



Purpose: To request that the Independent Planning Commission review the Gateway determination, taking into account information provided by the Proponent and to provide advice regarding the merit of the review request.

Dept. Ref. No:	GR-2021-4
LGA	City of Parramatta Council
LEP to be Amended:	Parramatta Local Environmental Plan 2011
Address/ Location:	355 and 375 Church Street, Parramatta (Lot 1 DP 668821 and Lot 1000 DP 791977 respectively)
Proposal:	To amend the Parramatta LEP 2011 to introduce an incentive building height and floor space ratio controls and site-specific provisions.
Review request made by:	<input type="checkbox"/> The council <input checked="" type="checkbox"/> A proponent
Reason for review:	<input type="checkbox"/> A determination has been made that the planning proposal should not proceed. <input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway. <input checked="" type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background information

Details of the planning proposal	<p>The planning proposal (Attachment D) seeks to amend the development controls for land at 355 and 375 Church Street, Parramatta (the site), by introducing a site-specific clause in the Parramatta Local Environmental Plan 2011 (PLEP 2011) to include the following:</p> <ol style="list-style-type: none">1. Amend the Special Provisions Area Map to identify the site;2. Introduce a maximum height control with the maximum height to be determined by the proposed sun access plane to Prince Alfred Square which requires no overshadowing of the protected area of the Square between 12pm and 2pm in mid-winter;3. Amend the Sun Access Protection Map to identify the portion of Prince Alfred Square subject to sun access protection;4. Introduce a maximum FSR of 6.9:1, but only if the design excellence provisions within Clause 7.10 are satisfied at development application stage;5. Enable an additional 5% FSR bonus (bringing the maximum FSR on the site to 7.2:1) if a high-performance building is provided; and6. Specify maximum car parking rates for residential, commercial and take away food and drink premises that differ from those adopted in the Parramatta CBD in relation to take away food and drink premises. <p>Regarding 6. above, the proposal requested to apply maximum car parking rates for take away food and drink premises of 1 car parking space per 30m² of gross floor area (GFA) or a maximum of 30 spaces, whichever is the lesser, with a sunset</p>
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clause ending the application of this provision after five years from the date of notification of the amendment. The parking rate would revert to the Parramatta CBD parking rate after the sunset clause expires.

The planning proposal seeks to facilitate the redevelopment of the site for a mixed-use outcome consisting of two towers above a podium (31 and 28 storeys podium inclusive) over a single basement level for car parking.



Figure 1 – Site location of planning proposal outlined in red and isolated site in yellow

Site description

The site is bounded by Church Street, Victoria Road and Ross Street, leaving an isolated site at 385 Church Street (**Figure 1**). The isolated site comprises a three-storey mixed use development, with retail and office space. Development to the west of the site comprises a 5-storey mixed use development.

The site is located at the northern end of the Parramatta CBD Precinct, approximately 1km from Parramatta Railway Station. The site is also situated adjacent to the Parramatta Light Rail (PLR) Stage 1 corridor, with a future Light Rail stop at the junction of Church Street and Victoria Road.

Reason for Gateway determination

On 13 November 2020, a Gateway determination (**Attachment C**) was issued subject to conditions because the proposal had sufficient strategic and site-specific merit and gave effect to the Central City District Plan. The proposed car parking rates for take away food and drink premises were not supported, and a condition was imposed to remove it from the planning proposal. Additionally, a condition was imposed to include the isolated site at 383* Church Street within the proposal consistent with the Parramatta CBD Planning Proposal (CBD proposal).

*Note: the correct address of the isolated site is 385 Church Street.

