



**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.

<b>Dept. Ref. No:</b>	GR-2022-9
<b>LGA:</b>	City of Parramatta
<b>LEP to be Amended:</b>	Parramatta LEP 2011
<b>Address/ Location:</b>	24 and 26 – 30 Parkes Street, and 114 – 116 Harris Street, Harris Park 2150 SP 578, Lot 1 DP 599236, Lot 3 DP 599799, SP 16744, SP 35413 and SP 53257
<b>Proposal:</b>	Insert a site specific provision to exempt the FSR sliding scale for land on 24, 26 – 30 Parkes Street and 114 – 116 Harris Street
<b>Review request made by:</b>	<input type="checkbox"/> The council
	<input checked="" type="checkbox"/> A proponent
<b>Reason for review:</b>	<input checked="" 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 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

<b>Details of the planning proposal</b>	<p>The planning proposal (<b>Attachment C</b>) relates to land at 24, 26-30 Parkes Street and 114 – 116 Harris Street, Harris Park (the site) and seeks to exempt the application of the FSR sliding scale across the site.</p> <p>The intent of this amendment is to allow each site to individually achieve the proposed maximum FSR of 10:1 plus bonuses under the Parramatta CBD Planning Proposal (CBD PP).</p> <p>The planning proposal responds to the CBD PP and anticipates that the development standards, and therefore development potential, exhibited for the sites under the CBD PP will be adopted. The CBD PP also seeks to continue the sliding scale provisions, with amendments including exemptions for ‘isolated sites’ where amalgamation is not possible.</p> <p>The Department is currently completing its finalisation assessment of the CBD PP and as such the final development standards are not yet determined.</p> <p><b>Site description</b></p> <p>The site is located at the edge of Parramatta CBD, bound by Parkes Street to the south and Harris Street to the east (<b>Figure 1</b>).</p>
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**Figure 1 site location (NearMap with DPE edits)**

East of the site exists the mid-sized Robin Thomas Reserve (**Figure 2**). This reserve is one of the few open spaces in the city centre and contributes to the character and amenity of the area. To the south of the site, across Parkes Street, are apartment buildings that are estimated to date from the 1970s and 1980s. Immediately adjoining the northern site boundary is Clay Cliff Creek, an open concrete channel. To the site's west is a recently completed and occupied residential tower at 22 Parkes Street and at 14 – 20 Parkes Street, Parramatta development consent has been issued for mixed use development following a recent rezoning.



**Figure 2 Aerial photograph showing the site's context (Gateway determination report)**

### **Planning proposal background**

The background for the proposal spans over five years and the site has been subject to three separate planning proposals prior to the subject to proposal

	<p><b>(Attachments A1-A3)</b>. These proposals variously sought to increase development standards and, in some proposals, remove the applications of the FSR sliding scale control for the three individual sites subject to the current proposal. The intent of each proposal was to facilitate greater development potential for the sites with the objective of development without amalgamation. The Department's Gateway assessment report (<b>Attachment Gateway</b>) details the previous planning proposals and their intended amendments.</p> <p>In early 2021, after officer consideration of the three proposals, Council came to an agreement that a superior built form outcome would not be achieved through amalgamation, as opposed to allowing an exemption of the FSR sliding scale and developing the sites individually. Council then supported a combined planning proposal applying to the three sites seeking to exempt the land from the sliding scale to allow individual development at the maximum FSR envisaged through the CBD PP.</p>
<p><b>Reason for Gateway determination</b></p>	<p>On 21 October 2021, a Gateway determination (<b>Attachment Gateway</b>) was issued which determined that the amendment to the Parramatta Local Environmental Plan (LEP) 2011 should not proceed. The reasons for Gateway determination are outlined below:</p> <ol style="list-style-type: none"> <li>1. The planning proposal does not demonstrate site specific merit as: <ol style="list-style-type: none"> <li>a) the planning proposal remains inconsistent with the following Section 9.1 Ministerial Directions, which require further resolution to comply: <ul style="list-style-type: none"> <li>• Direction 2.3 Heritage Conservation;</li> <li>• Direction 4.3 Flooding; and</li> <li>• Direction 6.3 Site Specific Provisions.</li> </ul> </li> <li>b) The planning proposal is inconsistent with the following State Environmental Planning Policies: <ul style="list-style-type: none"> <li>• SEPP 65 Design Quality of Residential Flat Buildings <i>[now Design Quality of Residential Apartment Development]</i>.</li> </ul> </li> </ol> </li> <li>2. The planning proposal is not accompanied by adequate required information to support the progression of the planning proposal.</li> <li>3. The planning proposal does not justify the need for the proposed amendment nor sufficiently demonstrate the resulting FSR is appropriate.</li> </ol> <p>It is also noted that a fundamental rationale for the Gateway determination not being supported was due to the proposal seeking to support the achievement of development standards from the Parramatta CBD Planning Proposal (CBD PP) which is not yet finalised. The Department considered that the proposal is not appropriate, as the CBD PP may still be subject to change as part of the finalisation process, and as such, the justification for this proposal, in that a superior built form outcome is not achieved through the retainment of existing controls may no longer be valid.</p>

