

DETERMINATION AND STATEMENT OF REASONS

SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	8 December 2020
PANEL MEMBERS	Abigail Goldberg (Chair), Noni Ruker, Jane Fielding and Richard Thorp
APOLOGIES	Nil
DECLARATIONS OF INTEREST	<p>Gabrielle Morrish advised that she has worked on the Civic Square proposal on behalf of Parramatta City Council, including the original competition and design review roles, and as such is conflicted.</p> <p>Councillors Martin Zaiter and Sameer Pandey advised that they have, as part of the development of Parramatta square and Civic Lane, attended various workshops and meetings in relation to the site and its impact on the Uniting Church. As such they are conflicted.</p> <p>David Ryan advised that as the Uniting Church is a client of his company, he is conflicted.</p>

Papers circulated electronically on 26 November 2020.

MATTER DETERMINED

2018SWC103 - City of Parramatta – DA/684/2018, 99-119A Macquarie Street Parramatta (Lot 9 DP 702736, Lot 1 DP 626765, Lot 1 DP 628809), Concept Proposal for 14 storey mixed use (retail, office, student housing, group home and boarding house) building envelope at 99-113 Macquarie Street [Epworth House], 13 storey mixed use (church administration, community facility, student housing, group home and boarding house) building envelope at 119A Macquarie Street [Fellowship Centre], 2-6 storey basement envelope (retail, church administration and 142 parking spaces), retention and restoration of Leigh Memorial Church Building including new spire; and Stage 1 demolition of existing commercial buildings to ground level. The application is identified as Nominated Integrated Development for the purposes of the Water Management Act 2000 (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at items 7 and 8 in Schedule 1.

The Panel determined to **refuse** the application for the reasons listed below –

1. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of SEPP No. 55 – Remediation of Land as a Detailed Site Investigation (Phase 2) is required but has not been undertaken. As such, the application fails to adequately demonstrate that site can be made suitable for the proposed use in accordance with the requirements of SEPP No. 55.
2. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is considered to be inconsistent with the objectives for development in Zone B4 Mixed Use as listed in Parramatta Local Environmental Plan 2011. Specifically, the proposal is inconsistent with –
 - (a) Zone Objectives (a) and (b) in that it fails to demonstrate that the mix of uses will be compatible with each other, that the mix of uses will be compatible with the constraints of the

site (due to flooding) and that the mix of uses will be compatible with the intended future character and use of adjoining public open spaces.





- (b) Zone Objectives (c), (d) and (e) in that it fails to demonstrate that the development contributes active frontages and improvements to the interface with the public domain and pedestrian links (Civic Link and shareway) intended for Parramatta Square and land immediately adjoining the site.
3. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of Clause 6.3 Flood Planning of Parramatta Local Environmental Plan 2011. Specifically, the proposal includes significant areas of habitable space (including commercial and retail uses) in basement levels that are below the flood planning level and flood management and protection measures have not demonstrated that this does not pose an unacceptably high risk to loss of life and property.
 4. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of Clause 5.10 Heritage of Parramatta Local Environmental Plan 2011. Specifically, the proposed building envelopes are considered to have detrimental impacts to the curtilage, visual legibility and setting of the Leigh Memorial Uniting Church. Furthermore, the concept proposal does not seek to retain or consider the Parramatta Convict Drain which is required to be retained by the Office of Environment and Heritage.
 5. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of Clause 7.10 Design Excellence of Parramatta Local Environmental Plan 2011. Specifically, the proposed development fails to demonstrate design excellence, thereby failing to satisfy Clause 7.10(4) of PLEP 2011.
 6. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) to the *Environmental Planning and Assessment Act, 1979* because it is considered to be inconsistent with the provisions of Section 4.3.3.7(b) Parramatta Square of Parramatta Development Control Plan 2011. In this regard, the proposal is inconsistent with C1, C4 & C5 (Site Objectives), C1-C6 & C8 (Building Form) and C1 (Utilities) in the PDCP.
 7. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) to the *Environmental Planning and Assessment Act, 1979* because it is considered to be inconsistent with the objectives and provisions of Section 4.3.3.7(m) Civic Link Precinct of Parramatta Development Control Plan 2011. In this regard, the proposal is inconsistent with C1-C3 (Amalgamation and Land Dedication), C1, C2 & C4 (Public Domain Structure) and C1, C4, C6 & C7 (Built Form) in the PDCP.
 8. The proposal is unacceptable pursuant to the provisions of Section 4.15(b) to the *Environmental Planning and Assessment Act, 1979* in that the application includes insufficient information to satisfactorily assess the likely impacts of that development, including:
 - Location and quantum of the proposed land uses on the site;
 - An assessment against the design principles of SEPP 65 and the applicable requirements of Apartment Design Guide;
 - Overland flow flooding, flood protection measures and emergency flood risk management;
 - Geotechnical information regarding the impacts of excavation on the structural integrity of the Leigh Memorial Uniting Church;
 - Traffic and parking generation associated with the unknown quantum, location and accessibility of proposed land uses;
 - Vehicular and pedestrian safety and amenity concerns associated with the Parramatta Light Rail given Macquarie Street is a transitway under ISEPP. It is further noted that no concurrence has been obtained by Transport for NSW, as required under ISEPP;

