



Gateway Determination Review

24 + 26-30 PARKES STREET + 114-118
HARRIS STREET, PARRAMATTA

NOVEMBER 2021



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INTRODUCTION

This paper provides an overview of the Gateway Determination Review lodged with respect to the following sites –

- 114-118 Harris Street Parramatta - SP 35413 and SP 53257;
- 24 Parkes Street Parramatta - SP 578 (24 Parkes Street); and
- 26-30 Parkes Street Parramatta - Lot 1 DP 599236, Lot 3 DP 599799 & SP 16744.

The submission package has been prepared consistent with the document “A guide to preparing local environmental plans” published by the Department of Planning and Infrastructure, and in particular part 6.4 entitled “Review of Gateway determination”. This submission is consistent with the requirements of the document and includes –

- Lodgement within 42 days of the determination of the Gateway
- A completed application form
- A copy of the planning proposal and supporting information as submitted to the Gateway
- Justification for why an alteration of the Gateway determination is warranted (which is detailed in this paper).
- It is noted that no disclosure of reportable political donations is required.

Relevantly a meeting was held on 12 November 2021 between the Department of Planning and Infrastructure (DPIE); the City of Parramatta Council (COPC) and representatives of the landowners to discuss the Gateway Determination and confirm the imminent lodgement of the Gateway Determination Review. It is submitted that the Gateway determination report has not included analysis of, nor accurately understood and discussed, a number of key planning and design factors. Once these are taken into consideration, a fuller understanding of the merits of the proposal is arrived at and confirms that the issuing of a Gateway approval is the appropriate action in the circumstances.

This paper provides relevant background to the Gateway Determination Review; justification for why an alteration of the Gateway determination is warranted; and a discussion against the Strategic Merit Test.

REFERENCE DOCUMENTS

This paper discusses various documents that have informed the Council decision to undertake a planning proposal for the site. The documents have been collated into a Dropbox Folder to assist. The Dropbox Folder link is –

<https://www.dropbox.com/sh/8ek66ox5fyo15ff/AADrhXYDCYRDAfb7VVAIQ8Pra?dl=0>

The collated documents comprise –

1. The three separate planning proposals submitted in 2018.
2. The tower arrangements preferred by the proponents and submitted in 2020.
3. The planning proposal for to remove the sliding scale across the 3 sites submitted by the proponent in May 2021.
4. The supporting Urbis Urban Design Study of June 2021.
5. The City of Parramatta concept for tower arrangement in 2021.
6. The report to the LPP for the planning proposal to remove the sliding scale.
7. The revised tower arrangements preferred by the proponents and submitted in 2021 and that comply with the ADG.
8. Flood Impact Assessments for the three sites (2018)

BACKGROUND

Three Individual Planning Proposals - 2018

Individual planning proposals have been submitted for the individual sites as follows:

- 114-118 Harris Street Parramatta - August 2018
- 24 Parkes Street Parramatta – August 2018
- 26-30 Parkes Street Parramatta – August 2018

When originally submitted in August 2018, the three planning proposals were represented by a single planning firm and the design for each proposal was undertaken cognisant of, and in collaboration with, the adjoining sites.

This is a critical factor as all proponents and their architects from the outset were cognisant of achieving ADG compliance, which has been factored into all designs

When lodged the individual planning proposals sought:

114-118 Harris Street Parramatta - August 2018

- Delete the maximum height of building under the Incentive Height of Building Map
- Exempt the site from the FSR sliding scale
- Prescribe a maximum FSR to 14.5:1

24 Parkes Street Parramatta – August 2018

- Delete the maximum height of building under the Incentive Height of Building Map
- Exempt the site from the FSR sliding scale
- Prescribe a maximum FSR to 12.5:1

26-30 Parkes Street Parramatta

- Delete the maximum height of building under the Incentive Height of Building Map
- Prescribe the maximum FSR to 14.2:1

The Site

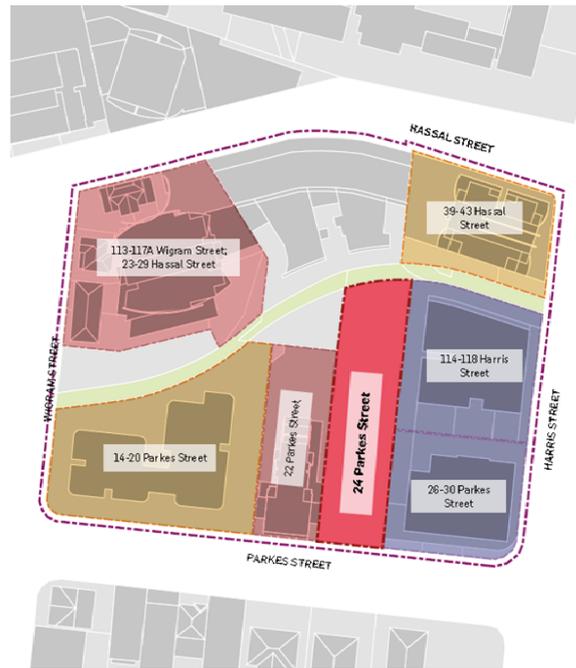
To east of the sites is the mid-sized Robin Thomas Reserve, which is one of the few city centre open space areas and contributes to the character and amenity of the area.

To the south of the sites, across Parkes St, are apartment buildings that are estimated to date from the 1970s and 1980s. To the north of the sites Clay Cliff Creek (an open concrete channel) immediately adjoins the boundary. To the west of the sites is a recently completed and occupied apartment building at 22 Parkes Street and the recently approved Planning Proposals at 14-20 Parkes St Parramatta. It is noted the strategic context map provided below demonstrates the sites location.



Subject Site

Figures 1 + 2 – Site at 24 Parkes Street, 26-30 Parkes Street and 114-118 Harris Street Parramatta subject to the planning proposal



114-118 Harris Street Planning Proposal Proceeds and receives Gateway

On 13 July 2020 Council adopted the planning proposal for 114-118 Harris Street and supported:

- Increase in the maximum building height from 54 metres (15 storeys) to 126 metres (32 storeys)
- Increase the maximum FSR on the Floor Space Ratio Map from 4:1 to 10:1
- Inclusion of controls to deal with management of flooding including, but not limited to, provisions for safe refuge and ensure the building is capable of withstanding and does not obstruct flood flows
- Amend the Special Areas Provisions Map to identify the site and add site- specific controls that provide for the following:
 - o Provision outlining that the mapped FSR of 10:1 is subject to the sliding scale requirements of Clause 7.2 of the draft LEP provisions of the Parramatta CBD Planning Proposal.
 - o Requirement for minimum 1:1 commercial floor space.
 - o Maximum parking rates, in line with the resolution of the City of Parramatta Council on 26 November 2019 with regard to parking rates in the Parramatta CBD Planning Proposal.

- Requirement to demonstrate Experiment Farm is not overshadowed by development of the site.

The Department of Planning Industry and Environment granted a Gateway Determination to the planning proposal on 29 September 2020. There is no explanation in the Gateway determination report as to why the Department has changed its position with respect to this site.

Urban Design Analysis – Amalgamation or Individual Towers?

Councils Urban Design team have undertaken detailed analysis of the best urban design outcome for the development of the three sites. It is noted that the three sites are bound to the north by a constructed drainage reserve and to the west by a recently completed residential tower, giving rise to the need to consider the inter-relationship of the 3 sites. Consideration has been given to various amalgamation scenarios, building envelopes, and height controls to arrive at the best outcome for the three sites.

After extensive discussions, meetings, reporting and analysis over a number of years, the City of Parramatta Council urban designers and planning officers in 2020 reached an agreement with the three proponents that the superior urban form is not achieved through amalgamation of the three sites, but rather the better outcome is the individual development of the sites and careful arrangement of the building envelopes.

The Sliding Scale

The FSR sliding-scale is a policy lever to encourage site amalgamation. Once the Council agreed with the proponents that the better arrangement for the three sites is three individual towers, rather than require site amalgamation, it is logical that the Council officers supported an exemption from the FSR sliding scale for the three sites in this unique circumstance.

It is relevant to note that the three sites are affected by the solar provisions that do not permit overshadowing of the designated area of Experiment Farm. This provision provides an effective limit on the ability to achieve significant floor space. Urban Design analysis confirms that the three sites are generally able to achieve an FSR of 10:1 + 15% design excellence.

Single Planning Proposal

Following confirmation that the best urban design outcome is three individual towers and there is no requirement for amalgamation of the 3 sites, Council at its meeting in June 2021 resolved that a single planning proposal be prepared for the 3 individual sites.

The planning proposal seeks to amend the Parramatta LEP (PLEP) 2011 to include a site-specific provision that provides an exemption to the FSR sliding scale for land on 24, 26 – 30 Parkes Street and 114 – 116 Harris Street.

The exemption would allow each site to individually achieve the maximum FSR of 10:1 plus design excellence bonuses, as proposed in the Parramatta CBD Planning Proposal, which is yet to be finalised.

Gateway Determination

On 21st October 2021 a Gateway Determination was signed by the Delegate of the Minister for Planning and Public Spaces that the Gateway not proceed for the following reasons:

1. *The planning proposal does not demonstrate site specific merit as:*
 - a) *the planning proposal remains inconsistent with the following Section 9.1 Ministerial Directions, which require further resolution to comply:*
 - *Direction 2.3 Heritage Conservation;*
 - *Direction 4.3 Flooding; and*
 - *Direction 6.3 Site Specific Provisions.*
 - b) *The planning proposal is inconsistent with the following State Environmental Planning Policies:*
 - *SEPP 65 Design Quality of Residential Flat Buildings*
2. *The planning proposal is not accompanied by adequate required information to support the progression of the planning proposal.*
3. *The planning proposal does not justify the need for the proposed amendment nor sufficiently demonstrate the resulting FSR is appropriate.*

JUSTIFICATION FOR ISSUING OF GATEWAY

We have reviewed the discussion contained within the Gateway determination report prepared by DPIE.

It is submitted that the Gateway determination report has not included analysis of, nor accurately understood and discussed, several key planning and design factors. Once these are taken into consideration, a fuller understanding of the merits of the proposal is arrived at and confirms that the issuing of a Gateway approval is the appropriate action in the circumstances.

This section of the paper deals with some of the deficiencies of the report and responds to issues raised in the report. The purpose is to provide a thorough justification and clarity to assist in this Gateway Determination Review.

Urban Design Analysis

The Gateway determination report does not adequately consider the extent of urban design analysis that has informed the Council determination. It is suggested that there has been a lack of analysis of options for the site. The report has not taken into consideration analysis prepared by Urbis in support of the planning proposal.

Critical to Councils decision were the Urbis Urban Design Studies commissioned and submitted in the period 2018-2020. See Appendix #4 for relevant example. Key urban design considerations for this south eastern corner of the CBD and analysed by the Council included:

1. A varied skyline forms the characteristic of Parramatta CBD gateway developments, as illustrated below.

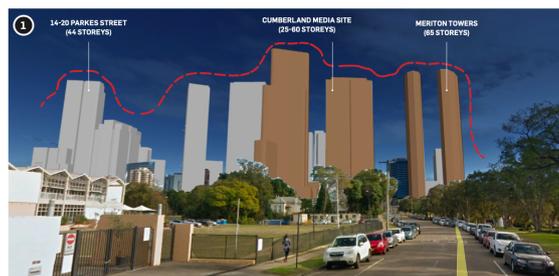
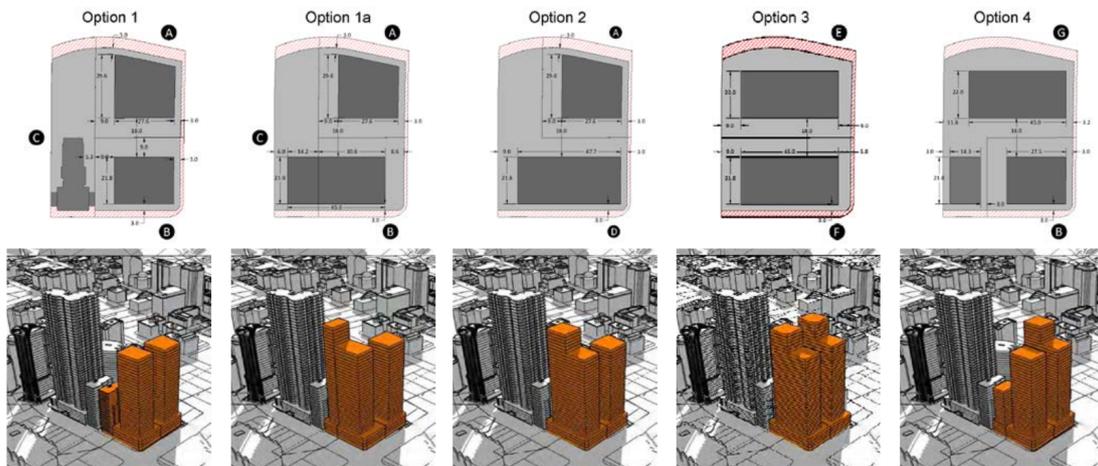