## Council views

<p><b>Council response</b></p>	<p>Council provided a response to the Gateway review on 27 January 2022 (<b>Attachment Council</b>). Council acknowledge that the site-specific planning proposal is relying on controls in the Parramatta CBD Planning Proposal that are currently being assessed by the Department and not yet to be finalised. However, Council officers generally support the proponent's grounds for review for the following reasons:</p> <ul style="list-style-type: none"> <li>• The planning proposal is generally consistent with relevant Section 9.1 Ministerial Directions.</li> </ul>
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- The proposed built form should be able to achieve a substantial degree of compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG) solar access requirements, irrespective of issues with solar access in the Parramatta CBD.
- The final urban design outcome is considered acceptable and will be refined in the finalisation of a site specific Development Control Plan.
- The supporting information to the planning proposal is considered to be adequate.
- There is a justified need for the planning proposal.

### **Section 9.1 Ministerial Directions**

Council suggests the proposal is consistent with or capable of being consistent with all relevant section 9.1 Directions. Council provided commentary on the three directions which the Department concluded were inconsistent with the proposal.

#### Direction 2.3 Heritage Conservation

Council contends the proposal is consistent with Direction 2.3, as Experiment Farm is protected to the extent recommended by heritage consultants Hector Abrahams and adopted by Council in the Parramatta CBD Planning Proposal provisions.

The Department notes the Parramatta CBD Planning Proposal seeks to introduce a solar access provision which would prevent overshadowing of Experiment Farm at defined times. Council officers are satisfied that appropriately designed development can comply with requirements for solar access to Experiment Farm.

#### Direction 4.3 Flooding

Council notes that the proposal has been reviewed by Council's Senior Catchment and Development Engineer who is satisfied that the proposal is suitable for the intended use from a risk perspective. Council suggests the proposal is capable of being consistent with Direction 4.3 subject to compliance with the Parramatta CBD Planning Proposal flood controls.

The Department notes the Parramatta CBD Planning Proposal is supported by flood analysis and seeks to introduce a requirement for new development to provide an area of safe refuge where relevant. This is to allow residents and users of the development to refuge from flash flood events where horizontal evacuation may not be possible.

#### Direction 6.3 Site Specific Provisions

Council states that the proposal is consistent with Direction 6.3. Council nominates that acceptable urban design outcomes can be achieved if the sites develop separately and consequently amalgamation should not be required in this case.

### **SEPP 65 Design Quality of Residential Apartment Development**

Council officers note that the three proposed towers are able to achieve at least 70% solar access, although an ADG review would be required to confirm this. The officers also note that it will be difficult to fully meet ADG solar requirements in the Parramatta CBD built form context with FSRs of 10:1 and greater proposed.