The site is immediately adjacent to the corridor for the Parramatta Light Rail (Stage 1) and is in close vicinity to a future light rail stop providing a connection to the Parramatta Railway Station and Bus-Interchange. Accordingly, the Gateway

	<p>determination required consultation with Transport for NSW, including the Parramatta Light Rail team during the exhibition of the planning proposal.</p> <p>With regard to the proposed car parking rate for take away food and drink premises, the Departments assessment report (Attachment C) noted the CBD proposal specifies maximum car parking rates for commercial and residential uses, not specific uses. Additionally, the Parramatta CBD Strategic Transport Study supporting the CBD proposal states that the current road network has limited capability to expand; and new surface transport infrastructure like light rail further impacts on the road space allocation for private vehicles. Furthermore, while provision of public transport is a State Government responsibility, Council can actively contribute to encourage mode shift for commute trips by reducing the capacity to support on-site car parking in future developments and work with the State Government to manage congestion.</p> <p>The Departments assessment report also identified the proposed car parking rate could create a precedent for other development in the CBD and is inconsistent with the long-term strategic plans for the Parramatta CBD as the Central City. Furthermore, mode shift towards public and active transport will be occurring when the PLR Stage 1 becomes operational in 2023 by which time a development on the site may have received development approval and be under construction. Given the value of car parking in a CBD location, the report noted the uncertainty about the likelihood of its adaptive reuse.</p> <p>Regarding the isolated site, the Gateway determination assessment report noted the proponent had undertaken work to demonstrate how the adjoining site could be redeveloped under the sliding scale provisions of the CBD proposal as well as consideration of the planning principles in relation to site isolation. The Department's assessment report identified that the amalgamation of the subject site with the isolated site would likely facilitate a better planning outcome. As a result, a Gateway condition (1)(d) was placed requiring that the planning proposal be amended prior to exhibition to include the isolated site within the proposal consistent with the Parramatta CBD planning proposal.</p> <p>As a result of the above assessment, a condition was placed in the Gateway determination to remove the proposed car parking rate for take away food and drink premises and the associated sunset clause and require the adjoining site to be included in the planning proposal.</p>
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Council views

<p>Council response</p>	<p>On 26 February 2021, the Department formally requested Council's views on the Gateway determination review request. On 4 March 2021 (Attachment B1), Council advised that there were no additional comments in relation to the request, noting that Council had previously provided a letter in support of the proponent's request package dated 29 January 2021 (Attachment B2). Council supports the Gateway review request to:</p> <ol style="list-style-type: none"> 1. remove Gateway condition 1(c) which requires removal of the proposed car parking rates for takeaway food and drink premises and the associated sunset clause, and 2. remove Gateway condition 1(d) which requires inclusion of the isolated site at 383(385) Church St, Parramatta into the Planning Proposal. <p>The letter indicated that the Gateway review request is consistent with Council's resolution on this matter of 13 July 2020 and is therefore supported by Council.</p>
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Council officers also made a similar request for an administrative review of these two conditions on 23 December 2020. However, as the proponent provided their intent to submit a Gateway review request, the Department did not proceed to alter the Gateway determination.

Takeaway food and drink premises car parking rates

Council officers identify that the car parking rates endorsed by Council represent a balanced approach that limits setting an undesirable precedent for parking provision, while also advancing a shared vision to see this site redeveloped in accordance with the Parramatta CBD Planning Proposal. The letter of support referred to the Local Planning Panel report (**Attachment F**) and Council report (**Attachment E**), which provides justification for the proposed rate. In summary:

- The initial version of the planning proposal lodged with Council requested higher maximum parking rates.
- The site is currently the only take away food and drink premise with a drive through and seating located on an arterial road in the CBD planning proposal area. Therefore, the specific rate would not set a precedent.
- There is an opportunity to 'unlock' redevelopment of this site in line with the CBD planning proposal, whilst carefully balancing this with traffic impacts.
- A bespoke rate is considered appropriate so that development assessment officers have an appropriate tool for considering future DA involving the land use.
- That 30 parking spaces is a significant reduction on the current amount of parking on site (approximately 60 spaces) and a marginal reduction on the parking rates for the use under current planning controls (approximately 35 spaces).

