

## ATTACHMENT 2 - FURTHER INFORMATION - COUNCIL OFFICER ANALYSIS AND RECOMMENDATIONS

### PLANNING PROPOSAL AMENDMENTS

1. Given that most of the site-specific controls currently proposed in the Planning Proposal are expected to be shortly finalised as part of the CBD Planning Proposal, they are no longer necessary for inclusion in this site-specific Planning Proposal. Specifically, the height, FSR and standard parking rates described previously in the report no longer need to be included.
2. The Planning Proposal can be simplified by limiting it to the control which is inconsistent with the Parramatta CBD Planning Proposal, namely the bespoke parking rate for *Takeaway Food and Drink Premises* land use. This rate was supported by Council officers, the Local Planning Panel (LPP), Council, the IPC and, ultimately, DPIE (through its amended Gateway determination).
3. The Applicant accepts the amendments discussed above and has worked with Council officers to prepare an amended Planning Proposal. The amended Planning Proposal (at **Attachment 1**) includes an updated transport report, as well as the IPC report and a letter forwarded from TfNSW to DPIE that was included in the IPC proceedings as attachments (in order to give context to how this matter was considered through the previous assessment process).
4. The Planning Proposal has not been forwarded to the Local Planning Panel (LPP). Council officers consider that the proposed amendments are procedural/administrative in that they simply amend an existing Planning Proposal to remove those provisions which are consistent with the CBD Planning Proposal, while leaving only the bespoke parking rate issue. The LPP supported the bespoke parking rate when it considered the Planning Proposal in June 2020. [The LPP's advice may be referred to at the following link: [https://businesspapers.parracity.nsw.gov.au/Open/2020/06/LPP\\_16062020\\_MLN\\_570.PDF](https://businesspapers.parracity.nsw.gov.au/Open/2020/06/LPP_16062020_MLN_570.PDF)]
5. The recommendation of the report reflects the above considerations.

### PLANNING PROPOSAL PROCESS

6. In preparing this report, Council officers sought advice from DPIE as to whether they had any preference on this matter being progressed as an amended Planning Proposal or a new Planning Proposal.
7. DPIE advised in written correspondence that they did not have a preference. However, DPIE also advised that extensions for Planning Proposals will only be granted in exceptional circumstances, and that if Council was unable to meet the timeframe for the existing Planning Proposal (i.e. finalisation by 31 December 2021), it may consider lodging a new Planning Proposal instead.
8. Council is not able to finalise the existing Planning Proposal by 31 December 2021 due to the time needed to complete the remaining steps in the Planning

Proposal process, as well as the circumstances surrounding the amended Local Government election cycle and its implications for Council meetings.

9. Therefore, it is recommended that Council lodge a **new** Planning Proposal that seeks a Gateway determination setting a new timeframe, rather than pursuing an amended Gateway determination on the existing Planning Proposal. Council officers consider that a 380-day (roughly 12 month) finalisation timeframe might be set by DPIE (as this is the average that DPIE's current program for reducing Planning Proposal timeframes seeks to achieve), though Council officers expect this Planning Proposal would realistically be resolved in significantly less time.

## **PLANNING AGREEMENT**

10. In resolving to prepare a draft Planning Agreement for this site in July 2020, Council resolved negotiating principles for the Planning Agreement, which are summarised as follows:
  - a. A monetary contribution in line with the then-current Community Infrastructure ("value sharing") framework (noting that using some or all of the contribution for improvement of Prince Alfred Square should be explored)
  - b. Dedication of the "notch" in the centre of the block and dedication of footpath widening at the corner of Victoria Rd and Church St
  - c. Address potential circumstances in which Council's position on the Community Infrastructure were to change (either the rate or the whole framework as a policy direction), and also in which the site proceeds in part or whole as a non-residential use.
11. Following receipt of the altered Gateway determination in May 2021, Council officers had commenced initial Planning Agreement negotiations with the Applicant. However, Council made significant strategic policy decisions in June 2021 which officers consider substantially changed the policy basis for negotiating this Planning Agreement. Specifically, Council elected not to proceed with the Community Infrastructure ("value sharing") framework, and effectively replaced it with a policy direction to pursue a new Section 7.12 Contributions Plan for the CBD.
12. Council officers do not consider that advancing a Planning Agreement for this site is consistent with Council's current policy direction for infrastructure funding in the Parramatta CBD, and therefore recommend that negotiation of this Planning Agreement cease. Rather than delivering a monetary contribution via a Planning Agreement under the Community Infrastructure ("value sharing") framework, it is expected that a monetary contribution would instead be delivered under the new CBD Section 7.12 Contributions Plan at DA stage.