- Public domain integration, including the lack of a Public Domain and Alignment Plan and a Public Arts Plan;
 - Social impacts associated with the unknown quantum, location and accessibility of proposed land uses;
 - Construction and traffic management as it relates to the construction and ongoing operation of the Parramatta Light Rail; and
 - Assessment and management of potential Acid Sulfate Soils.
 - The proposal is unacceptable pursuant to the provisions of Section 4.15(e) to the *Environmental Planning and Assessment Act, 1979* in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instruments and a development control plan are not in the public interest and would set an undesirable precedent. Furthermore, the precedent represented by the proposal is contrary to the consistent application of design excellence provisions and application of the same environmental planning instruments to surrounding developments in Parramatta Square and the immediate locality.
9. The proposal is unacceptable pursuant to the provisions of Section 4.15(e) to the *Environmental Planning and Assessment Act, 1979* in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instruments and a development control plan are not in the public interest and would set an undesirable precedent. Furthermore, the precedent represented by the proposal is contrary to the consistent application of design excellence provisions and application of the same environmental planning instruments to surrounding developments in Parramatta Square and the immediate locality.

The decision was **unanimous**.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that there were no written submissions received during the public exhibition.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Noni Ruker
 Jane Fielding	 Richard Thorp

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SWC103 - City of Parramatta – DA/684/2018
2	PROPOSED DEVELOPMENT	Concept Proposal for 14 storey mixed use (retail, office, student housing, group home and boarding house) building envelope at 99-113 Macquarie Street [Epworth House], 13 storey mixed use (church administration, community facility, student housing, group home and boarding house) building envelope at 119A Macquarie Street [Fellowship Centre], 2-6 storey basement envelope (retail, church administration and 142 parking spaces),

		retention and restoration of Leigh Memorial Church Building including new spire; and Stage 1 demolition of existing commercial buildings to ground level. The application is identified as Nominated Integrated Development for the purposes of the Water Management Act 2000.
3	STREET ADDRESS	99-119A Macquarie Street Parramatta (Lot 9 DP 702736, Lot 1 DP 626765, Lot 1 DP 628809).
4	APPLICANT/OWNER	The Uniting Church in Australia Property Trust (NSW)
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment value or more than \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ Water Management Act 2000 ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy (Sydney Harbour Catchment) 2005 ○ State Environmental Planning Policy No. 55 (Remediation) ○ State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) & Apartment Design Guide ○ Parramatta Local Environmental Plan 2011 ○ Draft Consolidated City of Parramatta Local Environmental Plan 2020 ○ Draft environmental planning instruments: Nil ○ Development control plans: <ul style="list-style-type: none"> ○ Parramatta Development Control Plan 2011 ○ Planning agreements: Nil ○ Provisions of the Environmental Planning and Assessment Regulation 2000 ○ Coastal zone management plan: [Nil] ○ The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality ○ The suitability of the site for the development ○ Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations ○ The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 19 November 2020 • Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Briefing – 5 December 2018 • Site inspection - Site inspections have been curtailed due to COVID-19 precautions. Where relevant, Panel members undertook site inspections individually. • Papers were circulated electronically on 26 November 2020. • Briefing to discuss Council's recommendation, 2 December 2020,

		<p>9.30am. Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), Noni Ruker, Jane Fielding and Richard Thorp ○ <u>Council assessment staff</u>: Myfanwy McNally, Alex McDougall and Ross Meachin (independent planner) ○ <u>Points discussed were</u> – <ul style="list-style-type: none"> ▪ Background to the site and the proposal, including planning controls. The application has been with Council over 800 days. ▪ Proximity to the planned Light Rail stop ▪ Proposed massing and built form ▪ Non-compliances with planning controls, including non-compliance with DCP setbacks such as 20m wide Civic Link, 6m laneway to Council’s building, 7m driveway with adjoining site ▪ Lack of clarity regarding proposed uses and mix of uses. The lack of specificity has hampered assessment, for example it cannot be determined from the broad description of ‘accommodation’ whether SEPP 65 applies. ▪ Inappropriate response to heritage. ▪ The proposal does not achieve design excellence. ▪ Lack of a detailed site investigation, in a case where preliminary reporting indicate a potential for contamination. Therefor insufficient information regarding potential contamination, and inability to determine whether SEPP 55, an essential precondition for determination, has been addressed ▪ Transport for NSW has not provided concurrence. <ul style="list-style-type: none"> • Applicant briefing to discuss council’s recommendation, 2 December 2020, 10.00am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), Noni Ruker, Jane Fielding and Richard Thorp. ○ <u>Council assessment staff</u>: Myfanwy McNally, Alex McDougall and Ross Meachin (independent planner) ○ <u>Applicant Representative</u>: Adam Byrnes ○ <u>Points discussed were</u> – <ul style="list-style-type: none"> ▪ Parramatta Mission has sought to discuss a reduced footprint and modified development for the site. Discussions are presently at an early stage and ongoing. ▪ There are compensation matters to be discussed and resolved with Council regarding the Civic Link. ▪ Council’s current position and recommendation for refusal are understood, but regrets that compensation negotiations have not progressed to a stage where a revised proposal could be submitted.
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A