

Parramatta LEP 2011 - 66 Phillip Street, Parramatta

Proposal Title : **Parramatta LEP 2011 - 66 Phillip Street, Parramatta**

Proposal Summary : **The proposal seeks to apply a maximum FSR of 10:1 with no height limit.**

PP Number : **PP_2016_PARRA_012_00** Dop File No : **16/05229**

Proposal Details

Date Planning Proposal Received : **30-Mar-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 : **66 Phillip Street**
 Suburb : **Parramatta** City : **Sydney** Postcode : **2150**
 Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Lillian Charlesworth**
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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Terry Doran**
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Land Release Data

Growth Centre : Release Area Name :
 Regional / Sub Regional Strategy : **Metro West Central subregion** Consistent with Strategy : **Yes**

MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg

:

Residential /

Employment land) :

No. of Lots : 0

No. of Dwellings 123
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : 18 April - request for additional information re value capture mechanism.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The planning proposal seeks increase the maximum height and FSR provisions applying to the site to enable a mixed use development that reflects controls proposed within the Parramatta CBD Strategy.

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

Is an explanation of provisions provided? Yes

Comment : **PROPOSAL**
The planning proposal seeks to amend Parramatta Local Environmental Plan 2011 (PLEP 2011) to:
- increase the maximum FSR from 4:1 to 10:1 with a minimum of 1:1 commercial floor space;
- permit any increase in commercial FSR beyond 1:1 to be excluded from the FSR calculation;
- amend the building height map to remove the maximum building height control (so that no numerical maximum building height control will apply). Note: the existing maximum permissible height of buildings is 80m;
- amend the FSR map to show a maximum FSR of 10:1; and
- to include the site in the Special Provisions Area map to relate the site to the FSR exclusions that will apply.

Notes:

- although the maximum FSR for the site is mapped as 6:1, the achievable FSR is a maximum of 4:1 due to the site area limitations imposed by clause 7.2 Floor Space Ratio of the PLEP 2011.

- a 15% design excellence bonus FSR would apply in addition to the controls above.

DEPARTMENT COMMENTS

The increase in FSR to 10:1 and the removal of the maximum building height is not supported. Based on detailed assessment and evidence presented in the Council report dated 14 December 2015, it is recommended that the FRS should be reduced to 6:1 (plus design excellence bonus) and retention of the existing height. The small size of the site, potential impacts on the adjoining site and adverse impacts on heritage items are factors that suggest the FSR and height sought in the planning proposal are inappropriate. These issues are addressed under the Assessment Criteria in this report.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**
- 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 32—Urban Consolidation (Redevelopment of Urban Land)**
- 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 in the planning proposal this proposal is consistent with the all the s117 directions except as follows.

2.3 Heritage Conservation

As the subject site is heritage listed as it contains a pair of single storey Old Colonial Georgian cottages. It is also a potential archaeological site and is surrounded by a number of heritage listed items.

Council's Heritage Advisor has commented that the additional height in the planning proposal will overwhelm the heritage item, although believes a lower FSR than proposed and an adequate separation distance would enable consistency with this Direction.

As a traditional setback distance from the heritage item would not enable redevelopment of the site (given the site area is 813sqm but has a total area of 908sqm available including use of adjoining Council owned land), the proposal seeks to mitigate the impact of the proposal on the heritage item via a vertical separation distance with the proposed tower sitting immediately behind the heritage buildings on "stilts". The proposal should be referred to the Office of Environment and Heritage for comment.

3.5 Development near Licensed Aerodromes

As the proposal seeks to remove numerical maximum building height controls, the development may enter the prescribed airspace for both Sydney and Bankstown Airport that starts at 156m and therefore this Direction applies. Although, as it is recommended that the planning proposal be amended to retain the existing height of 80 metres this Direction would no longer apply.

4.1 ACID SULFATE SOILS

The proposal is inconsistent with this Direction as an acid sulfate soils study, required when an intensification of land uses is proposed, has not been prepared.

This inconsistency is considered to be justified on the basis of minor significance, given that:

- (a) although the affection is by class 2 acid sulfate soils, this matter has been assessed by Council as part of development consent no. 587/2012; and
- (b) the matter will be further considered at development application stage under clause 6.1 of Parramatta Local Environmental Plan 2011.

4.3 FLOOD PRONE LAND

This Direction applies to the planning proposal as it will create, remove or alter a provision that affects flood prone land. The rear portion of the site lies within the 1:100 year floodplain and the entire site would be inundated in the event of a probable maximum flood.

The planning proposal is inconsistent with this Direction as it has not included provisions that give effect to and are consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

Council's Catchment Management Team has raised doubts as to whether all the site's flood issues have been adequately addressed in the planning proposal documents submitted but concludes that this Direction is satisfied provided that these matters are adequately addressed at development application stage. This Direction applies to the planning proposal stage and therefore flooding matters must be adequately addressed prior to public exhibition. A suitable Gateway condition is recommended.

Should the planning proposal proceed the proposal is to be referred to NSW State Emergency Service for comment during the exhibition period.