Council reiterates that the urban design outcome includes compromises, including reduced setbacks, which are not ideal but acceptable. Council officers are comfortable that detailed design matters, such as building setbacks, can be further resolved at the DCP stage.

	<p><b>Supporting information</b></p> <p>Council officers believe there to be sufficient information to support the proponent's request, particularly:</p> <ul style="list-style-type: none"> <li>• Urban design modelling demonstrates built form under the sliding scale is not necessary as the underlying purpose of the sliding scale to encourage amalgamation would not result in the best urban form in this case.</li> <li>• Additionally, the difference in gross floor area (GFA) across the three sites between the sliding scale and non-sliding scale provisions in the CBD PP will only result in a minor variation to tower height, urban form and amenity outcomes.</li> <li>• The heritage commentary on the Experiment Farm State Heritage item is considered adequate and a detailed Statement of Heritage Impact was forwarded to the Department as part of the Gateway.</li> </ul> <p><b>Justification</b></p> <p>Council states the planning proposal is considered to justify the need for the proposed amendment. Redevelopment of the sites without amalgamation and exemption from sliding scale will result in acceptable urban design and planning outcomes.</p>
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**Proponent's view**

<p><b>Details of justification</b></p>	<p>The review of the Gateway determination was prepared by Think Planners, on behalf of the proponent, and submitted 1 December 2021 (<b>Attachment Request</b>). The request includes an explanation that the purpose of the planning proposal is to allow each site to individually achieve the maximum FSR of 10:1 plus design excellence bonuses, as proposed in the Parramatta CBD planning proposal. The Department notes that the proponent has also included additional accompanying studies and material in support of the proposal, which were not supplied to the Department in the initial Gateway determination request (<b>Attachments D and G</b>).</p> <p>The proponent considers that the Gateway determination report has not included analysis of, nor accurately understood a number of key planning and design factors, and when they are taken into consideration confirms that the proposal should proceed. A summary of the Gateway review request justification is provided below.</p> <p><b>Urban design analysis</b></p> <p>The proponent states that the Gateway determination report does not adequately consider the extent of urban design analysis that has informed Council's recommendations and did not take into consideration the analysis prepared by Urbis in support of the planning proposal (<b>Attachment D</b>).</p> <p>The proponent states that the amalgamation of the sites to achieve tower forms with an east-west orientation results in the challenges of ADG solar access and cross ventilation compliance to apartments due to long south facing facades and also give rise to wide slow moving shadows that have a greater impact than taller slender towers.</p> <p>Council and the proponent agreed that the preferred built form outcome for the site was developing 3 separate towers that are coordinated to ensure matters of the ADG are achieved.</p> <p><b>Table 1</b> demonstrates each site's individual compliance with solar access and cross ventilation requirements.</p>
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ADG Requirement	24 Parkes Street	26-30 Parkes Street	114-118 Harris Street
Solar access	77%	70%	Capable of complying
Cross ventilation	67%	Capable of complying	Capable of complying

Table 1 - ADG compliance

The proponent states that the urban design analysis undertaken by Council and their preferred option which the Department centred their assessment around was not final and subject to further discussions and analysis of built form and setbacks. As such, the proponent considers that it is inappropriate for the Gateway determination assessment to make any ADG conclusions on the basis of sketch drawings that Council readily acknowledges are to be the subject of further testing. Further, the proponent states that it is premature for the Department to pre-determine ADG compliance when the issuing of Gateway is the beginning of a series of tests, and can include conditions that require detailed ADG analysis of the best arrangement of the three towers.

### **Parramatta CBD Planning Proposal**

While the proponent accepts that changes may arise in the finalisation of the CBD planning proposal from what was originally adopted by Council, it is argued that there has been an inconsistency in expressing this concern on other Gateway determinations issued for proposals across the CBD. The proponent states that numerous Gateways have been issued which are consistent with the controls supported by the Gateway determination and the Department has not expressed concerns surrounding changes at finalisation in these instances.

### **Overshadowing to Experiment Farm**

While the proponent accepts that the proposal will result in some overshadowing to State Significant Experiment Farm Cottage, the proponent states that there are adequate planning controls in place which seek to protect the overshadowing to Experiment Farm and considered at the DA and design excellence stage. As such, the proponent considers that there is no impediment or barrier to issuing a Gateway determination as conditions can be imposed which require further analysis and the protection of the overshadowed area prior to finalisation. The proponent states similar conditions have been included with previous Gateway determinations resulting in overshadowing within the CBD.

### **Section 9.1 Ministerial Directions**

#### Direction 2.3 Heritage Conservation

The proponent states that there is nothing in the planning proposal that makes it inconsistent with this Direction, as Experiment Farm will be protected from overshadowing through specific planning controls at the DA stage, the towers will undergo further detailed design testing and that the compliance with protection of shadows is capable of being achieved in the detailed design of the towers.

The proponent notes that other Gateway determinations have been issued based on the draft provision for solar access to Experiment Farm as the relevant area of Experiment Farm will be required to be protected.

#### Direction 4.3 Flooding

The proponent agrees with the Department, in that for the proposal to be consistent with this Direction, it must align with the safe areas of refuge controls proposed in the CBD PP. The proponent identifies that the subject sites are capable of being

	<p>designed to provide areas of safe refuge, which will be illustrated in subsequent DA lodgement. The proponent considers that this is not a matter which has or should prevent the issuing of a Gateway.</p> <p>Further, the proponent states the Gateway can be conditioned accordingly as numerous other planning proposals in Parramatta CBD have been conditioned to require the provision of safe areas of refuge at the DA stage, nothing prevents the issuing of a conditional Gateway.</p> <p><u>Direction 6.3 Site specific provision</u></p> <p>The proponent states that there is appropriate and comprehensive justification for the proposed site specific provision, particularly in relation to urban design analysis that has been undertaken for the subject site over a number of years.</p> <p><b>Compliance with the Sliding Scale has not been tested</b></p> <p>The proponent argues that the absence of urban design modelling which demonstrates the urban design outcome utilising the sliding scale mechanism as part of the planning proposal was intentional, as they suggest amalgamation of sliding scale would not result in the best urban form.</p> <p>The proponent notes that the underlying purposes of the sliding scale mechanism is to encourage the amalgamation of sites to achieve a site area of 1800sqm to enable tall slender towers. The proponent states that the sites range in area from 1506sqm to 1776sqm and the sliding scale FSR provision would result in an FSR range from 9.81:1-11.36:1, and each tower will achieve height of 30+ stories under the sliding scale.</p> <p>The proponent suggests that there would be only a minimal urban design difference between the final form under the sliding scale or non sliding scale with the exception of slight variations to the tower height, as the difference in gross floor area between the sliding scale and non sliding scale GFA will only be approximately 4500sqm. The proponent puts forward this as the reason why additional drawings demonstrating a design compliant with the sliding scale were not prepared.</p> <p>Further, the proponent considers that the sliding scale will provide a cap on the development potential of the land and would result in a wasted opportunity to provide housing and/or commercial floor space in Parramatta CBD where it is most suited and where there are planning controls to deliver this very outcome.</p>	
<b>Material provided in support of application/ proposal</b>	<b>Attachment Request</b> <b>Attachments A1-A3</b> <b>Attachment B</b> <b>Attachment C</b> <b>Attachment D</b> <b>Attachment E</b> <b>Attachment F</b> <b>Attachment G</b> <b>Attachment H</b>	Proponent gateway review request 2018 Separate planning proposals x 3 2020 Proponent tower arrangement diagrams 2021 Subject planning proposal 2021 Urbis urban design report 2021 Council urban design outcome Report to Local Planning Panel 2021 Proponent tower arrangements Flood impact assessments