The Council reports identified Council officers' concern about the proposed rate when compared against the parking provision in other strategic centres in Sydney and the potential misalignment with the importance of growing Parramatta as the Central City of Greater Sydney. Council officers also raised concern about the precedent this could create for other developments within the CBD. Given these concerns, Council officers proposed an alternative rate of 1 space/45m² (approximately 20 parking spaces). However, the report stated the proponent's view that the development would not be feasible under the alternative rate. Accordingly, the proponent's proposed rate (1 space / 30 m² or about 30 spaces) would be supported for the following reasons, in summary:

- the proposal is generally consistent with the Parramatta CBD planning proposal and there is a shared vision to see this site redeveloped;
- the commercial parking rate would make the development unviable in the short term as the transformation of the CBD and mode shift towards active transport will happen as new public transport infrastructure (such as PLR Stage 1) becomes operational and as public and active transport become the most practical transport options;
- the proposal will see a decrease of around 50% in the on-site parking associated with the existing McDonald's restaurant and there will be a reduction of traffic during the peak;
- the proposed control caps the number of parking spaces at 30 and could not increase if the floor area of the new McDonald's restaurant increased and would require less car parking spaces if a smaller restaurant was proposed, based on the rate per square metre; and
- a sunset clause would ensure the parking rate returns to the CBD proposal parking rates if development consent is not obtained within 5 years of the finalised amendment noting that Council will have established its final parking rate for the CBD proposal and by which time mode shift will be occurring thus altering development feasibility calculations.

	<p>Isolated site</p> <p>Council notes the controls that would be added to apply to the isolated site are already contained in the draft CBD proposal, which has already been exhibited. Given that the subject site-specific planning proposal still requires the resolution of a Development Control Plan (DCP) and Voluntary Planning Agreement (VPA) before it can be exhibited (consistent with Gateway condition 1(f) and Council resolution) means that it is likely that these controls will be put in place for this site before the site specific planning proposal can be finalised. As a result, Council states all the resources that go into including the isolated site in this site-specific planning proposal are effectively wasted.</p> <p>Council also states that the progression of the site-specific planning proposal for the McDonalds site is necessary so Council and the Department can consider the site-specific parking provisions. If it was not for these controls the same argument would apply to the site-specific proposal outright as it is otherwise only seeking to impose controls consistent with the CBD proposal.</p> <p>Additionally, Council identifies that introducing the isolated site to the subject planning proposal would result in further potential cost and delay to the proponent. This would have the likely effect of slowing down the finalisation of the proposal. Including the isolated site requires Council to pursue a VPA with the owner of the isolated site adjoining site under its current policy framework. There is potential for this process to significantly delay the progress of the site-specific proposal.</p>
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Proponent's view

<p>Details of justification</p>	<p>The review of the Gateway determination was prepared by Ethos Urban, on behalf of the proponent, and submitted on 29 January 2021 (Attachment Request). The request includes an explanation that the purpose of the planning proposal is to facilitate an indicative development concept that will deliver a project in keeping with the vision set by Council in the Parramatta CBD planning proposal.</p> <p>A summary of the Gateway review request justification is provided below.</p> <p>Following receipt of the Gateway determination, a meeting was held between the proponent, Council and the Department on 1 December 2020. It was highlighted that applying the standard commercial parking rate under the CBD proposal would result in McDonald's having to reduce their parking provision from 60 spaces to 3 spaces (based on a 900m² store), thereby having a significant and disproportionate impact on McDonalds' operations, and effectively resulting in an outcome that is untenable for McDonald's from a business perspective. Accordingly, the review request stated that any proposal that jeopardises their future business operation will result in McDonalds making a commercial decision in their best interests and to remain in situ for the long-term future. This would lead to terminating their joint venture arrangement with Stockland, and therefore future redevelopment on site.</p> <p>Review of condition 1(c) – Take Away Food and Drink Premises Car Park Rate</p> <p>The review request seeks to delete Gateway condition 1(c) - <i>Remove the proposed car parking rates for take away food and drink premises and the associated sunset clause.</i></p> <p>The request states CBRK were engaged to undertake a detailed traffic model analysis to determine the future impact on the local road network as a result of the proposal. The analysis confirmed that McDonald's traffic generation is likely to reduce from its current levels by approximately 30% due to the reduction in on-site parking (50%) and the reduced visibility of the drive-through and parking area from the street.</p>
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Notwithstanding the proposal's density and 350 proposed dwellings being added to the site, the proponent identifies that the indicative development concept will be consistent with the Council's stated objective for the CBD proposal, which is to avoid or mitigate additional demand on the road network by facilitating a net reduction in traffic generated from the site compared to the existing scenario. In addition, SIDRA modelling illustrates that the surrounding road network can accommodate the indicative development concept, and that the planning proposal will improve the performance of the local road network.

