

Planning Services

Plan Finalisation Report

Local Government Area: City of Parramatta

File Number: IRF18/1958

1. NAME OF DRAFT LEP

Parramatta Local Environmental Plan 2011 (Amendment No 28). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The planning proposal applies to land at 2-10 Phillip Street, Parramatta. The site has an area of approximately 2307m² and contains three allotments being Lot 1 DP 228697, and Lots 1 and 2 DP 986344 (Figure 1).

The site is within the Parramatta CBD, between the railway line and Parramatta River. The site is bounded by Phillip Street to the south, Marsden Street to the west, Phillip Lane to the east and an adjoining residential flat building to the north. The site contains a local heritage item, St Andrew's Church and hall, and these are proposed to be retained on site.



Figure 1: Aerial map of the site.

3. PURPOSE OF PLAN

The draft LEP seeks to amend the Parramatta Local Environmental Plan (LEP) 2011 as follows:

- increase the maximum floor space ratio (FSR) from 6:1 to 10:1 (with a maximum FSR of 11.5:1 including design excellence);
- increase the maximum height of buildings from 80m to 192m; and
- insert a site-specific clause in Part 7 – Additional Local Provisions of the LEP to:
 - identify the site as “Area 7” on the special provisions area map;
 - require a minimum FSR of 1:1 be provided as employment-generating, non-residential floor space; and
 - enable an additional FSR of 5.5:1 for the purpose of a hotel, and should the hotel use no longer be desired then this additional floor space may be converted to a commercial premise use but not a residential use. Note: design excellence is not applicable to the additional floor space.
- apply a maximum car parking rate provision that is in accordance with the Parramatta CBD Strategic Transport Study based on the following:

a) Residential parking rates

Type of apartment	Spaces/unit
three bedrooms	1 space/unit
two bedrooms	0.7spaces/unit
one bedroom	0.3 spaces/unit
studio	0.1 spaces/unit

b) Commercial parking rates

If the FSR > 3.5:1

$M = (G * A) / (50 * T)$ where:

M = maximum number of parking spaces;

G = GFA of all office/business premises in the building (m²);

A = Site Area (m²);

T = Total GFA of all buildings on the site (m²).

The current and proposed maps are provided at **Attachment G**.

The site is zoned B4 Mixed Use under the Parramatta LEP 2011 and the draft LEP will not rezone the site. The draft LEP will result in the provision of approximately 330 dwellings (27,800m²), 3000m² of non-residential uses including cafes, restaurants, and office space and a 7800m² hotel.

A draft site-specific development control plan (DCP) (**Attachment H**) was exhibited with the planning proposal to outline the finer details of the proposed building form, particularly its relationship to the heritage items within the site (i.e. former St Andrew's Church and hall).

City of Parramatta Council has agreed to enter into a voluntary planning agreement (VPA) (**Attachment I**) with the proponent. The VPA will include monetary contribution towards community infrastructure within the Parramatta CBD, the construction of a 3m-wide footpath on Phillip Lane, and an easement over the footpath to improve public access to the river foreshore.

There is also a concurrent development application (DA/1066/2016) lodged to construct a 55-storey mixed-use tower on the site comprising 305 residential apartments, 252 hotel rooms with associated function/conference facilities, retail uses, and nine levels of

basement parking. This application is under assessment and cannot be considered and determined by the Sydney Central City Planning Panel until the planning proposal is finalised.

The proposed development was the subject of a successful design competition in August 2016, enabling a 15% bonus on the site (11.5:1 FSR). The winning scheme was developed by Woods Baggot Architects and considered the relevant provisions of the design excellence clause (**Figure 2**).

If the maximum FSR can be achieved, the planning proposal will enable a total maximum FSR of 17:1 on the site, which consists of a base FSR of 10:1, a design excellence bonus of 1.5:1 and a hotel use of 5:5:1. This is a maximum FSR and the proponent will be required to further demonstrate the suitability of the site to accommodate this density through the development application process.



Figure 2: Winning design competition scheme.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Parramatta State Electorate. Dr Geoffrey Lee MP is the State Member for Parramatta.

The site falls within the Parramatta Federal Electorate. The Hon Julie Owens MP is the Federal Member for Parramatta.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 17 June 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions.

There have been three Gateway alterations issued for the planning proposal as follows:

- on 15 August 2016 (**Attachment D1**) to remove the requirement to publicly exhibit and notify specific state authorities concurrently with six other planning proposals;
- on 21 September 2017 (**Attachment D2**) to remove the need for mesoscopic modelling and replace it with a requirement for a maximum car parking rate in accordance with the Parramatta CBD Strategic Transport Study; and
- on 22 February 2018 (**Attachment D3**) for a six-month extension.

