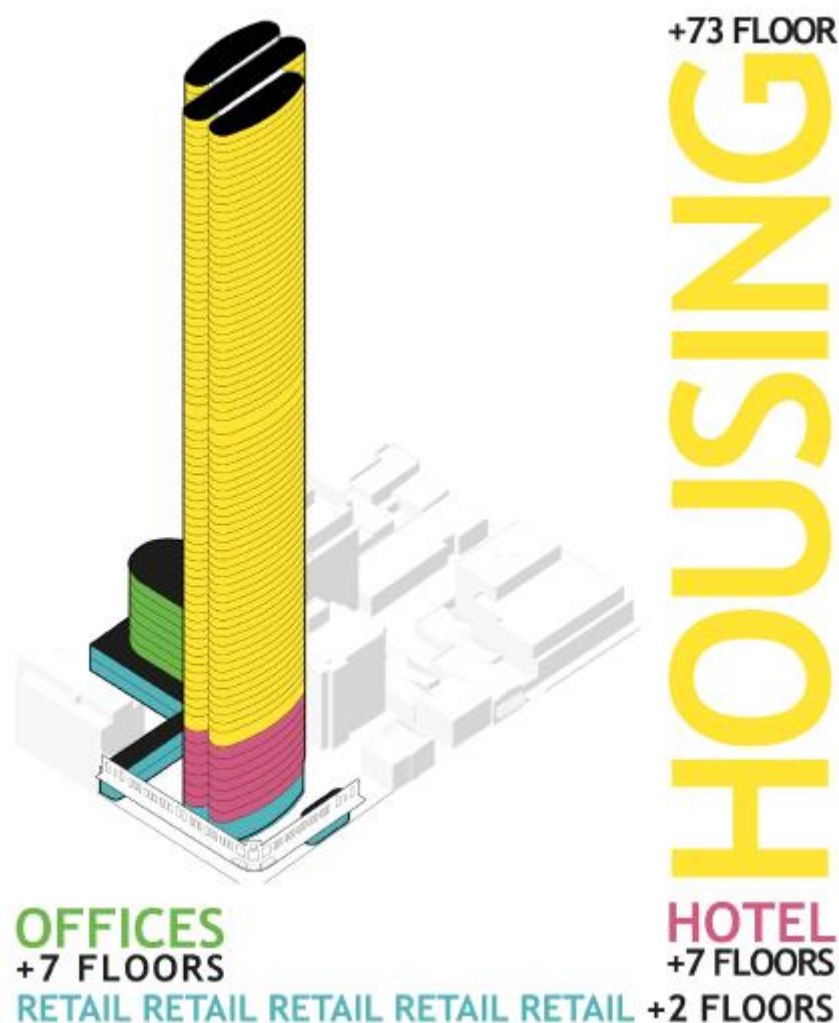


Figure 4: Design Competition Entry for 197 Church Street Site

21. The applicant's most recently submitted reference design is for a non-residential building made up of a mix of retail and commercial uses with no residential development. Figures 5 and 6 show the nature of the building now proposed by the applicant.
22. The applicant proposal comprises:
- A commercial tower above a primarily retail podium on the part of the site fronting Church and Macquarie Streets
  - A longer narrow building to be used for a hotel on the portion of the site that extends to Marsden Street.





**Figure 5: View from Macquarie Street looking west**



**Figure 6: Proposed massing concept of two towers**

23. Table 1 below provides a comparison of the height FSR and uses between the previous and current development proposals:

**Table 1: Comparison of Previous and Current Reference Designs for Subject Site**

|                     | <b>Current Controls</b>                                  | <b>Design Competition Entry</b>  | <b>Current Reference Design</b>  |
|---------------------|--|--|--|
| <b>Use</b>          | Permits mix of commercial and residential development    | 11,000m <sup>2</sup> Commercial Floor Space<br><br>Approx 600 Residential units<br><br>Approx. 100 hotel rooms | 32,510m <sup>2</sup> Commercial Floor space<br><br>Approx. 240 Hotel Rooms                 |
| <b>FSR</b>          | Part 3:1 and part 4:1                                    | 16.5:1   | 11.8:1   |
| <b>Height</b>       | Part 12m (3-4 storeys) and Part 36m (12 storeys)         | 250m (82 storeys)  | Part 12m (3-4 storeys) part 105m (32 storeys)  |
| <b>Solar access</b> | Clause 7.4 seeks to protect portion of Parramatta Square | Complied with 45 minute rule   | Complies with clause 7.4 ie does not overshadow the protected portion of Parramatta Square |

24. While the new proposal submitted is primarily for commercial uses the zoning will remain B4 Mixed Use which will still permit residential development. However, it will not be possible for the applicant to achieve an FSR close to 11.8:1 and still satisfy SEPP 65 Design Guidelines. If the proposal was to revisit an earlier mixed use residential tower design the FSR would be likely to be in the range of 8.06:1 and 8.21:1.