The request argues the provision of a bespoke parking rate will not provide a situation that creates a precedent for other sites within the defined CBD area. Specifically, it is noted that:

- Parramatta Local Environmental Plan 2011 currently contains a parking rate relevant to the proposed use (allowing 37 spaces), however, the draft controls currently contained in the CBD planning proposal do not. This is because the draft CBD proposal adopts City of Sydney rates, which do not include a specific rate for Take Away Food and Drink Premise.
- The site is currently the only Take Away Food and Drink Premise with seating and a drive-through located on an arterial road in the Parramatta CBD planning proposal area.
- The planning proposal provides an opportunity to "unlock" redevelopment of this site in line with the Parramatta CBD planning proposal and the proposed parking rates will not increase traffic volumes or vehicle delays under the redeveloped scenario when compared with the existing situation.
- A bespoke rate will provide development assessment officers with an appropriate policy framework and tool for considering and assessing any future DA involving a Take Away Food and Drink Premise.
- Council's support for the site-specific car parking rate was based on the unique circumstances surrounding the site.

Review of condition 1(d) – isolated site

The review request seeks to delete Gateway condition 1(d) - *Include the isolated site at 383 Church Street within the proposal consistent with the Parramatta CBD Planning Proposal.*

The request acknowledges that amalgamation of the subject site with the adjoining smaller site at 385 Church Street (isolated site) would facilitate a better planning outcome, however despite Stockland's efforts to acquire the adjoining site over a number of years, the landowner did not express interest in selling the site.

The review request expresses concern that including the isolated site will result in a risk of delaying the progress of the site-specific planning proposal. This is due to Council's Planning Agreement policy would not allow the isolated site to be included in the site-specific planning proposal unless the owner of that site has entered into a VPA.

Additionally, it is argued that the controls to apply to the isolated site are those contained in the draft CBD planning proposal which has already been exhibited. Given that the site-specific planning proposal still requires the resolution of the DCP and VPA before it can be exhibited it is likely that the CBD proposal controls will be put in place for the isolated site before the site-specific proposal can be finalised. This could result in the inefficient use of resources that go into including the isolated site, such as negotiating a VPA and DCP with the adjoining landowner.

Material provided in support of application/proposal	The proponent has provided the following documents to support its Gateway Review request:	
	Attachment Request	Gateway Review Request, January 2021
	Attachment A	Gateway Review Request Application Form
	Attachment B	Council letter of support – 29 January 2021
	Attachment C	Gateway assessment and determination - November 2020
	Attachment D	Planning Proposal - July 2020
	Attachment E	Council report and resolution - July 2020
	Attachment F	Local Planning Panel report and resolution - June 2020
	Attachment G	Urban Design Report and addendum
	Attachment H	Landscape Concept Plan
	Attachment I	Updated Transport Report and traffic and transport advice
	Attachment J	Flood Assessment
	Attachment K	Heritage Impact Statement and addendum heritage letter

