

Places, Design and Public Spaces

Plan finalisation report

IRF19/408

Local government area: City of Parramatta

1. NAME OF DRAFT LEP

Parramatta Local Environmental Plan 2011 (Amendment No 35)

2. SITE DESCRIPTION

The draft LEP applies to land at 36-42 East Street, Granville (Figure 1 below). The site has an approximate area of 1,577m² and is consists of three lots being Lot 1 DP1009146, Lot 1 DP195784 and Lot 1 DP996285.

The site is bound by East Street to the north and the Western Railway Line to the south.



Figure 1: Subject site (source: City of Parramatta Council report)

The site is located within the Granville precinct of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) (Figure 2 below).



Figure 2: Location of site bound in blue within Granville precinct of PRCUTS bound in red (source: PRCUTS documents)

There is a development approval on the site and land immediately east of the site known as 10-42 East Street, Granville (DA/738/2014). The approval gave consent to the staged construction of one 19-storey and two 17-storey mixed-use towers, with 463 residential units over basement car parking and six commercial tenancies.

The staging of the site is shown in Figure 3 (below) and the site is known as stage C. Stage A is complete and stage B is under construction. Within stage C, there are 91 approved residential units above two commercial tenancies. There is also an approved pocket park within the site that is required to be dedicated to City of Parramatta Council.

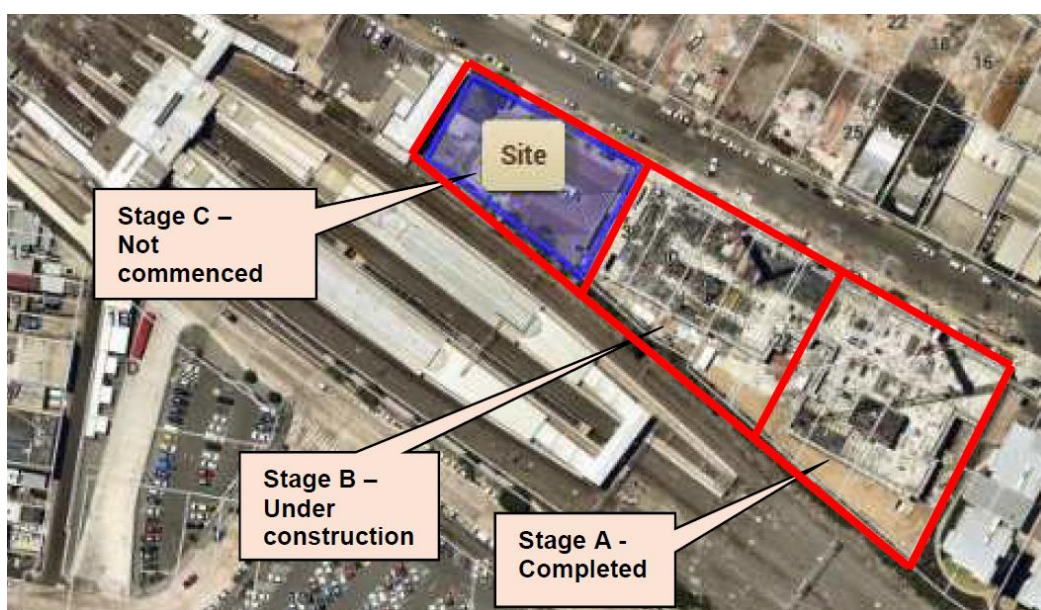


Figure 3: Stages of DA/738/2014 (source: Local Planning Panel Report)

3. PURPOSE OF PLAN

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

- increase the maximum permitted height from 52m to 82m;
- remove sliding scale provisions for height and floor space ratio (FSR) for the site;
- require design excellence; and
- introduce a new local provision to exclude a limited area of wintergardens from FSR calculations.

The draft LEP seeks to broadly apply the recommendations of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) and to correct a disparity between the existing height and FSR controls that apply to the site.

The current development controls do not allow the maximum FSR to be achieved when considering the maximum height controls. Examples provided by Council (**Attachment E**) demonstrate several development applications approved in the locality which exceed the maximum permissible height through clause 4.6 whilst being below the maximum permissible FSR. The draft LEP seeks to harmonise these development controls whilst being generally consistent with the PRCUTS.

The recommendations of the PRCUTS include the following development controls for the site:

- B4 Mixed Use zone;
- maximum FSR of 6:1; and
- maximum building height of 80m.

The draft LEP does not seek to alter the existing B4 Mixed Use zone or the existing mapped FSR for the site. However, the draft LEP removes reference to the site as 'Area 1' on the FSR map. The removal of the 'Area 1' identification removes the need to apply a sliding scale which relates FSR to site area under clause 4.4(2A). Should the sliding scale be retained, the existing development controls would allow a maximum FSR of 3.5:1 on the site based upon the site area of approximately 1,500m² when a site-specific development application is lodged to implement the planning proposal. As the site is part of a broader development site, with a development approval, it is considered appropriate to remove the FSR sliding scale to facilitate the desired urban design outcomes on the site and enable a new DA to be lodged.

The draft LEP also seeks to increase the maximum height of building from 52m to 82m. Similarly to the FSR provisions, a sliding scale also applies for height and is proposed to be removed.

The draft LEP also excludes wintergardens (i.e. enclosed balconies) that face the rail line from FSR calculations. The rationale behind the exclusion is that the balconies are required to be acoustically attenuated to ensure an acceptable amenity for future residents. The draft LEP seeks to allow 400m² to be excluded based on cumulative balcony areas affected by rail noise. Any wintergardens provided in other parts of the building which exceed a cumulative area of 400m² would contribute to FSR calculations.

The draft LEP, which is supported by an urban design report (**Attachment F**), indicates that the site can accommodate approximately 119 residential dwellings on the site within a

residential flat building. Non-residential uses are identified within the urban design report for the first two levels contributing to the activation of East Street and employment opportunities.

Council also propose to amend the Parramatta Development Control Plan (DCP) 2011 to ensure appropriate development controls are established to support the intent of the draft LEP.

A voluntary planning agreement (VPA) has not been entered with the developer for the site as no additional floor space or dwelling yield is anticipated as a result of the proposal.

4. STATE ELECTORATE AND LOCAL MEMBER

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

The site falls within the Parramatta Federal Electorate. 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

The Gateway determination issued on 14 April 2018 (**Attachment C**) determined that the planning proposal (**Attachment A**) should proceed subject to conditions.

The planning proposal is consistent with the Gateway conditions as discussed below in further detail:

Condition 1(a) requires the planning proposal to demonstrate that the FSR over the site known as 10-42 East Street (which includes the site) will not exceed the current maximum FSR of 6:1 as a result of the removal of the sliding scale and exclusion of the wintergardens from the calculation of FSR on the site.

A development application has been approved over 10-42 East Street (DA/738/2014). The application has been approved as three separate stages (Figure 3 on page 2). The intent of the condition was to not allow a maximum FSR greater than 6:1 over the larger site as a result of the proposal.

Council has advised within the report to the Parramatta Local Planning Panel (**Attachment E**) that assuming a FSR of up to 6:1 is approved over the site, the FSR of stages A and B (DA/738/2014) and the proposal site combine to a total of 5.79:1. The proposal is consistent with Gateway condition 1 (a).

Condition 1 (b) requires a site-specific clause for the site to nominate a maximum area permitted to be used for wintergardens (enclosed balconies) before contributing to the sites FSR to ensure that the bulk and scale of the built form is not excessive and responds to site conditions.

The proposal nominates a maximum area of 400m² to be permitted to be used for wintergardens based upon the cumulative balcony areas affected by rail noise. The proposal specifies that the wintergardens excluded are only those located on the southern elevation adjacent the rail line. Any wintergardens that are provided in excess of 400m² and not located on the southern boundary adjacent the rail line will contribute to FSR calculations.

The wintergardens are located on the southern side of the development, based upon the reference design (**Attachment F**). These will not be detectable from East Street. It is unlikely that the wintergardens will result in any design being excessively bulky or out of scale with the locality. The proposal is consistent with Gateway condition 1(b).

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 13 June 2018 to 13 July 2018.

Two submissions were received from the community. The submissions raised the following issues:

- increased density in an area that cannot facilitate this growth;
- increased height of buildings will lead to overshadowing and loss of privacy;
- lack of open space;
- increased traffic congestion;
- bulk and scale of the building is overwhelming;
- increased noise;
- loss of cooler north-east breezes and heat island effect; and
- wind tunnel effect from large buildings.

Council has addressed the issues in the report to the Parramatta Local Planning Panel (**Attachment E**). The comments are satisfactory with most of the issues being a development application matter. No further assessment is required by the Department. The Panel supported the progression of the proposal on 16 October 2018.

On 26 November 2018, Council resolved to adopt the planning proposal and forward it to the Department for finalisation. A site specific DCP was also adopted for the site.

Council resolved to investigate opportunities for a VPA on the site for affordable housing. Council requested that the Department not finalise the planning proposal until the VPA negotiation was completed. Council advised the Department on 20 June 2019 that Council will not pursue the VPA and the planning proposal can now be finalised.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the Office of Environment and Heritage (OEH), Sydney Trains, Transport for NSW, and Roads and Maritime Services (RMS) in accordance with the Gateway determination.