### **IMPLICATIONS OF NEW DEVELOPMENT PROPOSAL ON PLANNING PROPOSAL AND COMPLIANCE WITH GATEWAY DETERMINATION**

25. Council adopted the latest iteration of the Parramatta CBD Planning Proposal on 25 November 2015. In general terms, the Parramatta CBD Planning Proposal seeks to increase heights and FSRs in the Parramatta CBD, subject to the provision of community infrastructure and other requirements. The Parramatta CBD Planning Proposal remains Council's most recently endorsed policy position on density increases in the Parramatta CBD.

### **Consistency of Planning Proposal and Parramatta CBD Planning Proposal**

26. Table 2 compares the key planning controls identified for the subject site with the Parramatta CBD Planning Proposal:

**Table 2: Planning Proposal comparison to Parramatta CBD Planning Proposal**

| <b>Scenario</b>                       | <b>Current Controls</b> | <b>Parramatta CBD Planning Proposal Controls</b>   | <b>Recommended Site-specific Planning Proposal controls</b>  |
|---------------------------------------|-------------------------|--|--|
| <b>Land-Use</b>                       | B4 Mixed Use            | B4 Mixed Use   | B4 Mixed Use   |
| <b>FSR</b>                            | Part 3:1 Part 4:1       | Base: Part 3:1 and Part 4:1<br><br>Incentive: 10:1 (11.5 with bonus)   | 10:1 (11.5:1 with design excellence bonus) An additional 0.3:1 can be achieved via the unlimited commercial floor space clause<br><br>Meets site area for unlimited commercial floor space   |
| <b>HOB</b>                            | 18m<br><br>(6 storeys)  | Base:<br><br>Part 36 m (12 storeys) and part 12 m (4 storeys)<br><br>Requirement to comply with Sun Access Protection provision and 12 m for Church Street frontage          | Part 105 m<br><br>Part 12m on along Church Street frontage (4 storeys)<br><br>The Height of Buildings map will show – 105 m (32 storeys)<br><br>Compliance with Sun Access Protection provision  |
| <b>Land Acquisition</b>               | Nil                     | In the land reservation acquisition map the Marsden Street frontage of the site is subject to the requirement for provision of a regional cycleway                           | It is recommended that a Planning Agreement be negotiated to secure a 2m right of public access over the 2m ground floor setback area in order to ensure a satisfactory publically available footpath along Marsden Street   |
| <b>Minimum Commercial Floor Space</b> | Nil                     | Minimum 1:1 commercial floor space required in mixed use development<br><br>Unlimited commercial floor space permitted as long as site area of 1,800 m <sup>2</sup> achieved | Insert clause that will require minimum commercial floor space 1:1 and unlimited commercial floor space on this site (given the site area is greater than 1,800m <sup>2</sup> ) consistent with CBD PP<br><br>This will give the applicant the opportunity to apply for the FSR of 11.8:1 proposed in their development application subject to them meeting other Council requirements (refer to section on flooding below for further analysis) |
| <b>Active Street Frontages</b>        | N/A                     | Site identified on Active Frontage Map proposed for CBD PP   | The site-specific DCP requires active frontages on Church, Macquarie and Marsden Streets   |

|  |  |  |  |
|--|--|--|--|
| <b>High performing buildings (residential)</b> | N/A  | 5% high performing building bonus  | Solar access and Apartment Design Guide controls mean it is unlikely that site can achieve an FSR up to 11.5:1 so a 5% bonus to allow the site to achieve 12:1 total FSR is not feasible                   |
| <b>High Performing buildings (commercial)</b>  |  | Office premises with a gross floor area (GFA) greater than 10,000m <sup>2</sup> are required to meet certain standards regarding energy and water targets. Dual piping to allow capacity for future use of recycled water. | The requirement of the CBD PP will be required to be met in a design competition brief to achieve Design Excellence  |
| <b>Parking</b>                                 | Parking Rates  | Endorsed Parking Rates consistent with City of Sydney CBD Parking rates - Category A. These are subject to future review when more detailed parking and traffic studies can determine if these rates should be amended.    | Insert Clause setting site specific parking rates as per Council's resolution on CBD Planning Proposal and Gateway Determination condition. Refer to further comments below on which rates will be applied |
| <b>Solar Access</b>                            | Clause 7.4 seeks to protect Parramatta Square from overshadowing | Clauses proposed to retain protection to portion of Parramatta Square between 12 noon and 2pm measured on 26 June.   | Refer to comments on solar access protection in section on compliance with Gateway Determination Conditions below  |

### **Evolution of Car Parking Rates to be applied in Site Specific Planning Proposal**

27. The application of parking rates in the Parramatta CBD has been evolving as the Parramatta CBD Planning Proposal has evolved. Council on 10 April 2017 made a decision to apply the City of Sydney Category A parking rates. The Department of Planning, relevant Transport Agencies and Council have agreed that Site Specific Planning Proposals can proceed ahead of the transport plan currently being undertaken as part for the Parramatta CBD Planning Proposal if these controls are applied. As a result of this Clause 7.14 "Car parking for certain land in Parramatta City Centre" has been introduced into Parramatta LEP 2011 and has been applied to six sites in the CBD. Two sites have had the same controls as those contained in Clause 7.14 applied separately in site specific clauses.
28. Clause 7.14 contains controls based on the City of Sydney Category rates applying two sets of rates one set for residential development and a second formula that applies to all non-residential development.
29. However, when endorsing the latest version of the Parramatta CBD Planning Proposal it was amended to include a more detailed cross section of car parking rates that apply to a range of uses. It is recommended that the latest Planning Proposal makes it clear that the parking rates currently specified in the Parramatta CBD Planning Proposal will be applied to this site rather than just the two rates in Clause 7.14. This will require either a rewriting of Clause

7.14 or the introduction of a new clause, including the broader range of rates, so that this site specific planning proposal, and site specific proposals in the CBD that follow, will have the broader range of rates applied as their parking rates. This is important for this site as it now proposes a hotel and there is a particular rate for hotels specified. It will also mean moving forward that other site specific Planning Proposals will be more consistent with the Council policy framework.

30. The rates in clause 7.14 will continue to apply to the eight sites already rezoned and the rates will change for these sites when the Parramatta CBD Planning Proposal is finalised and clause 7.14 is superseded by the new Parramatta CBD Planning Proposal clauses.

### **Compliance with Gateway Determination**

31. The Gateway Determination requires various amendments to be made to the Planning Proposal and that it be sent to the Department of Planning, Industry and Environment for their review prior to it being placed on public exhibition. Given this requirement Council Officers recommend Council takes the opportunity to request these amendments be made to the Gateway Determination at the same time.

*a. Requirement to Consult with Aeronautical Agencies:*

The Gateway Determination requires Council to consult with aeronautical agencies prior to exhibition. However, this requirement is based on the previous controls which proposed a height of 250m. Under the current proposal the maximum height is 105m below the height at which buildings will begin to impact on aeronautical operations. For this reason Council should request the requirement be removed from the Gateway Determination.

*b. Solar Access Protections:*

The conditions of the Gateway Determination require the Planning Proposal be amended to insert a new solar access clause for Parramatta Square. However as explained earlier a clause that achieves the Department's proposed outcome has already been included in the Parramatta LEP 2011 (i.e. clause 7.4) via a separate Planning Proposal which has already been finalised. Given the solar access protection clause is already in place and will apply to the subject site, it is potentially confusing to put on exhibition a Planning Proposal that suggests it will be implementing the same clause again. However, it may be necessary to amend the height of buildings map. Council Officers consider there is no policy impact if this requirement is now amended in this Planning Proposal. For these reasons Council should request that this condition be amended.

*c. Satisfactory arrangements clause for contributions towards provision of designated state public infrastructure:*

State Government has to date yet to implement the State Infrastructure Contribution (SIC) requirement that it has been flagging that it will implement over the last 5 years. State Government agencies have been inconsistently requesting Council apply a satisfactory arrangements clause which would require the applicant to make a contribution towards State Government infrastructure even if the SIC is never implemented.

Where State Agencies have requested during the exhibition process that this clause be applied to Council Planning Proposals, Officers have raised concern that the application of these clauses is inconsistent and does not treat all developers in the Parramatta CBD equitably.

For the same reasons it is recommended Council requests the Department amend the Planning Proposal to remove the requirement to include a satisfactory arrangements clause.