### *Applicant's position on this matter*

13. Council officers shared the above view with the Applicant, who responded noting that "under the circumstances there is no utility to continue VPA negotiations at this point in time."

14. The Applicant also asked that Council acknowledge that there is no public benefit offer accompanying the amended Planning Proposal. Council officers have acknowledged this point and agree that the simplified Planning Proposal that this report contemplates can proceed without a public benefit offer.
15. The Applicant has also raised concerns with Council officers that - should the 5% contributions rate for mixed-use projects exhibited as part of the draft CBD Section 7.12 Contributions Plan ultimately be upheld by Council and DPIE – this would result in a contribution for their site which is greater on a per sqm basis than the monetary contribution contemplated under the former Community Infrastructure framework. Council officers acknowledge that the feasibility work done as part of the draft Contributions Plan focused on sites with FSRs of 10:1 and greater, whilst this site (and many others in the CBD) have FSRs of less than 10:1 under the CBD Planning Proposal. Council officers are undertaking further analysis of this issue as part of their consideration of the draft Contributions Plan and will address this issue in further detail in the post-exhibition report on that Plan.

*Non-monetary contributions originally sought*

16. It is also noted that Council was initially seeking two non-monetary elements through the Planning Agreement negotiations, namely dedication of footpath widening at the corner of Victoria Rd and Church St, and dedication of the small irregularly-shaped “notch” of land located in the centre of the city block.
17. Council’s policy is that these elements would be considered to have a nominal (\$1) value, on the basis that the Applicant retains the development potential from the land in question.
18. Rather than including these two issues in a Planning Agreement at Planning Proposal stage, Council officers consider that these two issues can be addressed by:
  - a. inserting controls and/or diagrams defining these issues in the site-specific DCP as necessary (discussed in greater detail in the next section of this report), and
  - b. determining the exact delivery mechanism for these two elements – i.e. whether they are made available for public use by land dedication or easement, and whether they are functionally delivered via Planning Agreement or condition of consent – at DA stage.
19. It is acknowledged that the approach recommended above to seeking delivery of these elements introduces a certain level of risk. This is because delivery of assets outlined in an executed Planning Agreement at Planning Proposal stage is a legally binding obligation, whereas DCPs can (and often are) varied at DA stage. However, this is considered low-risk in this instance due to the following:
  - a. **Footpath widening:** The Applicant has consistently included delivery of this element in their reference designs to date, and an improved footpath at this corner represents a clear benefit to the Applicant in terms of a more attractive and workable interface with the high

pedestrian flows expected at this corner. There is also no perceptible advantage to the Applicant not agreeing to deliver this small area of land, subject to the Applicant retaining the development potential from this land.

- b. **“Notch” at centre of block:** This small area of land is considered practically undevelopable due to its size and spatial arrangement compared to the rest of the site. Therefore, there is no perceptible advantage to the Applicant not agreeing to deliver this small area of land, subject to the Applicant retaining the development potential from this land.

20. In conclusion, these two issues are not considered a requirement for advancing an amended Planning Proposal and can be dealt with through the DCP and future DA processes.

## OFFICER RECOMMENDATION: DEVELOPMENT CONTROL PLAN

21. Council previously resolved as follows regarding DCP preparation for this site:
  - (c) ***That a draft site-specific Development Control Plan (DCP) for the subject site be prepared that addresses matters including but not limited to:***
    - 1) *Further defining the preferred two-tower scheme, including podium heights and tower setbacks, with a view to minimising any non-compliances with relevant ADG requirements;*
    - 2) *Relationship to and mitigating impacts on Heritage Items;*
    - 3) *Traffic issues such as sightlines, vehicle queuing, pedestrian safety and bicycle parking;*
    - 4) *Demonstrating adaptive re-use potential of drive-through facility and at least some of the parking spaces proposed;*
    - 5) *Active frontage requirements; and*
    - 6) *Relationship to 385 Church Street isolated site.*
22. At the time of preparing this report, Council officers and the Applicant were working together to address the above issues. The Applicant submitted an initial draft DCP, which was referred to technical experts within Council. This review process has prompted Council officers to recommend some minor changes to the above principles, as well as recommend some additional principles which Council officers feel are appropriate to address in the draft DCP. The result of this consideration is contained in Table 1 below and reflected in the recommendation of the report.

**Table 1: Council officer consideration of recommended principles for draft DCP**

Issue	Council Officer Analysis & Recommendation
<b><i>Issues in Council’s resolution of 13 July 2020 regarding the DCP</i></b>	
<i>Further defining the preferred two-tower scheme, including podium heights and tower setbacks, with a view to minimising any non-compliances with relevant ADG requirements</i>	This principle is still relevant.  <b>Recommended for inclusion in updated principles.</b>
<i>Relationship to and mitigating impacts on Heritage Items;</i>	This principle is still relevant, though recommend language is strengthened to ensure that an “appropriate” relationship is established.