6.3 Site Specific Provisions

The proposal seeks to include a site specific provision to ensure a minimum 1:1 commercial floor space is provided and any commercial floorspace above 1:1 not be included for the purpose of calculating FSR.

It is considered that the requirement to ensure a minimum of 1:1 FSR is provided as commercial floor space is considered to be justified on the basis of minor significance given that it will ensure an increase in employment generating floorspace within the Parramatta CBD. Excluding any additional commercial FSR above 1:1 from the FSR calculation is not justified as it is not of minor significance and it remains a broader issue to be considered as part of the CBD planning proposal.

The planning proposal proceed the proposal should be amended prior to exhibition to remove all references to section 117 Direction 7.1 Implementation of a Plan for Growing Sydney.

STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY No 55 - Remediation of Land Contamination and remediation of land has not been addressed within the planning proposal. The policy must be addressed to ensure all remediation complies with standards, and ensures land is investigated if contamination is suspected.

An appropriate condition is recommended.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

Direction 2.3 Heritage Conservation will need to be further considered after the public exhibition period and consultation has occurred with the Office of Environment and Heritage.

Direction 4.3 Flood Prone Land will need to be further considered by Council prior to public exhibition and will be ensured via a suitable Gateway condition.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The submitted maps are suitable for public exhibition purposes, although the proposed Height of Buildings map will need to be removed to align with the recommended Gateway conditions.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council propose that during the community consultation period that a newspaper advertisement, display on Council's website and written notification to adjoining owners occur.**

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 seeks the early introduction of increased height and FSR controls proposed within the Council's CBD Planning Strategy that was very recently submitted to the Department as a planning proposal for Gateway determination.**

Consistency with strategic planning framework : **PARRAMATTA CBD PLANNING STRATEGY**
The proposal is consistent with this strategy adopted by 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 has only recently been submitted to the Department for Gateway determination with a number of supporting studies, such as traffic modelling, yet to be submitted.

Environmental social economic impacts : **FLOOR SPACE RATIO**
It is recommended that that proposed maximum FSR of 10:1 not be supported. An evidence based assessment included in the Council report dated 7 December 2016 demonstrates that an increase in height and FSR to 10:1 would be inappropriate due to the

impact on adjacent properties (which is exacerbated by the small site area of below 1,000sqm) and ability to satisfy the Apartment Design Guidelines. Therefore the Gateway should be conditioned to amend the maximum FSR proposed to 6:1 and remove the proposed site specific provision that would exclude any commercial floor space exceeding 1:1 from the FSR calculation.

A maximum FSR of 6:1 currently applies to the site, although the achievable FSR is 4:1 due to the FSR sliding scale at clause 7.2 which restricts the FSR for sites below 1,800sq.m. (the site area is 908sq.m.). The proposal would require an exemption from the sliding scale provisions in order to achieve the maximum FSR proposed.

The CBD planning proposal intends to continue to apply a sliding scale to development within the CBD, although this has yet to be assessed and endorsed by the Department. The sliding scale seeks to ensure that development scale is relative to site constraints, supports good design outcomes and the minimises impacts on the redevelopment potential of adjoining sites. It is recommended that the FSR for this site specific proposal be amended prior to finalisation to ensure consistency with FSR controls within the CBD planning proposal. It should be noted that the Department will undertake a detailed assessment of the proposed CBD planning proposal prior to exhibition which may result in amendments to the suite of FSR controls proposed.

A suitable Gateway condition is therefore recommended to ensure that the planning proposal does not result in an FSR that is greater than that which would be achieved under the FSR sliding scale proposed within the CBD planning proposal.

TRANSPORT AND TRAFFIC

Council Traffic Management Team has raised concerns about the cumulative impacts of the additional traffic generation from increased development potential in the CBD. Without the finalisation of traffic and transport modelling work for the CBD being finalised, Council's Traffic and Management Team advise that there is a risk that setting a precedent for FSR's in excess of 10:1 may be cumulatively inappropriate as the local infrastructure networks may not be able to cope without significant public transport and infrastructure investment. This is relevant to the proposal which seeks an unlimited FSR for any non-residential floor space in excess of 1:1.

The Council has advised that the broader traffic modelling is currently being undertaken to support the Parramatta CBD planning proposal that has recently been lodged with the Department. It is recommended that this site specific planning proposal should progress to exhibition however, the proposal should be reviewed prior to finalisation, having regard to the results of the broader traffic modelling when it is completed. This review should include confirmation of the appropriate FSR and the cumulative impacts of the increased FSR across the CBD.

ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACTS

The proposal relates to a developed site in a highly urbanised area and therefore is unlikely to generate environmental impacts, although flooding issues have not yet been fully addressed. Positive economic benefits will arise as a result of employment generated by the construction phase and from the proposed minimum 1:1 non-residential FSR requirement. Social impacts include potential effects on the heritage listed item that occupies the site, potential effects on adjoining properties if height and FSR controls are set beyond the site capacity/constraints and the positive benefits of additional housing provision on a site with good access to public transport, employment and potential for high residential amenity adjoining the riverfront.

CUMULATIVE IMPACTS

There are seven (7) planning proposals for CBD sites currently awaiting Gateway determination that will precede Council's CBD planning proposal, which has yet to be lodged with the Department for Gateway determination.

As these proposals are likely to collectively generate a significant cumulative impact in terms of infrastructure requirements (including transport, health, social services, education

and recreation) and aviation safety, it is recommended that they be simultaneously exhibited and forwarded to public agencies for comment.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Department of Education and Communities
Office of Environment and Heritage
Transport for NSW
Transport for NSW
Transport for NSW - Sydney Trains
Transport for NSW - Roads and Maritime Services
State Emergency Service
Sydney Water
Telstra
Other**

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. :

Flooding

If Other, provide reasons :

Additional flooding information should to provided to ensure that Council's Council's Catchment Management Team is satisfied prior to public exhibition that the proposal is consistent with Section 117 Direction 4.3 Flood Prone Land.

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
covering letter - 66 Phillip Street.pdf	Proposal Covering Letter	Yes
Planning Proposal 66 Phillip Street .pdf	Proposal	Yes
Heritage Statement.pdf	Study	Yes
Urban Design Report.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones
2.3 Heritage Conservation**

- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 6.3 Site Specific Provisions

Additional Information : **SECTION 117 DIRECTIONS**

It is considered that any inconsistencies with s.117 Directions 4.1 Acid Sulfate Soils and 6.3 Site Specific Provisions are of minor significance.

Should the planning proposal proceed, it is recommended the delegate agree that these inconsistencies are 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 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 exhibition, Council is to amend the planning proposal to:
 - (a) amend Part 2 - Explanation of Provisions to indicate that the only change to Parramatta Local Environmental Plan 2011 that is sought by the proposal is the removal of the application of clause 7.2 from the subject site to enable a maximum FSR of 6:1 (plus design competition bonus);
 - (b) remove Figures 8-10 showing proposed map changes;
 - (c) remove reference to the former Section 117 Direction 7.1 – Implementation of a Plan for Growing Sydney; and
 - (d) include an assessment of State Environmental Planning Policy No.55 - Remediation of land, within the planning proposal in relation to the site.
2. Prior to exhibition, Council is to be satisfied that sufficient information is available to ensure consistency of the planning proposal with Section 117 Direction 4.3 Flood Prone Land. If applicable, Council is to obtain the agreement of the Department's Secretary regarding any inconsistency with the requirements of Section 117 Direction 4.3 Flood Prone Land.
3. Following the consultation period, Council is to be satisfied that the planning proposal is consistent with section 117 Direction 2.3 Heritage Conservation.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) Council 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 LEPs (Department of Planning and Environment 2013).
5. Consultation is required with the following public authorities under section 56(2)(d) of

the Act, as follows:

- Office of Environment and Heritage - Heritage Division
- Office of Environment and Heritage
- Department of Education and Communities
- Transport for NSW - Ferries
- Transport for NSW - Sydney Trains
- Transport for NSW - Roads and Maritime Services
- State Emergency Service
- Telstra
- Sydney Water
- Endeavour Energy

6. The planning proposal is to be concurrently exhibited and forwarded to public authorities for consultation under a single covering letter, together with the following six other planning proposals that were issued with a Gateway determination on the same day and are identified in the Department's covering letter to Council:

- 295 Church Street, Parramatta (PP_2016 PARRA 002 00)
- 48 Macquarie Street and 220-230 Church Street, Parramatta (PP_2016 PARRA 004 00)
- 122 Wigram Street, Harris Park (PP_2016 PARRA 006 00)
- 14-20 Parkes Street, Harris Park (PP_2016 PARRA 007 00)
- 2-10 Phillip Street, Parramatta (PP_2016 PARRA 010 000)
- 180 George Street, Parramatta (PP_2016 PARRA 016 000)

Each public authority is to be provided with a copy of each of the planning proposals listed above, a copy of the Parramatta CBD Planning Strategy and any relevant supporting material prepared for each proposal and the Strategy, and given at least 28 days to comment on the proposals.

7. 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).

8. Prior to submitting the proposal to the Department for finalisation the proposal should be reviewed having regard to the mesoscopic modelling (and consultation with Transport for NSW and Roads and Maritime Services) undertaken for the Parramatta CBD planning proposal. This review should include confirmation of the appropriate site specific FSR in the context of the cumulative traffic impacts of increased FSR controls across the CBD.

9. 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 seeks a significant increase in the floor space ratio and no height limitation, which is not sufficiently supported by detailed analysis.

The recommended reduced FSR of 6:1 and maintenance of the height limitation to the current 80 metres is based on the evidence provided in the Council report dated 14 December 2015 which particularly focussed on:

- the development potential of the site is limited due to its relatively small size being 813m² (908.1m² including the Council land);
- the configuration and size of the site limits the FSR to ensure that there are not undue impacts on adjoining land or unacceptable design outcomes such as blank walls; and
- the potential adverse impacts on the heritage items on the site.

Signature:



Printed Name:

J. DORAN

Date:

3/6/16