Council consulted these authorities and submissions were received from OEH's Heritage Division, Transport for NSW, Sydney Trains, RMS and Endeavour Energy. Council addressed the submissions within the Panel report (**Attachment G**) in a satisfactory manner. A summary of each submission is provided overleaf.

Roads and Maritime Services & Transport for NSW

The Roads and Maritime Services (RMS) and Transport for NSW both raised concerns with the planning proposal (**Attachments G**). The concerns raised are generally aligned and highlight a need for a precinct wide traffic study to be prepared prior to any rezoning occurring in Granville. The study will identify required infrastructure improvements within the locality to cater for the expected increase in densities and inform a funding mechanism to allow contributions to be made for the improvements that are required as a result of the uplift in density.

This matter was pre-empted in the Gateway determination where it was noted that a satisfactory arrangements clause is not required by the proposal. The reasons behind the position include no increase in the existing FSR and the site already has an approved development for the erection of a 17-storey tower. There is no road widening required within the site. This position is consistent with the making of LEP's subject to the PRCUTS.

RMS and Transport for NSW have also noted that the PRCUTS identifies a minimum of 160,000m² employment gross floor area and a maximum of 350,000m² gross floor area for residential uses and suggested a mechanism to ensure consistency with the PRCUTS in relation to this issue. The proposal does not seek to introduce a site-specific clause imposing a minimum area of commercial floor area.

The PRCUTS contains guidelines where active and commercial frontages are to be encouraged, and the site is not identified. However, the reference design contained within the urban design report (**Attachment F**) identifies commercial and retail floor space. The approved development application over the site, being DA378/2014, also contains retail and commercial floorspace and the existing density provisions are not being amended.

The requirement for a minimum area of employment gross floor area can be managed by precinct wide investigation which is linked to the traffic study rather than a site by site basis. In this instance, the comments from Transport for NSW are noted but they do not warrant refusal of the proposal.

Sydney Trains

Sydney Trains provided a response dated 13 July 2018 (**Attachment G**) in which they raised no objections and made general comments dealing the future development being consistent with the Department's "*Development Near Busy Roads and rail Corridors – Interim Guide*" 2008.

The requirement to consider these guidelines are already dealt with under the existing provisions in the Parramatta DCP 2011 and is also a requirement under the SEPP (Infrastructure) 2007. Detailed consideration will be undertaken with any future development application.

Office of Environment and Heritage

The Office of Environment and Heritage (OEH) provided a submission on 20 June 2018 (**Attachment G**) and raised no objection to proposal.

Endeavour Energy

Endeavour Energy provided a submission on 4 July 2018 and raised no objection to the proposal provided that any future development complies with Endeavour Energy standard requirements.

8. POST-EXHIBITION CHANGES

An amendment has been sought to the proposal requiring a design excellence process occur as part of any future development of the site. In order for this to occur, the site is to be identified on the Design Excellence Map (Sheet DEX_010) and as such Clause 6.13 (Design excellence—generally) of the existing LEP would apply. This post-exhibition change is considered appropriate given the planning proposal will result in a tall building that will be visible in the landscape. The additional height was supported as it has the ability to improve urban design outcomes through the implementation of a tall, slender tower. It is appropriate that this tower be subject to a design excellence process.

The draft instrument has been drafted using the words “enclosed balconies” as opposed to “winter gardens”. Council raised no objections to the drafting. For ease of reference within this report the term “winter gardens” is used.

It is not considered that the changes warrant re-exhibition of the proposal as it does not alter the outcome for the site and should result in a high quality built form and urban design outcome as a result of the design excellence process.

9. ASSESSMENT

9.1 Section 9.1 Directions

The planning proposal is consistent with relevant section 9.1 Directions except Directions 6.3 and 7.3 as discussed below.

Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive specific planning controls. The directions note that a planning proposal which amends the LEP must not impose any additional development standards or requirements in addition to those already contained in the LEP.

The planning proposal intends to introduce a site-specific provision that excludes enclosed balconies/winter gardens from the calculation of FSR on the basis that the southern elevation of the future development requires noise mitigation from the transport corridor impacts. The proposal seeks to allow 400m² to be excluded from FSR calculations (representing cumulative minimum balcony areas for dwellings affected by rail noise) on the basis that the balconies are to be enclosed by glass creating a winter garden. The use of winter gardens is recommended by the Parramatta Road Corridor Urban Transformation Strategy. However, there is nothing in the strategy which would suggest excluding their areas from FSR calculations.

Enclosing balconies to function as wintergardens is an effective means of reducing road and rail noise and providing amenity for residents in situation where noise is and issue.

Whilst the site-specific control may be technically inconsistent with the direction in that a new control will be introduced via the proposal it is not inconsistent with the objective of the direction. The proposal is not unnecessarily restrictive and will allow a built form outcome with a higher amount of amenity than may otherwise be achieved should the control not be present. It is considered that the proposal's inconsistency with this direction is of minor significance and justified.

Direction 7.3 Parramatta Road Rail Corridor Urban Transformation Strategy

The relevant objective of this direction is to facilitate development that is consistent with the Parramatta Road Rail Corridor Urban Transformation Strategy (PRCUTS).

The planning proposal is inconsistent with this direction as it proposes a 2m inconsistency with the 80m/25 storey recommended building height for Granville in the Parramatta Road Corridor Urban Transformation Planning and Design Guidelines, and it is proposed to occur ahead of the precinct-wide traffic study.

In support of the inconsistency the planning proposal notes that:

- the variation to the recommended height does not increase the permitted FSR for the development;
- the total number of storeys (25) is consistent with the strategy; and
- the future design will result in a better built form outcome than what is currently approved on the subject site.

The Gateway determination acknowledged justification had been provided but did not resolve the inconsistency to allow community consultation on the proposal. The council report (**Attachment E**) identified the following community concerns with an increase in height:

- overshadowing and loss of privacy – the report noted the inconsistency as minor and noted any future development must comply with the Apartment Design Guide which deals with both issues; and
- bulk and scale of the building is overwhelming – the report noted that the increased height is considered to provide a better urban design outcome than the design under the current DA consent and are generally consistent with the strategy.

The comments raised during the community consultation process have been satisfactorily addressed.

PRCUTS also specifies that a precinct-wide traffic study is required to be prepared prior to any site specific or precinct wide rezoning commencing. Each study and supporting modelling are to identify the necessary road improvements and upgrades required to be delivered as part of any proposed renewal in the precinct.

There is already an approved DA on the site and the planning proposal will not increase the existing maximum mapped FSR of 6:1. In this instance, the planning proposal can proceed ahead of this traffic study.

The direction notes that a proposal may be inconsistent with the policy if the inconsistency is minor. In this instance, the inconsistency is minor for the reasons previously outlined. It is recommended that the Secretary's delegate agrees to the justification of the inconsistency.

9.2 State environmental planning policies

The proposal has addressed and is consistent with all relevant SEPPs (including SEPP 55 – Remediation of Lands which has been adequately addressed).

9.3 Central City District Plan

The Central City District Plan commits to providing additional housing supply with access to jobs, services and public transport (Planning Priority C5) with a 21,650 five-year housing supply target for Parramatta. The plan also identifies the importance of providing capacity for jobs growth and growing Parramatta as a metropolitan centre to create a stronger and more competitive Greater Parramatta (Planning Priority C7).

Planning Priority C6 commits to creating and renewing places and local centres and respecting the district's heritage. Action 5 set by the plan includes a commitment to use flexible and innovative approaches to revitalise high streets in decline.

The proposal is consistent with the priorities and actions set by the plan. The proposal provides an opportunity to deliver additional housing in a location that is highly accessible to bus and train services and within walking/cycling distance of the Granville town centre and the Parramatta CBD.

The Department is satisfied that the planning proposal could give effect to the district plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

9.4 Parramatta Road Corridor Urban Transformation Strategy

The Parramatta Road Corridor Urban Transformation Strategy commits to delivering 27,000 new homes and 50,000 new jobs within eight key precincts of the Parramatta Road Corridor, accompanied by improvements for transport, open space and amenity needs.

The strategy projects a 5,400 dwelling target for the Granville precinct and identifies current issues with existing height and floor space controls delivering bulkier buildings than originally envisaged, creating an undesirable built form outcome. The strategy's planning and design guidelines identify an FSR of 6:1 and height of 80m for the site. Increasing the height control to 80 metres will allow future development to comprise a podium structure of 3-4 storeys and tower forms above.

Consistency with the Strategy is addressed previously in this report.

10. MAPPING

There are three maps (**Attachment Maps**) and an accompanying map cover sheet (**Attachment MCS**) associated with this amendment:

- FSR map: FSR_010;
- height of building map: HOB_010; and
- design excellence map: DEX_010

The maps and map cover sheet have been approved by the Department's e-Planning team and provided to Parliamentary Counsel.

11. CONSULTATION WITH COUNCIL

Council was consulted on several occasions 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 16 September 2019 that it was happy with the draft and that the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 13 September 2019, 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 Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the plan is generally consistent with the PRCUTS and Central City District Plan and will not increase floor space across the site;

- redevelopment for high-density housing near the Granville town centre, railway station and Parramatta CBD;
- introduction of design excellence provisions to ensure new development is of high quality; and
- align height and FSR controls to enable improved urban design outcomes and a taller, more slender building on the site.



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