Figure 20 Varied tower heights Parramatta CBD North East edge - view from George Street (East)



Figure 21 Varied tower heights of Parramatta CBD North West edge - View from Church Street (North)

- 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 gives rise to wide slow moving shadows that have a greater impact than taller slender towers.



- In September 2020 the City of Parramatta Council came to the final position, consistent with the proponents of the 3 x Planning Proposals that the preferred urban design solution is 3 separate towers that are coordinated to ensure that ADG matters such as solar access and cross ventilation are achieved. This led to three separate submissions of detailed drawings relevant to each site. See Appendix #7 that provides the 3 reference designs for the sites. The detailed drawings included confirmation that each tower can achieve ADG compliance in an arrangement illustrated below.



future site specific DCP controls. Accordingly, the final positioning of 24 Parkes Street will be determined as part of further discussions and analysis of built form and setbacks.

Of critical relevance to this submission is –

- a. The Council urban design layout is not final and it is therefore inappropriate for the Gateway determination review to make any ADG conclusions on the basis of sketch drawings that Council readily acknowledges are to be the subject of further testing;
- b. The 3 x proponent submissions have been assessed against the ADG and found to comply. To this end it is noted that the better urban design and apartment amenity outcome is for the tower on 24 Parkes Street to be located at the southern end of the site (not mid block) as ADG compliance is achievable and this is consistent with the built form in Parramatta CBD and endorsed by the Urbis urban design reports; and
- c. Any Gateway issued is the beginning of a series of tests of the planning proposal. The Gateway will require public exhibition and can include conditions that require detailed ADG analysis of the best arrangement of the three towers across the land. It is premature for the Department to pre determine that the three towers are not capable of being ADG compliant when some testing confirms that they are, and the Council has confirmed that further testing is required.

The Parramatta CBD Planning Proposal

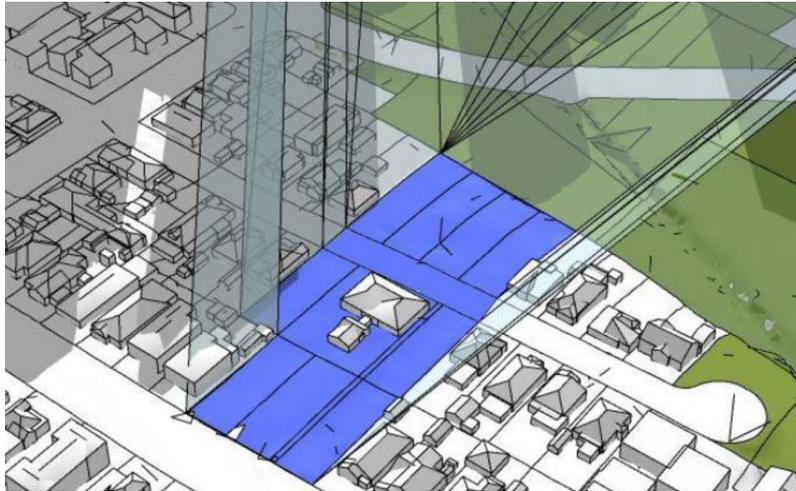
The Gateway determination report indicates that there is a concern with making the assumption that the CBD PP will be finalised as adopted by Council. The report suggests that this is of concern as there may be some changes made prior to making of the CBD PP.

It is accepted that changes may arise in the finally made CBD PP, however, it is stressed that no such concern has been expressed for numerous Planning Proposals in the CBD, that have been granted a Gateway, consistent with the draft CBD PP. The Department is not being consistent in raising this concern in relation to this Gateway, yet has granted other Gateways that are consistent with the then draft CBD PP.

Numerous Gateways have been issued by DPIE for projects within the Parramatta CBD, and in the main this has been on the basis of consistency with the express and implicit intentions of the CBD PP.

Overshadowing of Experiment Farm

The Gateway determination report raises concern with the Council shadowing analysis that identifies a small portion of the Experiment Farm protected area being overshadowed. See extract from the report below.



Think Planners agrees that the Experiment Farm protected area is to be free of overshadowing. There is no impediment to the issuing of a Gateway for the removal of the sliding scale that conditions this requirement and requires further analysis prior to finalisation.

However, we emphasise that any such analysis is not critical nor in fact required as the planning controls serve to protect Experiment Farm, which is a matter to be analysed at the Design Excellence Competition and DA lodgement stage. Nothing prevents the issuing of a Gateway when there are clear controls that prevent overshadowing of the protected areas of Experiment Farm. Any such concern can be easily dealt with by condition in the Gateway, as has occurred in other Gateways issued by the Department. In our view this reason is for not supporting the Gateway is not even-handed as the Department can issue a Gateway that conditions no shadowing of Experiment Farm, just as it has issued Gateway determinations in the past that condition no overshadowing of land in Parramatta CBD for particular hours of the day.

Section 9.1 Ministerial Directions

The Gateway determination report suggests that the proposal is not consistent with Section 9.1 Directions 2.3, 4.1, 4.3 and 6.3.

Direction 2.3 – Heritage Conservation

As discussed above, the Parramatta CBD Planning Proposal contains provisions to protect the solar access to key areas of Experiment Farm. Other Gateway

determinations have been issued on the basis of this draft provision and mothering prevents the subject Gateway from being issued, as the relevant area of Experiment Farm will be required to be protected.

The very minor overshadowing identified arises from built form analysis at a broad scale and it is routine that more detailed shadow analysis will occur at Design Competition and DA lodgement stages.

As Experiment Farm will be protected from overshadowing through specific planning controls, and as the three towers will undergo detailed design, and as compliance with protection from shadows is capable of being achieved in the detailed design of the towers, there is nothing in the planning proposal that makes it inconsistent with Direction 2.3.

Direction 4.1 – Acid Sulfate Soils

We agree with the DPIE report that the provision of an acid sulfate plan at the Planning Proposal stage is of little utility or concern as *this inconsistency is considered of minor significance as any environmental risk can be appropriately considered and mitigated at the development application stage.*

Direction 4.3 – Flooding

The Gateway determination report states that the proposal is inconsistent with the Direction as it is proposing uplift on flood prone land.

It is noted that the entire CBD, of which significant areas are flood prone, is the subject of a CBD PP that is proposing uplift on flood prone land.

We concur with the Department that for the proposal to be consistent with this direction, the proposal must align with the safe areas of refuge controls proposed within the CBD planning proposal. This is not a matter that has or should prevent the issuing of a Gateway. The subject sites are all capable of being designed to provide areas of safe refuge, which will be articulated and illustrated in a subsequent development application lodgement. The Gateway can be conditioned to require confirmation of this, but given the handling of numerous other planning proposals in Parramatta CBD through provision of safe areas of refuge at the DA stage, nothing prevents the issuing of a conditional gateway.

Direction 6.3 – Site Specific Provisions

We submit that there is appropriate and comprehensive justification for the site specific provision, particularly in relation to urban design analysis that has been undertaken for the subject site over a number of years.

Compliance with the Sliding Scale has not been tested

The Gateway determination report notes that no urban design modelling was provided to demonstrate the built form outcome using the sliding scale mechanism for the sites. This is intentional and appropriate. The underlying purpose of the sliding scale mechanism is to encourage the amalgamation of sites to achieve 1800sqm that are of a size that the Council has determined to be appropriate for tall slender towers.

In the circumstances of this planning proposal it has been established that the underlying purpose of the sliding scale to encourage amalgamation would not result in the best urban form. Rather, it is preferable that each site be developed to accommodate a tall slender tower.

Noting that the sites range in area from 1506sqm to 1776sqm and therefore the sliding scale FSR ranges from 9.81:1 – 11.36:1, it is self evident that each tower will achieve substantial heights of 30+ storeys under the sliding scale. In addition, it is a simple calculation to confirm that the difference in GFA across the 3 sites between the sliding scale GFA and the non sliding scale GFA is approximately 4500sqm.

Given that the subject sites will achieve three towers of 30+ storeys, there is no utility in preparing a series of additional drawings that simply illustrate slightly taller towers to capture the 4500sqm across the sites. There would be very little 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.

The more relevant observation is that once it is agreed that there are to be 3 separate towers, then the only result from applying the sliding scale is to provide a cap on the development potential of the land using a mechanism not intended for that purpose. The real implication arising is a wasted opportunity to provide housing and/or commercial floor space in Parramatta CBD where it is most suited and where there are express planning controls to deliver this very outcome.

THE STRATEGIC MERIT TEST

The strategic merit test is demonstrated through a series of established questions as follows:

Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment?

YES

The relevant strategic plans for consideration include the Metropolis of Three Cities – Greater Sydney Region Plan 2018 and the Central City District Plan 2018.

The DPIE Gateway determination report notes –

The planning proposal is generally consistent with the priorities for infrastructure and collaboration, productivity and liveability as outlined in the District Plan. As such, the Department is satisfied the planning proposal gives effect to the District Plan in accordance with Section 3.8 of Environmental Planning and Assessment Act 1979.

Metropolis of Three Cities

The Planning Proposal is aligned with these key themes, directions, metrics and objectives by:

1. Infrastructure and collaboration. The subject land is located within Parramatta CBD. The site is located within easy access of existing health services infrastructure as well as existing schools. The Parramatta CBD benefits from existing heavy rail and bus transport services. Parramatta Light Rail is under construction and the Metro rail is a committed infrastructure project.
2. Liveability. The architectural concepts provided with this Planning Proposal and the relevant urban design analysis show that liveability for the future residents is a primary consideration. Proximity to Robin Thomas Reserve, employment, transport and retail are significant features of the site. Additional considerations that contribute to livability, such as views, are implicit in the proposal.
3. Productivity. The proposal capitalises on the existing Parramatta CBD and will provide a part in contributing to sustainable future growth.
4. Sustainability. The Planning Proposal facilitates building capacity based on existing and committed infrastructure. This seeks to shape a strong and connected community.

Central City District Plan

The Central City District Plan sets out the priorities and actions for this District and these are structured around the same key themes as presented in the Greater Sydney Region Plan. As relevant to the subject site the importance of the growth within strategic centres in terms of both jobs and housing are continually emphasised in the District Plan. The Planning Proposal seeks to deliver both additional housing but also jobs within a 30-minute city scenario.

The Planning Proposal seeks to deliver housing to the market quickly and in a highly liveable location.

In summary, this Planning Proposal seeks to deliver on the vision set forward in the Central City District Plan by:

1. Increasing diversity of housing choice.
2. Delivering housing to meet strategic housing supply targets.
3. Contribution to energy efficiency through aims to deliver a development that meets environmental performance criteria.
4. Reduced emissions through both building environmental performance but also through reduction in reliance on private vehicle travel. Focusing increased housing on the subject site which is highly accessible to local bus and train services means that future residents are more likely to walk, cycle and use integrated public transport systems.
5. Enhancing the role of Parramatta as the economic anchor with the vision to deliver both jobs and housing.

The objectives of the Planning Proposal are incontestably aligned with the documented priorities for the Central City District.

Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

YES

The proposal gives effect to the relevant local strategies of the City of Parramatta including the Local Strategic Planning Statement, Parramatta 2038 Community Strategic Plan and the Parramatta CBD Planning Proposal. The CBD Planning Proposal establishes a vision for growth that expands and intensifies the commercial core, along with an expanded and higher density mixed use and residential focus.

The DPIE Gateway determination report notes that the planning proposal is generally consistent with these local plans and endorsed strategies.

Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?

YES

Council on 27 April 2015 adopted the Parramatta CBD Planning Strategy. The objective of the Strategy was to establish a vision for growth, principles and actions to guide a new planning framework and an implementation plan for delivery. The strategy led to the preparation of a CBD Planning Proposal which was adopted by Council in April 2016.

The CBD Planning Proposal establishes a vision for growth that expands and intensifies the commercial core, along with an expanded and higher density mixed use and residential focus.

The Planning Proposal is consistent with the changing planning circumstances and elevation of Parramatta CBD within the Sydney metropolitan area, and the resulting change in planning controls within the city centre.

SITE SPECIFIC MERIT TEST

Does the proposal have site-specific merit, having regard to:

The natural environment (including known significant environmental values, resources or hazards)?

YES.

The proposal will not impact on the natural environment and is capable of responding to and improving the natural environment of Clay Cliff Creek. Flooding has been considered and the site is able to respond to this natural event.

Does the proposal have site-specific merit, having regard to:

The existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?

YES

The Planning Proposal does not seek to change the permitted uses on this site. The Planning Proposal seeks to amend the controls relating to floor space ratio which will permit a better strategic outcome for this ideally located land. The proposed density responds to the vision of Parramatta CBD that includes mixed use high density development to be delivered in the urban centre.

Does the proposal have site-specific merit, having regard to:

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?

YES.

The Parramatta CBD Strategy identifies this site as suitable for high density residential development due to its superior access to transport and employment opportunities in the Parramatta CBD. The site is located not only within the Parramatta CBD but also is within 700m walking distance to Parramatta train station (and future Metro Station); 300m from a Light Rail stop and an 850-walking distance to Harris Park Train Station.

Given the proximity of the subject site to public transport services including heavy rail, light rail, metro and bus services it is anticipated that a significant proportion of new residents would opt to use public transport rather than private vehicle.

The subject site is within the Parramatta CBD which has a variety of health, education and emergency services. In a broader context, the subject site is proximate to Westmead Hospital and the Western Sydney University which are regional institutions.

CONCLUSION

Having regard to the above discussion it is submitted that there are sound planning grounds to issue a Gateway for the planning proposal for the following reasons:

1. The location in Parramatta CBD fully meets the Strategic Merit Test.
2. The issues raised in relation to compliance with the Section 9.1 Directions are insignificant or are capable of being simply addressed at the Development Application stage, which routinely occurs.
3. The Urban Design Analysis completed for the subject site over a period of years confirms that the better built form, that results in a superior urban form and apartment amenity is achieved through three separate towers over the three land parcels. The urban design analysis confirms that this arrangement permits compliance with the key ADG measures of solar access and cross ventilation. The location of the tower at 24 Parkes Street at the southern end of the site is preferable and meets ADG tests of cross ventilation and solar access.
4. The continued application of the sliding scale to the site would represent a wasted opportunity. The application of the sliding scale will result in three tall slender towers of 30+ storeys in height. The only effective impact of retaining the sliding scale will be to reduce development potential across the three sites by approximately 4530sqm. There is no compelling planning reason to permit three tall slender towers based on this being the better urban design arrangement; but then reduce the yield on the basis of a planning mechanism designed to encourage amalgamation which has been agreed to be unfavourable in this instance.

Having regard to the fuller explanation and justification set out in this submission, we submit that it is appropriate that a Gateway be issued for the planning proposal that removes the sliding scale to the three sites, that will result in three individual towers delivering residential and commercial floor space. It is recommended that the Gateway be issued with conditions that require further testing and evidence of ADG compliance and ensuring that there is no overshadowing of the protected portions of Experiment Farm

Adam Byrnes
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Think Planners Pty Ltd