The planning proposal is due for finalisation by 24 June 2018.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the planning proposal was publicly exhibited by Council from 25 October to 24 November 2017. During the exhibition period, Council received 18 community submissions, 16 of which were proforma submissions. Several community submissions raised concerns in relation to construction, noise, rubbish and air pollution, solar access and privacy. Council advised that these matters are development application issues and will be addressed at that stage (**Attachment J1**).

The community submissions raised the following matters:

- there is inadequate building separation between the proposed development and the existing apartment block at 101 Marsden Street;
- the proposed development is out of context with the existing heritage item (i.e. former St Andrew's Church) on the site and does not respect the item. In addition, the current development application indicates that the heritage item will be demolished;
- the proposed vehicle access from Marsden Street, adjacent to the entry for 101 Marsden Street, will be unsafe for pedestrians as the footpath will be compromised;
- the proposed median strip along Marsden Street will restrict access for existing residents at 101 Marsden Street and change the pattern of the road;
- the impact to the heritage item foundations (i.e. church hall) if access is permitted from Marsden Street; and

- the number of cars the proposed development will generate in addition to all future development in the city centre.

Council's response (**Attachment J1**) to these community submissions is summarised below:

- Council's site-specific DCP includes provisions for the amenity of the surrounding buildings, lanes and public spaces, which are protected by appropriate setbacks and requirements under State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65);
- the planning proposal has been the subject of extended urban design analysis and heritage impact assessment with respect to the proposed treatment of the heritage items, including the preparation of a site-specific DCP to guide the proposed development and retain the heritage on the site. In addition, the proponent has confirmed that the heritage item will not be demolished and Council advised that the impact on the item is balanced with the public benefits of widening Phillip Lane;
- Council notes that the proposed access from Marsden Street may restrict access for existing residents. However, from a traffic safety perspective, a median strip is required to manage the broader operation of traffic within this area. A provision is contained within the site-specific DCP in relation to vehicular access, which includes that any required alterations to the rear of the heritage item (i.e. church hall) should ensure that original fabric is retained as far as possible; and
- the parking rates adopted for the Parramatta CBD planning proposal will result in a significant reduction in car parking and ensuing traffic within the CBD, and this will be applied to the site.

It is considered that Council has adequately addressed the issues raised by the community submissions and that they do not warrant amendment to the planning proposal.

7. ADVICE FROM PUBLIC AUTHORITIES

Council consulted public agencies in accordance with the Gateway determination. Council received 13 submissions from the following public authorities: Civil Aviation Safety Authority; Bankstown Airport; federal Department of Infrastructure and Regional Development; Sydney Airport; Air Services Australia; Endeavour Energy; Transport for NSW; Sydney Trains; Sydney Water; Department of Education; Roads and Maritime Services (RMS); Office of Environment and Heritage; and Heritage Council. It is noted that Council did not receive submissions from Transport for NSW – Ferries, State Emergency Service or Telstra.

These public agencies did not raise any objections to the planning proposal, but identified issues to be addressed at the development application stage including access arrangements, car parking rates, airspace, infrastructure capacity, public transport services and heritage.

Council addressed the public agency comments in its report at **Attachment J1** and advised that most of the issues will be considered at the development application stage. However, the key issues and Council's responses are summarised below.

Traffic and access issues

RMS (**Attachment K1**) did not object to the planning proposal, but recommended the inclusion of a DCP provision, which identifies left in/out access from Marsden Street and a median strip extending across the width of the driveway. These changes were

recommended given the potential impact on the operation of the traffic signals at the Marsden and Phillip Street intersection.

It was also noted that Phillip Lane would not be a suitable access point as the laneway is proposed to be a “shared zone” subject to approval by the Parramatta Local Traffic Committee and RMS.

Therefore, Council has recommended to amend the VPA to include a clause that will implement a restriction on the title, which designates left in/out vehicular access from Marsden Street (Figure 3) and, if varied, that an alternative access arrangement must be agreed to and approved by Council and RMS. In addition, the site-specific DCP will include a provision in relation to access.