### Summary – Content of Planning Proposal

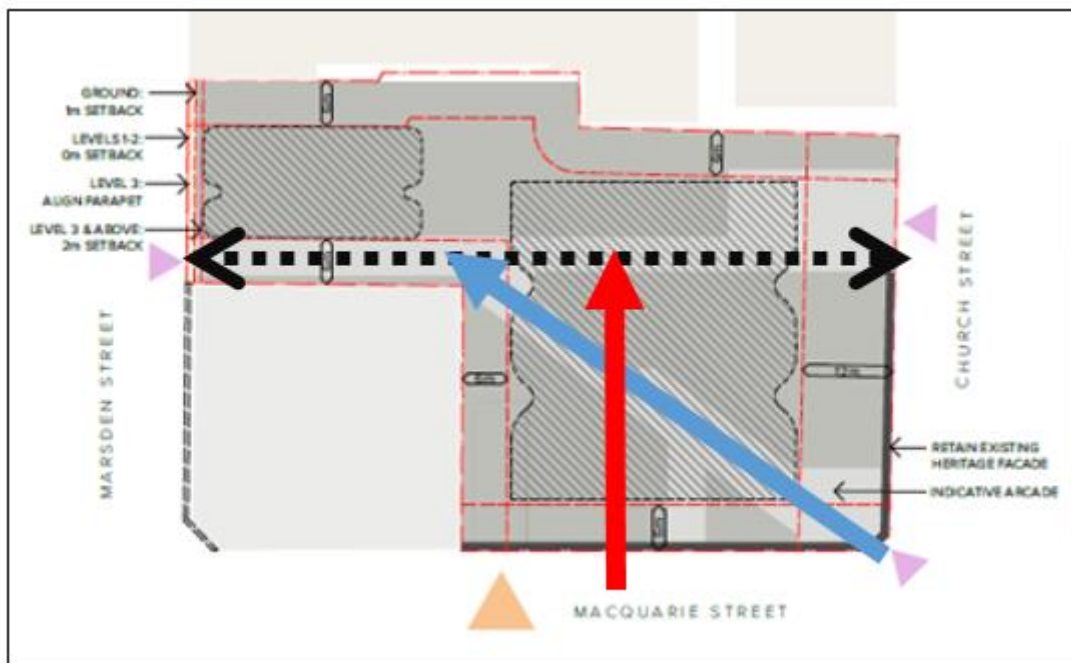
32. The Planning Proposal enclosed with this report as **Attachment 1** is either consistent with the Parramatta CBD Planning Proposal or will be amended prior to submission to the Department of Planning, Industry and Environment to ensure:
- a. it is consistent with Table 2 above
  - b. applies the full range of car parking rates specified in the current iteration of the Parramatta CBD Planning Proposal
  - c. reflects the amendments requested to the Gateway Determination conditions described in Paragraph 31 of this report.

### DEVELOPMENT CONTROL PLAN

33. The Applicant has prepared a draft DCP (**Attachment 2**) that has been reviewed by Council Officers. The draft DCP will be incorporated into the Parramatta CBD DCP and most of the controls in the current CBD DCP will continue to apply, but the site specific aspects dealt with in the proposed site specific DCP are:
- a. Built Form Controls – primarily setbacks for podium and tower elements
  - b. Public Domain controls – requiring activated frontage and a through site link
  - c. Traffic and Transports controls – primarily dealing with access and loading arrangements
  - d. Heritage – making reference to relevant Heritage Studies that should be considered when incorporating the existing heritage elements in to the design of any future redevelopment.
34. Council Officers recommend that some additions and changes to the Applicant's draft DCP are made prior to its exhibition. These changes are detailed in **Attachment 5** and discussed in the below sections.

### Key Change Relating to Pedestrian Entry Point

35. A key change that Council Officers are recommending to the Applicant's draft DCP is to the pedestrian access through-site link proposed by the applicant at the corner of Church and Macquarie Streets. This has implications for a number of sections of the draft DCP, and resulting changes are reflected in the recommended changes to DCP controls contained in **Attachment 5**.
36. The diagram below shows two potential locations of the main entry point from Macquarie Street and path of travel through the site connecting to the through site-link from Church Street to Marsden Street. The Applicant's preference is shown with a blue arrow (Option A), while Council officer's preference is shown with a red arrow (Option B).



**Figure 7: Pedestrian Arcades – Applicant's preference shown with blue arrow (Option A); Council officer's preference shown with red arrow (Option B). Arrow shown with black dashed line is the through site link agreed by both parties.**

37. Council's Urban Design officers recommend that the pedestrian access point should instead be on Macquarie Street (red arrow) for the following reasons:
- a. A preference for a 'solid' corner to help define the intersection at Church and Macquarie Streets, as well as the northwest corner of Centenary Square.
  - b. To integrate with the existing and future network of laneways in the CBD, most importantly the future lane proposed to run north-south along the edge of the Planning Proposal at St John's Cathedral.
  - c. The majority of the design competition submissions showed a pedestrian access to the site on Macquarie Street, rather than at the corner of Macquarie and Church Streets.
38. The Applicant has provided a detailed analysis to justify retention of the through site link from the corner of Macquarie / Church Streets (blue arrow) arguing that their proposed link:
- a. Provides for more viable retail outlets.
  - b. In their opinion is more consistent with the existing and proposed future pedestrian desire lines providing more pedestrian amenity to pedestrians in the CBD.
  - c. Minimises pedestrian vehicle conflicts because the only feasible location for the north south link preferred by Council Officers is adjacent to the proposed driveway.
39. Council's Land Use Planning Officers note that both cases have elements that suggest they can be supported and that neither option is necessarily unacceptable. However, for the sake of clarity only one option should be included in the draft DCP. Land Use Planning Officers recommend Option B (red arrow in figure 7) be included in the DCP for the following reasons:

- a. Council has already identified a new pedestrian link running north-south along the western edge of the St John's Cathedral site opposite this site across Macquarie St. The north-south link illustrated in Figure 7 will align better with this new link.
- b. The Applicant's argument is that that the critical desire line is the pedestrian desire line for people moving between the Parramatta Square/Centenary Square/ Station Precinct and areas on Marsden Street to the northwest. It is considered that the link proposed still adequately address these desire lines.
- c. The Applicant's claim that the north south link location is fixed is based on the reference design and the location of a service core. The reference design is not the final design and the site will still be subject to a design competition process where the service core and location of the through site link can be resolved in more detail to address the applicant's concerns.
- d. The Urban Design team's conclusion that Option B provides a more defined corner element.

### **Built Form Controls**

40. Council Officers are recommending amendments to the Built Form section of the Applicant's draft DCP. These are contained in **Attachment 5** (Item 1) and summarised as follows:
  - a. Changes to reflect the recommended amendment to the pedestrian entry point as discussed above
  - b. Strengthening of language relating to built form heritage
  - c. Strengthening of language relating to incorporating design features to mitigate wind impacts
  - d. Ensuring a minimum tower separation distance of 12m between the towers on site for non-residential uses, and 18m between residential uses.

### **Public Domain Design Controls**

41. Council Officers are recommending amendments to the Public Domain Design section of the Applicant's draft DCP. These are contained in **Attachment 5** (Item 2) and are summarised as follows:
  - a. Changes to reflect the recommended amendment to the pedestrian entry point as described above
  - b. Setting design controls for the pedestrian arcades which are proposed onsite in order to promote good design outcomes (accessibility, connectivity, etc.).

### **Traffic and Transport**

42. Council Officers are recommending three amendments to the Traffic and Transport section of the Applicant's draft DCP, as discussed below.
43. First, the Applicant proposes a set-down area for vehicles on the Marsden St frontage. Council officers recommend removal of this control, as Council officers consider that there are potential conflicts with pedestrian footpath, bike path and vehicle traffic associated with locating a vehicle set-down at this point and these matters have not been resolved at this point in time. It is



recommended that this issue is further examined at Design Competition and Development Application stage, rather than introduce a control into the DCP.

44. Second, the Applicant's draft DCP refers to existing parking controls that are not consistent with the Gateway Determination and are not recommended to be included in this Planning Proposal. Therefore, it is recommended that the reference to existing parking controls be removed.
45. Third, this section of the Applicant's draft DCP contains a key diagram which shows the layout of the site, including tower locations, setbacks, vehicular and pedestrian access points, etc. Council Officers are recommending changes to this diagram to reflect the key change to pedestrian entry point above, as well as to accord with the setback controls otherwise discussed in **Attachment 5** (Item 3). A copy of this diagram is included below.

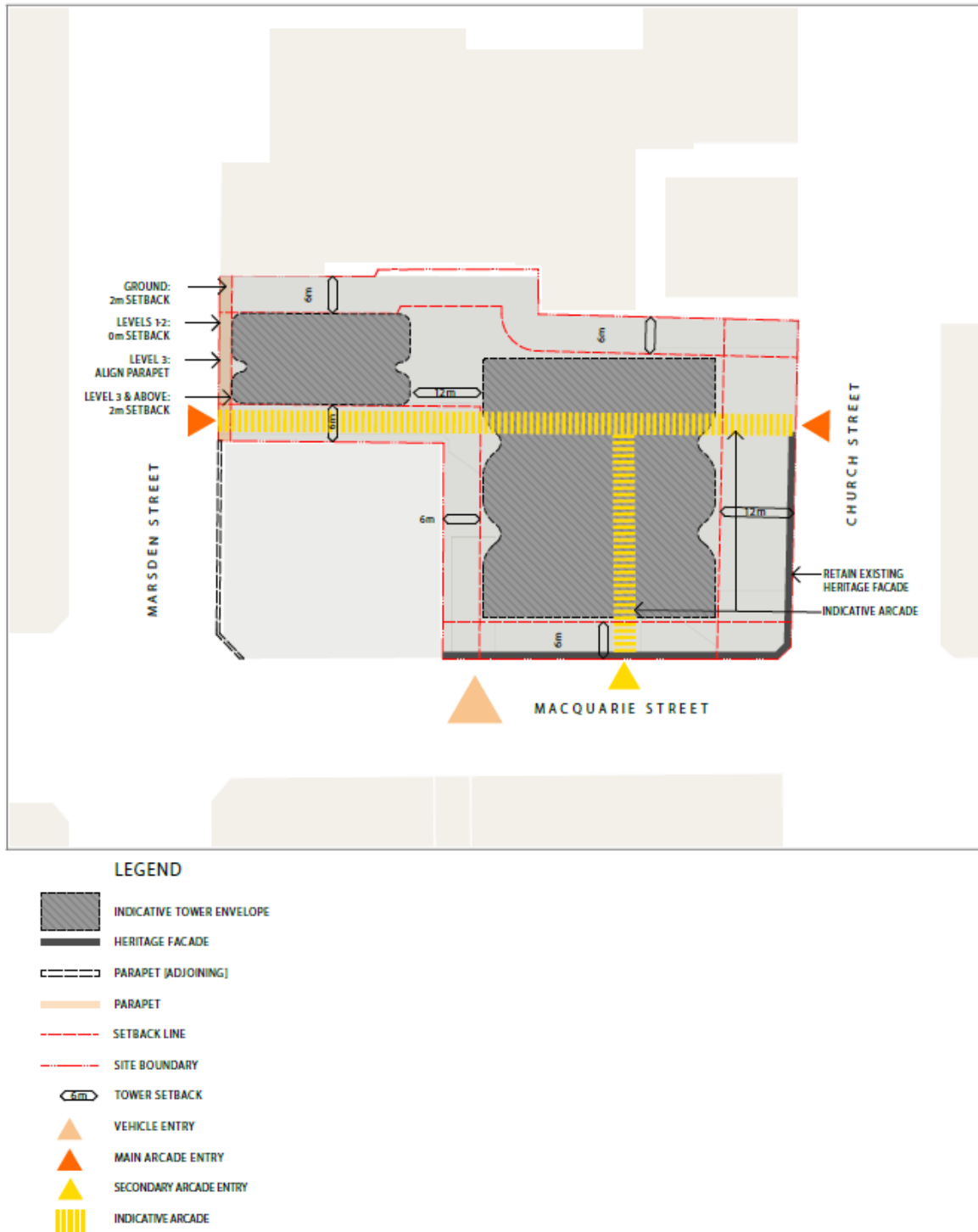


Figure 8: Recommended amended diagram for insertion in DCP – Traffic and Transport section

### Heritage

46. The Applicant’s reference design provides for the retention of the facade of the Murray brothers building along Church Street and Macquarie Street. The Statement of Heritage Impact in support of the original planning proposal favoured retention of the façades as the best means of preserving a significant measure of the building’s fabric and its contribution to the city.
47. In the Council report of 7 December 2015 on the original proposal Council officers commented (paragraph 64) that the facade and internal structure of the building contributed to the fine grain retail streetscape of Church Street and contribute strongly to the town centre history of the city centre. Council Officers

sought that the fabric of the original Murray Bros Store be kept (including elements of internal structure and the caretakers flat) not just the facade.

48. Council's resolution of 7 December 2015 included that "The design competition brief must require entrants to retain the heritage façade of the existing building on the site." The brief was prepared accordingly, and the design competition submissions for the competition previously held generally contemplate retention of the heritage façade only.
49. Taking into account Council's previous resolution on this matter, Officers recommend minor changes to the Applicant's draft DCP relating to heritage. The new section included at **Attachment 5** (Item 4) reflects retention of the heritage façade as per Council's resolution, and also recommends some minor changes including:
  - a. strengthening of language to incorporate (rather than "consider") the recommendations of the original heritage report supporting the Planning Proposal, as well as any archaeological items found on site
  - b. ensuring creation of new access arrangements minimises impacts on heritage facade
  - c. to consider opportunities to incorporate the existing heritage fabric
  - d. to acknowledge nearby heritage items.

### **Street Wall / Ground floor Controls**

50. Council Officers recommend addition of new sections relating to street wall and ground floor design to the Applicant's draft DCP; the new sections are included at **Attachment 5** (Item 5). These controls draw on the controls that were written for the neighbouring Planning Proposal site at 20 Macquarie Street. Key features of these controls include the following:
  - a. Providing detailed design controls about the treatment of street walls to ensure good design outcomes such as solidity of building form, good articulation, pedestrian shelter, and richness in detail at the pedestrian level
  - b. Discouraging undercrofts or other features which amplify the presence of the tower to the street
  - c. Acknowledging the public domain needs of future Light Rail
  - d. Providing for a positive pedestrian experience at ground level through controls that promote such outcomes as human scale design, fine grain street frontage, good articulation, treatment of slope at the ground plane, and legibility of entrances
  - e. Ensuring security doors and grilles do not detract from the public domain.

### **Flooding**

51. The Applicant's reference design includes a basement level supermarket. Council Officers have concerns about this matter from the point of view of flooding.
52. This supermarket impacts on the FSR achievable on this site as the FSR may decrease by approximately 1:1 if the supermarket is not approved on flooding grounds.

53. Generally, Council Officers recommend that Council not support habitable and retail floor space in basements in areas subject to flooding. The subject site is within the area inundated in flood events up to and including the Probable Maximum Flood (PMF). However, the Applicant has suggested that there are engineering methods that protect the basement space from inundation up to the PMF and that they should be permitted to pursue these.
54. Council Officers acknowledge that a system of engineering barriers and gates can be implemented but only consider these to be appropriate for non-habitable areas such as basements and plant and equipment but not for habitable and retail floor space which represent a higher level of risk.
55. Council Officers are recommending a set of additional flooding and drainage related controls to make it clear what Council's policy position is on the habitable and retail floor space in basements and the flooding/drainage related requirements. A copy of these controls are provided in **Attachment 5** (Item 6). The Applicant has advised that they will continue to seek approval for a basement supermarket as part of any design competition and Development Application process and so will seek to vary the DCP in the future.

#### **Other Amendments to DCP**

56. Other amendments to the Applicant's DCP recommended by Council Officers are as follows:
  - a. Amendments to ensure the DCP is consistent with the provisions of the Planning Proposal, as otherwise discussed in this report (for instance, to ensure that the instrument change facilitated by the Planning Proposal is accurately described in the DCP)
  - b. Amendments to ensure that titles in the DCP reflect the current format of titles in Parramatta Development Control Plan 2011 (i.e. "Objectives" and "Controls")
  - c. Administrative amendments (for example, to ensure section numbering, formatting and references to figures are accurate and consistent with PDCP 2011).

#### **VOLUNTARY PLANNING AGREEMENT**

57. Council's resolution of 7 December 2015 included the authority to proceed with negotiations for a voluntary planning agreement. The outcome of negotiations was to be reported back to Council prior to the public exhibition of the planning agreement together with the amended scheme.
58. The Applicant has amended their proposal and indicate that it will be developed for non-residential (commercial) purposes. The community infrastructure (i.e. value sharing) provisions of the draft Parramatta CBD do not apply to the increase of commercial floor space proposed for the subject site.
59. However, Council's practice is to require a Planning Agreement for any Planning Proposal in the B4 Mixed Use Zone, because any future use could include residential development. As such, a Planning Agreement is still required to be entered into, albeit with a condition that the contribution will only be

delivered in the case where the site is developed incorporating residential development. If the applicant were to develop in accordance with the latest reference design submitted to Council no contribution would be required.

60. The Applicant also submitted a letter of offer (**Attachment 6**) in February 2020 indicating that they are happy to work with Council on a draft VPA that deals with a potential residential use of the site, but that their development concept for the site is for commercial uses only.
61. Table 3 provides Council Officers' best estimate of what could be achieved under the current proposed controls if a residential development was to occur on the site. There is no reference design for residential development of this site that does not overshadow Parramatta Square, so the following floor space estimates are based on preliminary modelling undertaken by Council Officers. It was explained earlier that the FSR proposed by the Applicant can only be achieved for commercial development; once the requirements of SEPP 65 are factored into residential development, the maximum FSR achievable would reduce to approximately 8.2:1.

**Table 3: Contribution Required under Draft Parramatta CBD Community Infrastructure Framework if site is developed for residential purposes**

| <b>Development parameters</b>                                      |   |
|--|---|
| Site Area  | 4:1 part of site = 3,331.8 m <sup>2</sup><br>3:1 Part of Site = 975.6 m <sup>2</sup><br>Total = 4,307.4 m <sup>2</sup>  |
| Base FSR   | Part 4:1 and Part 3:1   |
| Base Gross Floor Area  | 4:1 Part of the site = 4 x 3,331.8 = 13,327 m <sup>2</sup><br>3:1 Part of the site = 3 x 975.6 m <sup>2</sup> = 2,926.8 m <sup>2</sup>  |
| Estimate FSR Achievable under Residential Scheme                   | 8.2:1 across whole site <sup>(1)</sup><br>4:1 Part of the site = 3,331.8*8.2 = 27,320.8m <sup>2</sup><br>3:1 Part of the site = 975.6*8.2 = 7,999.9m <sup>2</sup>   |
| <b>Phase 1 calculation</b>   |   |
| Uplift in gross floor area   | 4:1 Part of Site - (27,320.8m <sup>2</sup> – 13,327m <sup>2</sup> )= 13,993.8m <sup>2</sup><br>3:1 Part of Site - (7,999.9m <sup>2</sup> – 2,926.8m <sup>2</sup> )= 5,073.1m <sup>2</sup><br>Total Uplift = 13,993.8m <sup>2</sup> + 5,073.1m <sup>2</sup> = 19,066.9m <sup>2</sup> |
| Community infrastructure payment required at \$150 /m <sup>2</sup> | (19,066.9m <sup>2</sup> x \$150) = <b>\$2,860,035</b>   |

(1) Estimate of Council Officers of Maximum FSR achievable to comply with SEPP 65 Design Guidelines and Solar Access Controls

62. As part of the Parramatta CBD Planning Proposal work consideration is being given as to whether the community infrastructure rate should increase from the current rate of \$150 per square metre that would be applied in this case (Note: given the circumstance the \$375/m<sup>2</sup> rate for sites with floor space increases above 12:1 does not apply in this case).

63. Council has recently negotiated two agreements for sites in Aird Street and Marion Street where clauses were included, so that if Council does increase the rate at some time in the future as a result of its review then the contribution paid would be based on the higher rate rather than the \$150/m<sup>2</sup> currently applied. In negotiations Council should seek to impose a similar requirement in this case.
64. The DCP requires the ground floor of the building fronting Marsden Street to be given a 2m setback requirement. The purpose for this is to allow for a widening of the footpath as it appears possible that 2m portion of the existing footpath will need to be converted to accommodate a widened road that includes a dedicated bike path. This issue was also raised when Council considered the Planning Proposal for the adjoining site at 20 Macquarie Street.
65. Council is seeking to have a right of public access granted to Council over this 2m setback area to ensure that a publicly accessible footpath of equivalent width to the current footpath has been maintained. This arrangement is being negotiated with the adjoining owner of 20 Macquarie Street. This approach is taken as part of a balanced approach because the alternative is for Council to acquire the 2m strip of land. If the strip was acquired the developer would not be permitted to build car parking below the footpath or allow the building to encroach above the footpath or benefit from the FSR. However, with a right of way the applicant can maintain development rights above and below the 2m wide strip while Council achieves the desired pedestrian amenity by maintaining the footpath width.
66. It is recommended, consistent with the approach being taken on the adjoining site at 20 Macquarie Street, that a right of way be requested by Council which would be delivered to Council regardless of whether the site is developer for residential or commercial purposes.
67. In summary, it is recommended the Chief Executive Officer (CEO) be delegated to negotiate and finalise for the purpose of public exhibition a draft Planning Agreement that:
  - a. Is consistent with Council's Planning Agreements Policy and Draft Community Infrastructure Framework noting that a community infrastructure contribution would only be required if the ultimate development of the site incorporated residential development
  - b. Incorporates a clause that would require any contribution payable to be based on the community infrastructure policy in place at the time the contribution is paid rather than just apply the current rate
  - c. Seeks to secure a 2m right of public access over the 2m ground floor setback area in order to ensure a satisfactory publically available footpath is achieved along Marsden Street.

## **NEXT STEPS**

68. Council Officers recommend that:
  - a. Council forward the Planning Proposal and its request for amendments to the Gateway Determination to obtain their endorsement for the Planning Proposal to be exhibited
  - b. The draft VPA be negotiated and a copy be endorsed by the CEO under delegation to allow it to be exhibited with the Planning Proposal

- c. The Planning Proposal, draft DCP and draft VPA all be exhibited concurrently and the outcome of the exhibition process be reported to Council.

## **FINANCIAL IMPLICATION FOR COUNCIL**

69. It is proposed to negotiate a VPA with the Applicant that provides that, in the event there are any proposals for residential development, a monetary contribution would need to be paid. The best estimate available suggests Council would receive approximately \$2.8 million if the site was developed for residential instead of commercial purposes. The costs associated with the preparation, exhibition and finalisation of the Planning Proposal, draft DCP and draft VPA would be funded within the City Planning Unit budget, acknowledging that the budget includes a Planning Proposal fee paid by the Applicant to help offset the costs to Council of processing Planning Proposals.

Paul Kennedy  
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Robert Cologna  
**Acting Manager Land Use Planning**

David Birds  
**Group Manager, City Planning**

Jennifer Concato  
**Executive Director City Strategy & Development**

Alistair Cochrane  
**Acting Chief Financial Officer**

Brett Newman  
**Chief Executive Officer**

## **ATTACHMENTS:**

|          |   |             |
|----------|---|-------------|
| <b>1</b> | Revised Planning Proposal for 197 and 207 Church Street and 89 Marsden St, Parramatta | 43<br>Pages |
| <b>2</b> | Applicant Draft Development Control Plan (DCP)  | 10<br>Pages |
| <b>3</b> | Summary of Preliminary Planning Proposals   | 2 Pages     |
| <b>4</b> | Diagrams of Existing Planning Controls  | 2 Pages     |
| <b>5</b> | Recommended Amendments to DCP Controls  | 12<br>Pages |
| <b>6</b> | Letter of Offer   | 1 Page      |

## **REFERENCE MATERIAL**