## Assessment summary

<b>Department's assessment</b>	<p><b>Urban design</b></p> <p>The Department notes the Urbis urban design package (<b>Attachment D</b>) was not provided at Gateway for assessment. Council endorsed the planning proposal be submitted to the Department for a Gateway determination with reference to the urban design layout which was used to assess the merits of the proposal (<b>Attachment B</b>). However the Urbis urban design package aligns with Council's urban design modelling (<b>Attachment E</b>) and concerns regarding the minimal setbacks, compliance with ADG and SEPP 65 remain.</p>
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While the proponent raises concerns that the urban design modelling which was used to assess the Gateway was an alternative layout identified by Council's urban design team, correspondence with Council Officers on 27 August 2021 confirmed that this option was the preferred option supported by Council as subject to the reporting to the Local Planning Panel. As such, it was appropriate for the Department to assess this urban design modelling for Gateway.

The sliding scale provision serves two purposes, being to encourage amalgamation through reducing FSR and where not availed to ensure that the resulting built form is of a scale which proportionally responds to the site size. The planning proposal greatly underscores that amalgamation will not allow for the best outcome to be achieved at the maximum FSR, and thereby the sliding scale cannot achieve its objective.

The Department notes the sliding scale is also a mechanism to ensure positive built form outcomes can be achieved on smaller sites within the CBD. The incentivisation of a greater FSR through amalgamation provides a larger building envelop for the FSR to be achieved, placing less pressure on setbacks and the built form outcome. As these sites are not proposed to be amalgamated, the Department is concerned that built form outcomes may result in FSR maximisation on sites that have difficulty accommodating such densities.

#### **CBD planning proposal**

- The Department is currently in the process of finalising the CBD planning proposal, as such, the development controls and standards have not yet been determined.
- The Department has commissioned further urban design review to support the finalisation of the CBD planning proposal and determining the most appropriate built form.
- As such, the Department considers that the subject planning proposal is premature given the intent for further urban design testing and it is uncertain whether the proposed CBD controls will remain consistent with the initial proposal or be amended.
- While site specific planning proposals have previously been able to proceed concurrently with the CBD PP these have typically sought to bring forward the outcomes of the CBD PP. As the Department is now actively seeking to finalise the CBD PP, it is not considered appropriate to proceed with a proposal seeking to alter the proposed controls until the LEP is made and the built form context is determined.

#### **Overshadowing to Experiment Farm**

- Urban design and overshadowing modelling prepared in support of the proposal demonstrates that overshadowing would result on the western boundary of the curtilage of the Experiment Farm Cottage and heritage conservation area at 2pm on the 21<sup>st</sup> of June (**Attachment I**).
- As part of the CBD planning proposal, Heritage NSW raised concerns with the potential for taller towers in the CBD to overshadow various heritage items.
- Council and the proponent suggest this matter can be mitigated through a proposed new clause which the CBD PP seeks to introduce.
- The Department considers that the potential for overshadowing demonstrates that the site has reduced capability to accommodate the density proposed in the planning proposal.

	<b>Recommendation</b> The Department recommends that no amendments to the Gateway determination are made.	
<b>Attachments</b>	<b>Attachment Request</b>	Proponent gateway review request
	<b>Attachment Gateway</b>	Gateway determination and assessment report
	<b>Attachments A1-A3</b>	2018 Separate planning proposals x 3
	<b>Attachment B</b>	2020 Proponent tower arrangement diagrams
	<b>Attachment C</b>	2021 Subject planning proposal
	<b>Attachment D</b>	2021 Urbis urban design report
	<b>Attachment E</b>	2021 Council urban design outcome
	<b>Attachment F</b>	Report to Local Planning Panel
	<b>Attachment G</b>	2021 Proponent tower arrangements
	<b>Attachment H</b>	Flood impact assessments
	<b>Attachment I</b>	Overshadowing gateway diagrams
	<b>Attachment Council</b>	Council comments

## 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.**

<b>Recommendation</b>	<input type="checkbox"/>	The planning proposal should not proceed past Gateway. <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:**