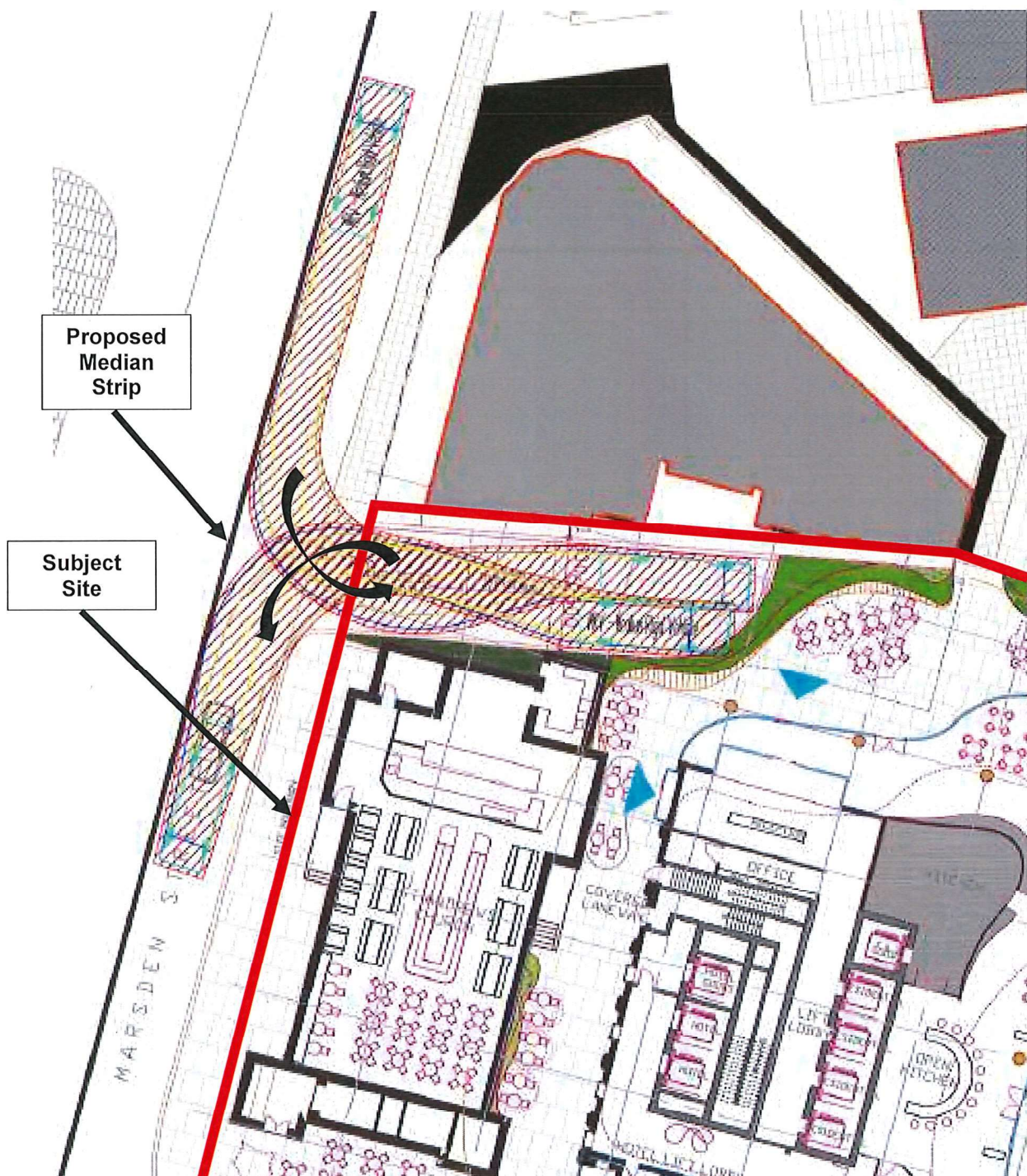


Figure 3: Vehicular access from Marsden Street.

It is noted that Transport for NSW (**Attachment K2**) supports the introduction of maximum parking provisions and suggests Council considers expanding this provision to include serviced apartments and hotel or motel accommodation. Council notes that the proposed provision will apply to these uses.

Aboriginal heritage issues

The Office of Environment and Heritage (OEH) (**Attachment K3**) recommended the preparation of an Aboriginal cultural heritage assessment to inform the planning proposal, given the proximity of the site to Parramatta River and Parramatta Park.

In response, an assessment was prepared and provided to OEH for comment. Council noted that this matter will be further addressed at the development application stage. This is considered appropriate as the site is already occupied by buildings and any archaeology on the site will become evident through the construction phase.

European heritage issues

The Heritage Council (**Attachment K4**) reiterated its comments on the broader Parramatta CBD planning proposal and had the following comments on the planning proposal:

- the proposed development will have an unacceptable impact on historic views and the semi-rural setting of Old Government House and Domain (OGHD), and a further visual impact assessment is requested that includes photomontages showing the existing and potential visual impacts on OGHD;
- the proposed development will create additional shadows on OGHD between 8:30am and 10am at the March Equinox, and remodelling of overshadowing is recommended to clarify the level of impact. Any detrimental impacts can be resolved by reducing the proposed height/FSR controls;
- the proposed development will cantilever over the local heritage item on the site (i.e. St Andrew's Church and hall) and impact the low-scale setting and inter-war Romanesque style of the heritage item. It is recommended that funding for the current and ongoing maintenance and conservation of the heritage item is provided through a detailed schedule of works to support the development application and monetary contribution contained within the VPA;
- a historical archaeological assessment is recommended prior to the determination of the development application and, where necessary, include relevant conditions of consent; and
- Council should confirm whether prior Commonwealth assessment and approval is required given the concerns raised in relation to OGHD.

Council noted the above comments and responded as follows:

- a high-level heritage assessment was prepared for the Parramatta CBD planning proposal, which reviewed the impact and issues associated with the increased densities across the CBD. The report concluded that the increased densities could be accommodated across the CBD subject to appropriate planning controls and treatment with respect to heritage;
- this site is outside of the Park Edge Highly Sensitive Area and identified in the conservation agreement for OGHD in the Parramatta DCP 2011. The proposed density on this site is consistent with Council's policy for the CBD and is not considered to be intrusive to the OGHD when considered in the evolving CBD skyline;
- Council undertook further shadow modelling (refer to **Figure 4** below) and acknowledges that the proposed development overshadows the OGHD. Due to the

location of the site relative to OGHD the shadow cast mid-winter will fall at a more acute angle (i.e. lower) relative to OGHD and will have a lesser impact, therefore March equinox shadows are shown below. The shadow diagram illustrates the cumulative shadow impact of three sites (330 church Street – shown in orange outline, 12-14 Phillip Street – shown in blue outline and the application site – light red shading) at March 8:30am);

- the shadow is only cast for a short period of time and by 8:30am the shadow is no greater than the shadows that would be cast under the existing maximum height controls under the Parramatta LEP 2011. By 9am, there is no overshadowing impact on the park. Council considers these impacts are minor and consistent with Council's broader objectives for development in relation to heritage in the CBD;
- Council acknowledges that independent advice for this proposal was that no development should be allowed above the local heritage item. However, the cantilevering was allowed to acquire public benefit arising from the widening (and improved amenity) of Phillip Lane while balancing the heritage constraints on the site. Council considers this approach is the most practical outcome;
- at the development application stage and if the proposed development is approved, conditions of consent can be included to protect the local heritage item and a construction management plan will also be required demonstrating how the heritage item will be protected during construction. A historical archaeological assessment has also been provided as part of the development application and will be assessed as part of that process; and
- Council notes that the site is outside of the highly sensitive area for the OGHD (refer to **Figure 5** below), therefore, it does not require referral to the Commonwealth under the *Environmental Protection Biodiversity Conservation Act 1999*. The highly sensitive area was derived from an assessment of important view corridors, topography and proximity to the OGHD. While the site is not within the highly sensitive area, the Planisphere report, 'Development in Parramatta City and the Impact on Old Government House and Domains' World and National Heritage listed values: Technical Report' (2012), recognises that the location of the site is 'sensitive' to OGHD. Any future development will be required to consider the impact on views from OGHD at the development application stage, once the scale, bulk and design of the development is resolved.

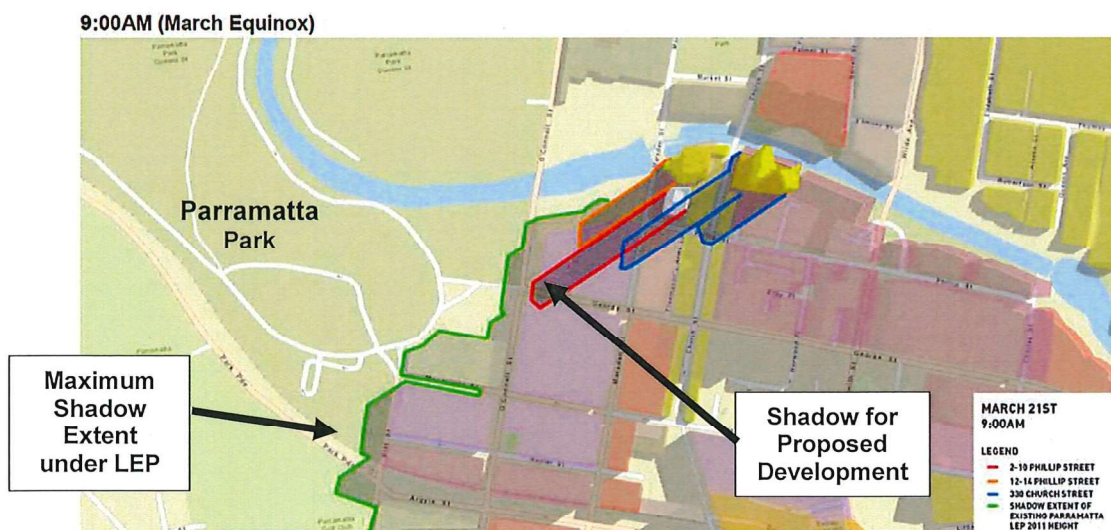
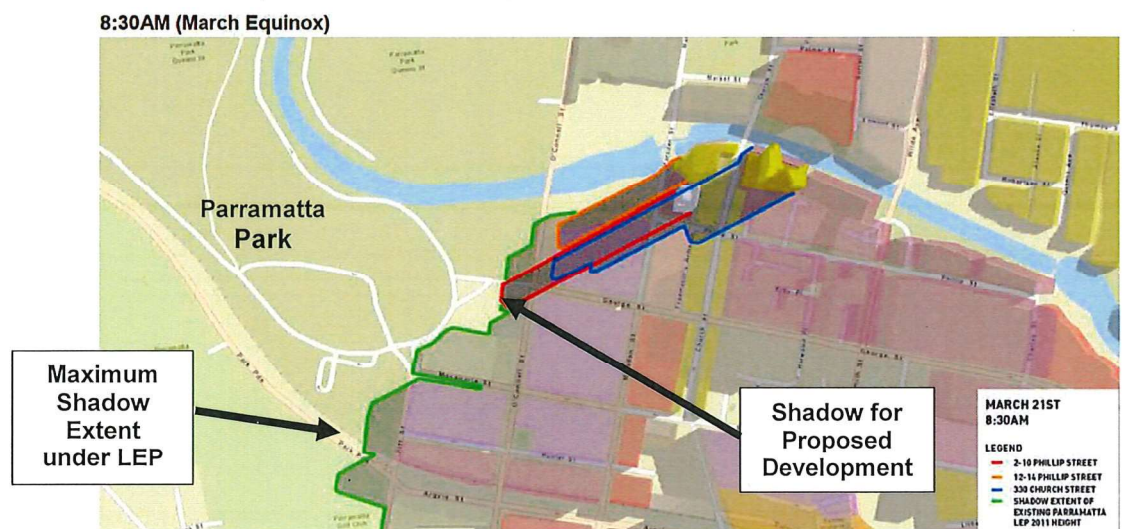
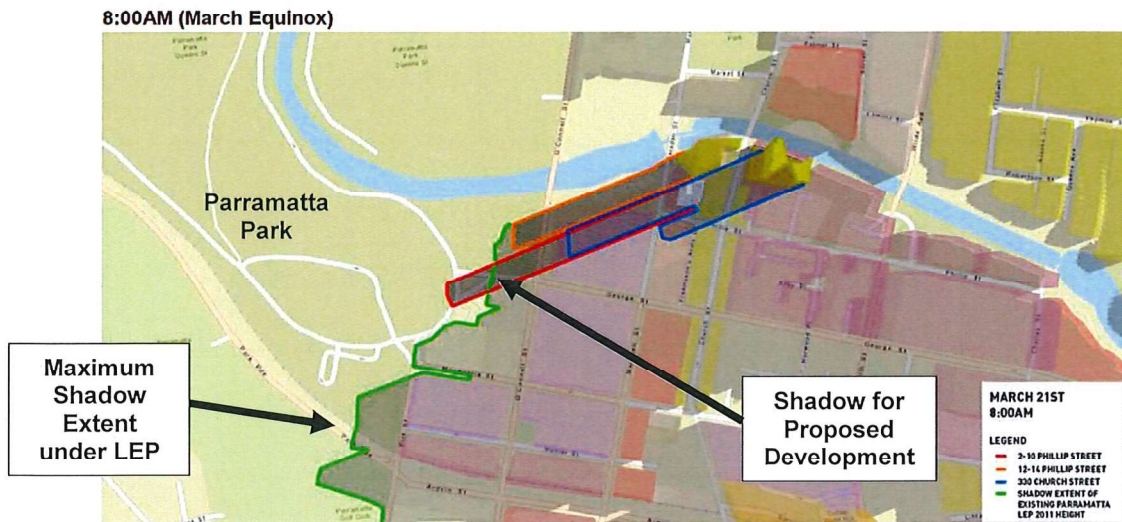


Figure 4: Overshadowing diagrams (March Equinox) in relation to Parramatta Park

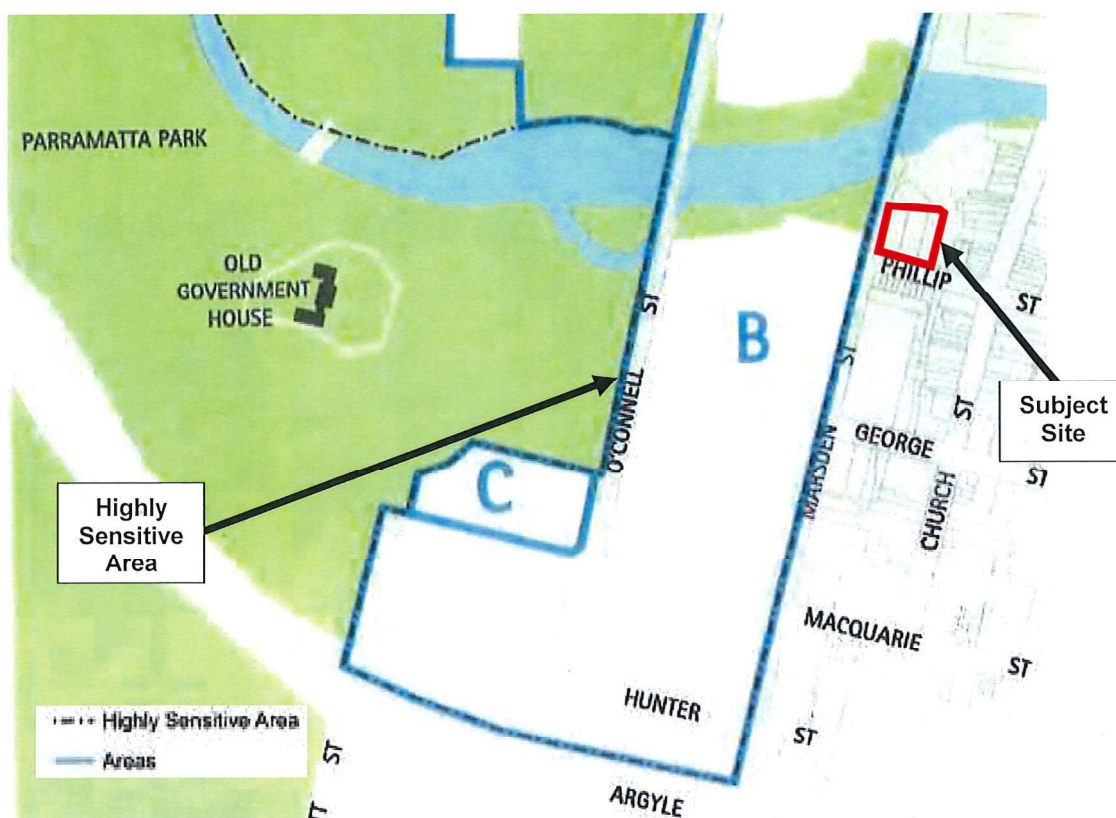


Figure 5: OGHD Highly Sensitive Area Map in Conservation Agreement

It is recognised that the Heritage Council has ongoing concerns regarding the proposed scale of development in the Parramatta CBD. The Department notes the Heritage Council's concerns but also recognises the ability for site-specific planning proposals to be considered on their merits.

It is further recognised that there is a clear government direction to enable the further growth and development of the Parramatta CBD as the core of the Central River City. The planning proposal has been assessed on its merits and it is considered that there is a sufficient planning framework in place to enable concerns raised by the Heritage Council to be fully addressed at the development application stage. This framework includes a need to deliver design excellence under clause 7.10 of the Parramatta LEP, consider heritage impacts under clause 5.10 of the Parramatta LEP and the suite of design guidelines in SEPP 65 and Council's own DCP.

The final bulk, scale and materiality of the proposal will have a significant effect on how the proposed development will fit into the CBD skyline and how it will deliver sound public domain outcomes while respecting heritage. It is considered that there is merit in allowing the height and FSR outcomes proposed in the planning proposal to proceed, with further consideration to be undertaken at the development application stage of the heritage impacts of a high-quality mixed-use tower.

8. POST-EXHIBITION CHANGES

On 12 March 2018 (**Attachment J2**) at Council's ordinary meeting, Council resolved to proceed with the planning proposal without any post-exhibition changes. However, it is noted that Council resolved to amend the draft DCP and VPA to address the concerns raised by the public agencies.

The planning proposal is required to be amended post-exhibition to include an additional map amendment. As the planning proposal intends to apply clause 7.6 "Airspace Operations" to the site, the site is required to be identified on the special provisions area map. This change is considered minor and does not change the intent of the planning

proposal. The inclusion of the site on the special provisions area map will enable the site to be more readily identified within the required additional local provisions requiring a minimum FSR of 1:1 for employment-generating floor space, enabling a 5.5:1 FSR for hotel use and imposing maximum car parking rates.

Council had also proposed drafting the enabling clause to allow a hotel use with an additional FSR of 5.5:1 and if the hotel use did not eventuate, it was intended that the proposed clause would enable this additional floor space to be used as a commercial premise. During the drafting of the clause, Parliamentary Counsel did not accept the alternate land use provision as the proposed land uses that were able to occupy the additional 5.5:1 FSR had to be permissible or prohibited, and there is no legal mechanism to enable a hierarchy of preferred land uses to be identified in the site-specific clause. Therefore, the drafting of the clause enables the additional 5.5:1 FSR to be used for hotel or commercial premise.

The Department has no objections to this as both uses are considered to be employment-generating floor space and it provides an appropriate mechanism to “future proof” the site should a change of use be proposed in the future. It is considered that the proposed wording achieves the intent of the planning proposal, which is to enable a hotel or commercial premise to be developed within the additional 5.5:1 FSR.

It is not considered that this change warrants re-exhibition of the planning proposal as it does not alter the outcomes on the site. Council has agreed to this change and has supplied the appropriate mapping.

9. ASSESSMENT

Section 9.1 Directions

At the time of determination, the Secretary agreed that the planning proposal's inconsistency with section 9.1 Directions 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions are of minor significance

The Gateway determination requested further consideration of the following Directions:

Direction 3.5 Development Near Licensed Aerodromes

This Direction aims to ensure the effective and safe operation of aerodromes, and that their operation is not compromised by future development. This Direction applies to the planning proposal as it will impact the prescribed airspace for Bankstown Airport, particularly the outer horizontal of the obstacle limitation surface (OLS) at 156m AHD. There is also the potential further increase in height by cranes during construction.

Council consulted the Civil Aviation Safety Authority (CASA), the federal Department of Infrastructure and Regional Development (DIRD), Air Services Australia, Bankstown Airport and Sydney Airport (**Attachments K5 and K6**). These agencies did not object to the planning proposal and advised that any proposed development above the OLS will require approval from the DIRD under the Airports (Protection of Airspace) Regulations 1996 following assessment by CASA and Air Services Australia.

The planning proposal is inconsistent with condition 1.3 of the Gateway determination as permission was not obtained from CASA prior to public exhibition. However, relevant agencies in relation to airspace were consulted, no objections were raised, and appropriate consents have been sought as part of the development application process. Therefore, it is considered that this Direction has been appropriately addressed through the LEP plan-making process and it is intended that the site will be mapped as “Area 7” on the special provisions map and the provisions of clause 7.6 “Airspace Operations” will apply to the site.

Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. This Direction applies as the site contains a local heritage item (i.e. former St Andrew's Uniting Church and hall and potential archaeological site – I736) (Figure 6 below).

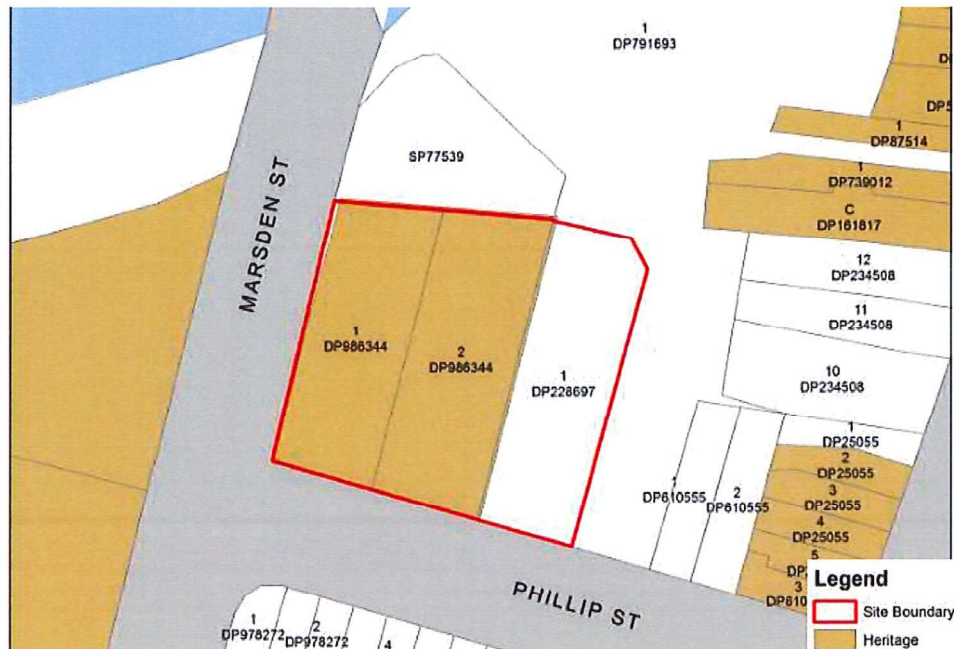


Figure 6: Heritage map extract.

Council advised that there was insufficient justification provided to warrant the de-listing of the local heritage item as initially sought by the original planning proposal. Therefore, Council further analysed the heritage item and concluded that a new design concept could protect and re-use the heritage item while realising the proposed increase in density.

The planning proposal is consistent with Direction 2.3 Heritage Conservation as the draft DCP (**Attachment H**) will ensure the conservation and adaptive re-use of the local heritage item on the site through key design principles to address the relationship of the proposed development and the heritage-listed church, including the following:

- demonstration of an acceptable treatment of the heritage items on the site;
- no overhanging of any part of the building over the church;
- facilitation of the adaptive re-use of the church;
- minimal disruption to the exterior walls and roof of the church; and
- demonstration of compliance with the SEPP 65 Apartment Design Guidelines with respect to tower separation within the block.

State environmental planning policies

State Environmental Planning Policy No 55—Remediation of Land

The objective of this SEPP is to provide a singular planning approach to the identification and remediation of contaminated land. Detailed compliance with this SEPP will be required to be demonstrated at the development application stage as the site is already used for mixed-use purposes.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

SEPP 65 aims to improve the design quality of residential apartment development in NSW. It recognises that the design quality of residential apartment development is of significance for environmental planning for the state due to the economic, environmental, cultural and social benefits of high quality design.

The planning proposal was the subject of a successful design competition in August 2016, which included an assessment of the proposed plans against SEPP 65 and the Apartment Design Guidelines. This process has enabled an FSR of 11.5:1 on the site as a result of the 15% bonus. The site-specific DCP that guides the redevelopment of the site demonstrates compliance with the SEPP 65 Apartment Design Guidelines with respect to tower separation to other adjoining developments.

State, regional and district plans

Greater Sydney Region Plan

The Greater Sydney Region Plan (March 2018) outlines a vision and actions for managing the growth of Greater Sydney. The plan establishes Parramatta as Sydney's Central City and recognises Greater Parramatta as a significant contributor to the delivery of housing and jobs in the next 40 years. The planning proposal is consistent with this plan as it will further facilitate and contribute towards the growth of the Parramatta CBD and Greater Parramatta.

Central City District Plan

The site is located within the Central City District, therefore the Central City District Plan (March 2018) applies to the site. The planning proposal is consistent with the plan as it will support the growth of the Parramatta CBD (Priority C7), the expansion of employment-generating uses on the site (Priorities C7 and C8), and the provision of new housing with access to jobs and services (Priority C5). The plan also recognises the need to respect the district's heritage (Priority C6) through the adaptive reuse of the local heritage item on the site.

10. MAPPING

There are three maps associated with this planning proposal (**Attachment Map**), which have been submitted via the ePlanning Portal. These maps have been examined by GIS staff and meet the technical requirements.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment E**).

Council confirmed on 5 June 2018 that it was happy with the draft and that the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 6 June 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- it will provide an additional 330 dwellings and employment (commercial and hotel uses) in a location within proximity to existing public transport, employment and services;
- it will support the growth of the Parramatta CBD in accordance with the objectives and priorities of the Greater Sydney Region Plan and the Central City District Plan; and
- there is an appropriate regulatory framework in place to ensure the key issues associated with the development of the site can be appropriately considered and addressed through the development application process and, where appropriate, measures taken to mitigate impacts.



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