	<b>Slightly amended language recommended for inclusion in updated principles</b>
<i>Traffic issues such as sightlines, vehicle queuing, pedestrian safety and bicycle parking;</i>	<p>A consideration of traffic issues (and specifically sightlines, vehicle queuing, and pedestrian safety) is still relevant. Bicycle parking rates are expected to be established as part of the forthcoming broader CBD DCP, and therefore not necessary for replication in a site-specific DCP.</p> <p><b>Recommended for inclusion in updated principles, except with the removal bicycle parking rates as a site-specific issue.</b></p>
<i>Demonstrating adaptive re-use potential of drive-through facility and at least some of the parking spaces proposed;</i>	<p>This principle is still relevant.</p> <p><b>Recommended for inclusion in updated principles.</b></p>
<i>Active frontage requirements</i>	<p>Active frontage requirements have been elevated to the LEP as part of the CBD Planning Proposal, with supporting detail also expected to be included in the forthcoming broader CBD DCP. Therefore, controls do not need to be replicated in a site-specific DCP.</p> <p><b>No longer recommended for inclusion as a principle, as broader LEP/DCP framework is expected to contain relevant requirements.</b></p>
<i>Relationship to 385 Church Street isolated site</i>	<p>This principle is still relevant, though it is recommended to be strengthened to clarify what is sought in terms of defining the relationship between the two sites.</p> <p>Specifically, the DCP should contain built form controls that demonstrate how 385 Church St can develop on its own (i.e. an unamalgamated scenario) under the provisions of the CBD Planning Proposal.</p> <p>The DCP should also establish a direction for an amalgamated scenario, specifically that the two tower approach should generally be maintained, while also seeking to increase inter-building separation and tower setbacks.</p> <p><b>Recommended for inclusion in updated principles.</b></p> <p><b>The landowners of 385 Church St should also be consulted on the scenarios put forward in the DCP controls as described above.</b></p>
<b><i>Additional issues that have arisen during draft DCP preparation</i></b>	
Ensuring that footpath widening and “notch” in centre of site are marked appropriately in the DCP to support future public access	<p>As discussed in detail previously in this report, these issues should be addressed in the DCP.</p> <p><b>Recommended for inclusion in updated principles.</b></p>
Ensuring the building appropriately addresses the potential future through-block link	<p>Without appropriate DCP controls, there is a concern that the western façade of the podium would present as a blank wall to the potential future through-block link, raising amenity issues. Controls should be put in place to ensure an appropriate address to the link; examples of measures</p>

	<p>to be considered include high quality wall treatment, articulation, lighting, public art and greening.</p> <p><b>Recommended for inclusion in updated principles.</b></p>
Environmental quality impacts (particularly noise, air pollution and odour) of podium uses	<p>The aim is to ensure that the operation of the drive-through and multi-storey takeaway food and drink premises does not introduce unacceptable impacts to residential units above the podium, employees of the restaurant and the surrounding public domain.</p> <p><b>Recommended for inclusion in updated principles.</b></p>
Minimising any impact of the development on PLR and the surrounding road network, including restricting right turn from Victoria Road into the site	<p>The DCP should set up a requirement to demonstrate that the Applicant has liaised with PLR/TfNSW prior to lodgment of a DA.</p> <p>The reasoning behind restricting the right turn into the site from Victoria Road is to reduce vehicle queueing and the risk of collisions, particularly in light of the proximity to the Church St/Victoria Road intersection and PLR.</p> <p><b>Recommended for inclusion in updated principles.</b></p>
Crime Prevention through Environmental Design (CPTED)	<p>Given the potential for late-night trading at this site, the DCP controls should ensure that any CPTED-related issues are addressed through building design and provision of a comprehensive CPTED report.</p> <p><b>Recommended for inclusion in updated principles.</b></p>
Podium landscaping	<p>Due to the relatively large site size and preferred two tower reference design, the expected built form outcome includes a large podium with significant amounts of communal open space (unique for CBD sites). This introduces an opportunity to introduce site-specific controls in addition to those that normally apply in the CBD to ensure high-quality open space outcomes for both private and public domain.</p> <p><b>Recommended for inclusion in updated principles.</b></p>

23. Council officers consider that the most efficient use of Council's resources is to recommend in this report that Council endorse these updated principles and delegate to Council officers to finalise and exhibit a draft DCP in accordance with the those updated principles (rather than forward an additional, separate report to Council attaching a full draft DCP at a later point in time).