Assessment summary

Department's assessment	<p>Take Away Food and Drink Premises Car Park Rate</p> <p>The Department notes the justification provided by the proponent and Council's views on the Gateway review request. However, the Department's position remains unchanged on the specific parking rate for take away food and drink premises. Key matters are considered below:</p> <ul style="list-style-type: none"> • The Parramatta CBD planning proposal specifies maximum car parking rates for commercial and residential uses, not specific uses. The CBD proposal will be subject to a mesoscopic transport model which will identify the anticipated demand and impact on transport infrastructure as a result of the development envisaged as part of the CBD proposal. • While the CBD proposal does provide parking rates for the intended use of the site (a commercial rate), how the overall quantum of carparking within a development is utilised is a matter that can be further interrogated at DA stage. • The Parramatta CBD Strategic Transport Study supporting the CBD proposal states that the current road network has limited capability to expand; and new surface transport infrastructure like light rail further impacts on the road space allocation for private vehicles. • While provision of public transport is a State Government responsibility, Council can actively contribute to encourage mode shift for commute trips by reducing the capacity to support on-site car parking in future developments and work with the State Government to manage congestion. <p>Specifically, it is considered the bespoke car parking rate will create a precedent for other development in the CBD and is inconsistent with the long-term strategic plans for the Parramatta CBD as the Central City. Although there are no other sites containing a take away food and drink premise with a drive through and seating located within the CBD planning proposal area, there is nothing preventing other landowners pursuing such a commercial interest.</p> <p>Additionally, mode shift towards public and active transport will already be occurring when the PLR Stage 1 becomes operational in 2023 by which time a development on the site may have received development approval and be under construction. Given the value of car parking in a CBD location, the Department is uncertain about the likelihood of its adaptive reuse.</p>
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TfNSW advice

The Department sought advice from Transport for NSW (TfNSW) regarding the proposed car parking rate for the take away food and drink component of the planning proposal. On 11 March 2021 (**Attachment Advice 1 & 2**), TfNSW provided a response which is consistent with the Department's view that until the Parramatta CBD planning proposal is finalised, site-specific planning proposals should be consistent with the agreed rates (adopted by Council in April 2017 and consistent with the CBD proposal). In summary, TfNSW noted:

- the potential precedent issues;
- the potential to undermine the outcomes and recommendations of the Parramatta Integrated Transport Plan; and
- the rapidly changing nature of the site locality (the Parramatta CBD planning proposal includes activated frontage for the site on Church Street along with light rail and further densification of developments in the vicinity), which will likely create a major shift in mode share (from passing vehicle traffic to foot traffic).
- Further consideration of the proposed car parking provision would be appropriate once the CBD proposal and the Integrated Transport Plan is finalised, subject to additional analysis and data from the proponent.

Recommendation

Given the above, it is recommended that the Gateway condition remain unchanged. In placing the condition to remove the specific car parking rate for the take away food and drink component of the development, the Department was mindful of the work being undertaken in the Parramatta CBD in relation to car parking rates as part of the Parramatta Integrated Transport Plan, as well as the previously agreed and established rates to allow site-specific planning proposals in the CBD to progress.

Isolated site – 385 Church Street

The isolated site adjoins the subject site to the north, with a site area of approximately 424m², floor space ratio (FSR) of 4:1 and maximum building height of 24m under the existing Parramatta LEP 2011 controls. The urban design report (**Attachment G**) demonstrates how the isolated site could potentially be redeveloped under the sliding scale provisions of the CBD proposal. This concept includes a 6-level building comprising 16 apartments and 490m² of retail and commercial uses.

It is noted that site-specific DCP for the planning proposal will be prepared to address urban design, heritage impacts, traffic issues, active frontage requirements and the relationship of the development with the isolated site.

Although the Department considers the amalgamation of the subject site with the isolated site would likely facilitate a better planning outcome, it is acknowledged that including the isolated site could potentially result in delaying the progression of the site-specific planning proposal.

Specifically, it is noted that the controls of the isolated site would be applied once the Parramatta CBD planning proposal is finalised, in which is likely to occur prior to the finalisation of the site-specific planning proposal.

	<p><u>Recommendation</u></p> <p>Given the State Government's objective to reducing the time taken to complete Local Environmental Plans and the justification provided in the review request and Council's views, it is considered appropriate to delete condition 1(d) from the Gateway determination.</p>
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COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Recommendation	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.
	<input type="checkbox"/>	<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

Any additional comments: