

ECONOMY

ITEM NUMBER	10.5
SUBJECT	Planning Proposal for land at 197-207 Church Street, Parramatta
REFERENCE	RZ/4/2015 - D03993596
REPORT OF	Project Officer - Land Use Planning
LANDOWNER	Holdmark Properties Pty Ltd
APPLICANT	Don Fox Planning Consultancy

PURPOSE:

To seek Council's endorsement to forward a Planning Proposal for the land at 197-207 Church Street, Parramatta to the Department of Planning and Environment for Gateway determination; and to seek endorsement to proceed with formal negotiations to prepare a Voluntary Planning Agreement between Council and the landowner in relation to this Planning Proposal.

RECOMMENDATION

- (a) **That** Council endorse the Planning Proposal in **Attachment 1** subject to it being modified as follows:
- To incorporate the recent changes proposed by the applicant detailed in the section of this report titled 'Final Planning Proposal' for 197-207 Church Street, Parramatta
 - Provide an increase in FSR to 10:1 (excluding design excellence) subject to compliance with the sun access provisions of Clause 29E of PCCLEP 2007 and the SEPP 65 Apartment Design Guide
 - A height to be determined by the lodgment of a reference design as described in (b) and (c) below.
- (b) **That** the applicant provide a reference design with an FSR no greater than 10:1, demonstrating compliance with the sun access provisions (Clause 29E of PCCLEP 2007) and the SEPP 65 Apartment Design Guide (ADG). In particular, it must demonstrate a built form that complies with the building separation controls of the ADG to ensure future development on adjacent sites is not compromised (including 20-22 Macquarie Street, Parramatta). If the reference design proposes a height greater than 156AHD the reference design will need to be supported by an Aeronautical Study to address the relevant Section 117 Direction.
- (c) **That** the CEO be delegated responsibility to consider the reference design provided by the applicant and determine the exact height that will be included in the Planning Proposal prior to it being forwarded to the Department of Planning and Environment seeking a Gateway determination.
- (d) **That** Council proceed with negotiations for a Voluntary Planning Agreement (VPA) with the landowner in relation to the Planning Proposal and that any VPA entered into would be in addition to S94A Development Contributions.

- (e) **That** delegated authority be given to the CEO to negotiate the VPA on behalf of Council and that the outcome of negotiations be reported back to Council prior to its public exhibition.
- (f) **That** Council advises the Department of Planning and Environment that the CEO will be exercising the plan-making delegations for this Planning Proposal as authorised by Council on 26 November 2012.
- (g) **Further, that** Council authorise the CEO to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan-amendment process.

COUNCILLOR WORKSHOP

This Planning Proposal was discussed at a Councillor workshop on 14 October 2015. At this workshop Council acknowledged the unresolved position regarding the overshadowing of Parramatta Square, and that the Planning Proposal will need to consider the final outcome on the matter when recommending height and FSR controls for the subject site.

PREVIOUS DECISIONS OF COUNCIL

1. On 23 November Council made two decisions that are relevant to this application.
2. In considering Item 7.7 – Amendments to Parramatta DCP, Council resolved to include a provision in the Parramatta DCP 2011 in relation to the overshadowing of Parramatta Square which allows an individual building to overshadow any point in the solar protection zone in Parramatta Square for no more than 45 minutes to promote tall slender buildings with shadows that are narrow and fast moving.
3. In considering Item 7.8 – Planning Proposal for Land at 48 Macquarie Street and 220-230 Church Street Council resolved to allow an FSR of 10:1 (plus design excellence) with no proposed height control. The reason there was no height control proposed was because there is no height specified in the current Parramatta LEP 2007 for this site because in the existing controls height is controlled by solar access provisions. Other Planning Proposals recently considered in the CBD, where an existing height is specified in the current LEP, have retained a height control commensurate to the new proposed FSR. This has been recommended for consistency purposes as an interim position until the height controls are removed as part of the CBD Planning Proposal currently being prepared.

THE SITE

4. The subject site is located on the north-western corner of the intersection of Church Street and Macquarie Street, Parramatta. This is a prominent location within the Parramatta City Centre as it is directly north of Centenary Square and Parramatta Square; two key elements of the public domain within the City Centre.

5. The subject site consists of two lots (Lot 1 DP 710335 and Lot 1 DP 233150) with a total site area of 4,307.4m². It is an irregular shape and has a frontage to Church Street to the east, Macquarie Street to the south, and Marsden Street to the west. It is approximately 250m north of the Parramatta Transport Interchange and 420m south of the Parramatta River (see **Figure 1**)

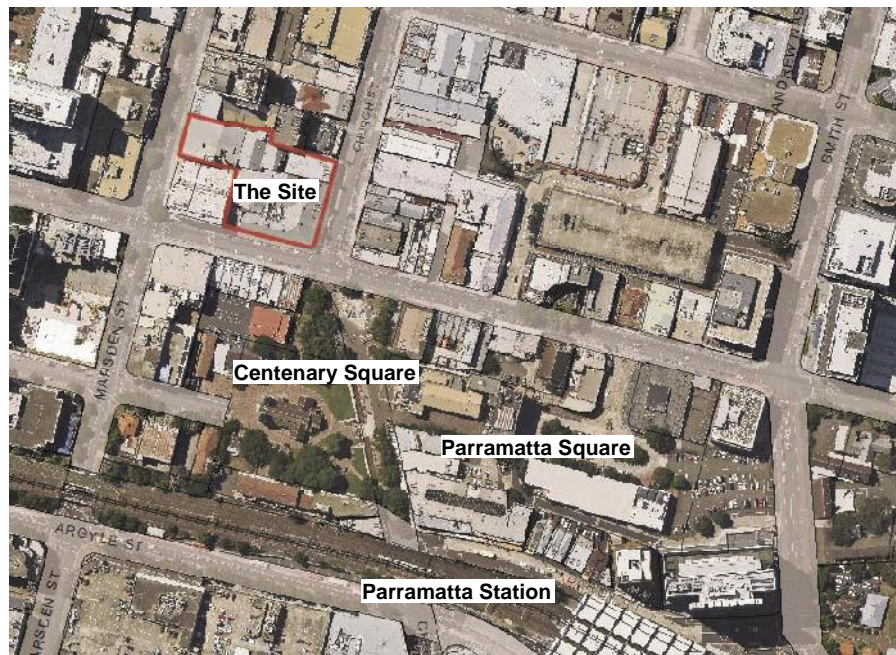


Figure 1 – Location Map

6. A mix of two and three storey retail and commercial buildings currently occupy the site, which includes Heritage Item No.11 (Shop and potential archaeological site). The Heritage Item, referred to as the Murray Brothers department store, was built in 1925 with the original façade marking the beginning of Church Street and its fine grain retail component. The surrounding development consists of a mixture of commercial and retail uses.

BACKGROUND

7. In April 2014 a preliminary concept proposal for the subject site at 197-207 Church Street was submitted to Council which sought a development concept that departed significantly from the existing height and FSR controls within the City Centre.
8. Two preliminary concept proposals for adjacent sites were also submitted in April 2015 for the land at 20-22 Macquarie Street, and for the land at 220-230 Church Street and 48 Macquarie Street, Parramatta. **Figure 2** shows the location of these to the subject site at 197-207 Church Street, Parramatta.

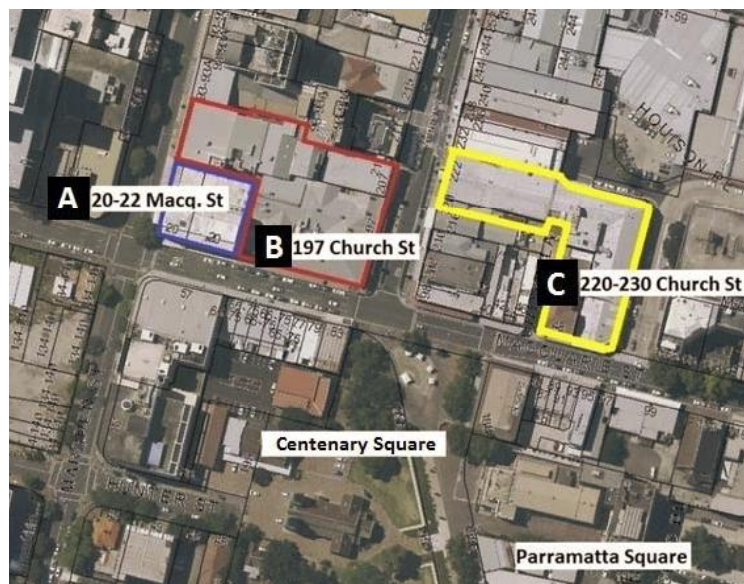


Figure 2 – Three Preliminary Concept Proposals on Macquarie Street

9. The three preliminary concept proposals presented development schemes that sought significant departure from Council's current City Centre height and FSR controls. Common to all three proposals was the intention to increase the level of permitted density on the sites to develop mixed use towers (largely residential). This would produce taller buildings in close proximity to Centenary Square and Parramatta Square; two key public domain areas within the city centre area north of the railway line and south of the river foreshore.
10. The above sites' proximity to Centenary Square and Parramatta Square warranted careful consideration at this early stage of the planning process in order to determine the potential impact on Council's key public domain areas arising from these proposals. This is to ensure the public domain is adequately protected and receives sufficient solar access to deliver a high level of amenity to the space for the community.
11. In addition, consideration of the three proposed building envelopes' relationship to each other and other current and future developments (including the Aspire Tower) was assessed to ensure tall slender towers.
12. The three preliminary concept proposals were subject to a series of Councillor Workshops in July, August and October 2015. This included the presentation of the three proposals in Council's 3D model of the City Centre to illustrate the proposed built form and resultant overshadowing impacts on Centenary Square and Parramatta Square.
13. A report on the three preliminary concept proposals was presented to Council on 15 December 2015, with **Table 1** showing the planning controls sought for each site:

Site	Proposed FSR by Applicant	Proposed Height by Applicant
Site A: 20-22 Macquarie Street	39:1	265m (80-85 storeys)
Site B: 197-207 Church Street	12.5:1	250m (82 storeys)

Site C: 220-230 Church Street & 48 Macquarie Street	14:1	190m (55-60 storeys)
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Table 1: Proponents' preferred development scheme

14. At the 15 December 2014 Council Meeting, Council resolved:

- (a) *That Council accept building proposal (a), (b) and (c) and request a further report.*
- (b) *That Council seek an opportunity to create an A Grade building in the CBD by encouraging the developer to submit an innovative plan/proposal for the key site which would then be assessed on its merits.*
- (c) ***Further, that each application for (a), (b) and (c) be assessed on its merits individually with a 10:1 FSR as stipulated in Council's draft planning framework.***

15. A Planning Proposal was lodged on 9 March 2015 by Don Fox Planning Pty Ltd on behalf of the landowner to increase the FSR and increase the maximum building height to deliver a mixed-use (largely residential) building at 197-207 Church Street, Parramatta.

PARRAMATTA CBD PLANNING STRATEGY

- 16. On 27 April 2015, Council adopted the Parramatta CBD Planning Strategy (Strategy). One of the recommendations of the Strategy is to remove building height controls (and impose a maximum FSR for much of the City Centre). However this is predicated on the preservation of solar access to key areas of the public domain (including Parramatta Square) and approval by the relevant aviation authorities.
- 17. The recommendations of the Strategy seek to inform the preparation of a Planning Proposal which would seek to formally amend the planning controls across the City Centre. The Strategy recommends a maximum FSR control of 10:1 be introduced across the majority of the City Centre, which includes the subject site at 197-207 Church Street, Parramatta. The achievement of an FSR of 10:1 is subject to compliance with the solar access provisions within Clause 29E of the PCC LEP 2007.

CURRENT PLANNING CONTROLS

- 18. The land is currently zoned B4 Mixed Use under the Parramatta City Centre (PCC) LEP 2007 (refer to **Figure 3**).

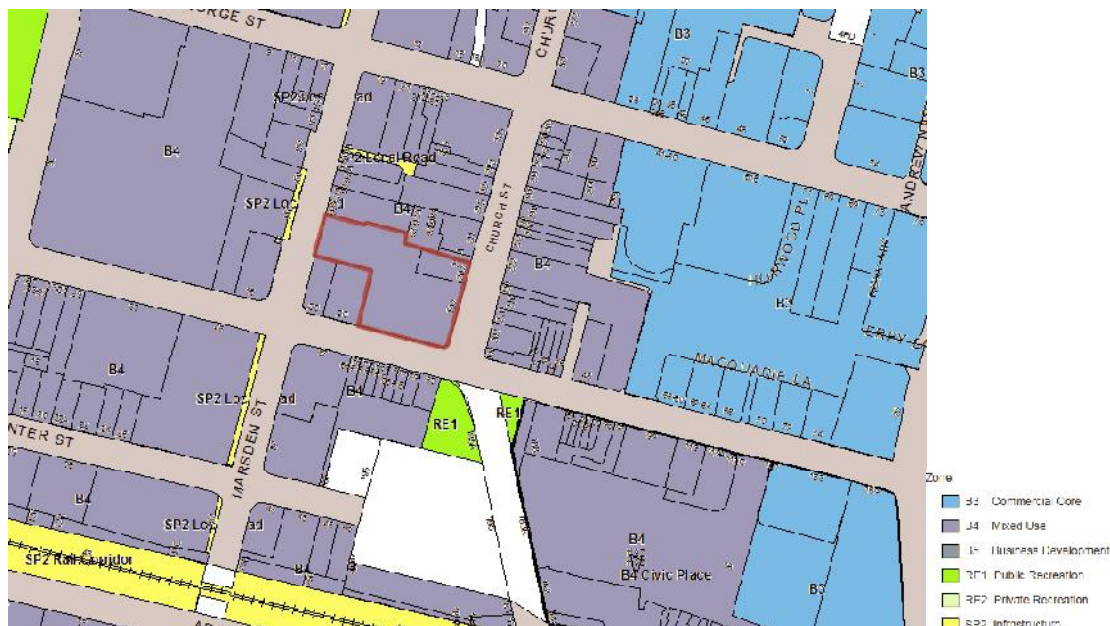


Figure 3 – Land Zoning Map

19. Under the provisions of the PCC LEP 2007, the land subject to the Planning Proposal has a split Maximum Building Height Control. The land fronting Church Street has a maximum building height of 12m (approximately 4 storeys) with the remainder of the site fronting Marsden and Macquarie Street having a height of 36m (approximately 12 storeys) (refer to **Figure 4**).

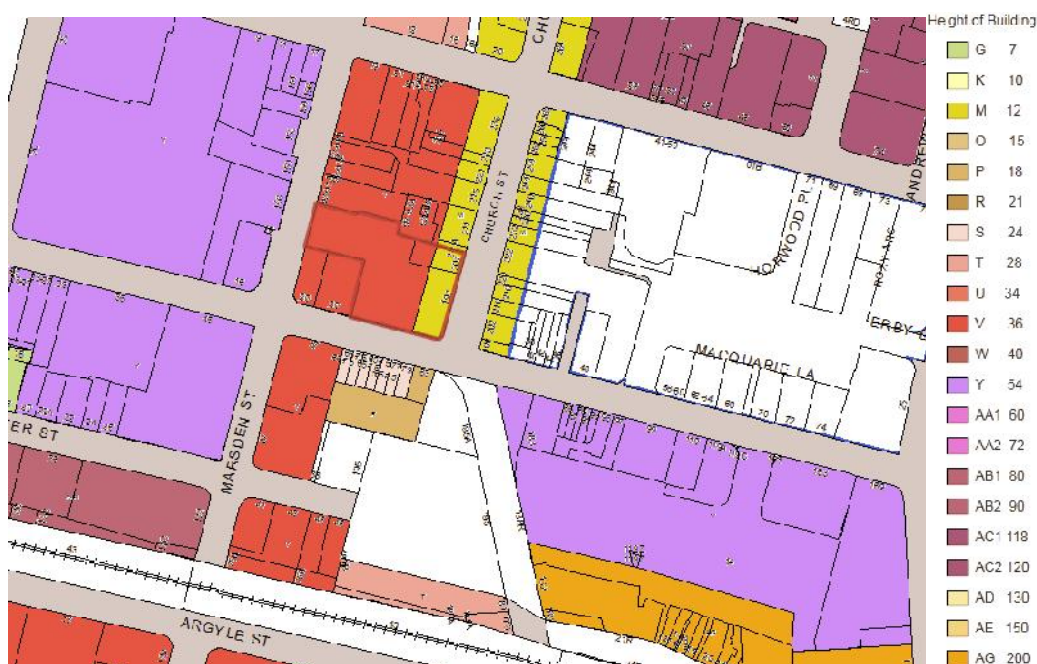


Figure 4 – Maximum Building Height Map

20. Under the provisions of the PCC LEP 2007, the land subject to the Planning Proposal has a split Maximum Floor Space Ratio (FSR) Control. The land fronting Church Street has a maximum FSR of 3:1 with the remainder of the site fronting Marsden and Macquarie Street having an FSR of 4:1 (refer to **Figure 5**).

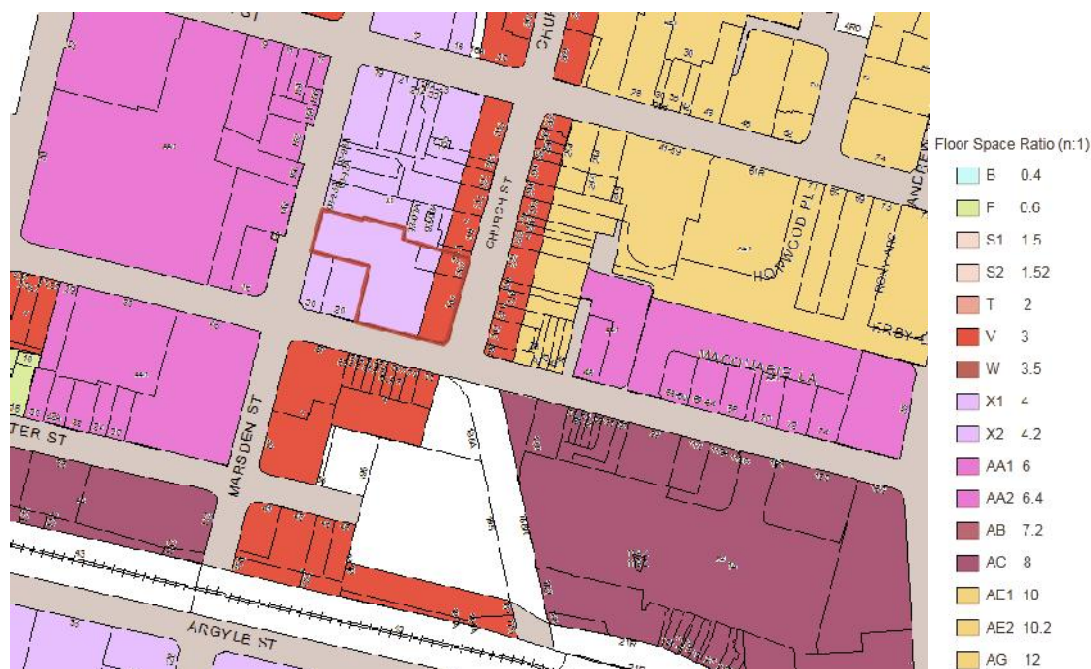


Figure 5 – Maximum Floor Space Ratio Map

21. The subject site contains Heritage Item 11 – Shop and potential archaeological site listed under the PCC LEP 2007. **Figure 6** shows the heritage item and the other heritage items in close proximity to the subject site.

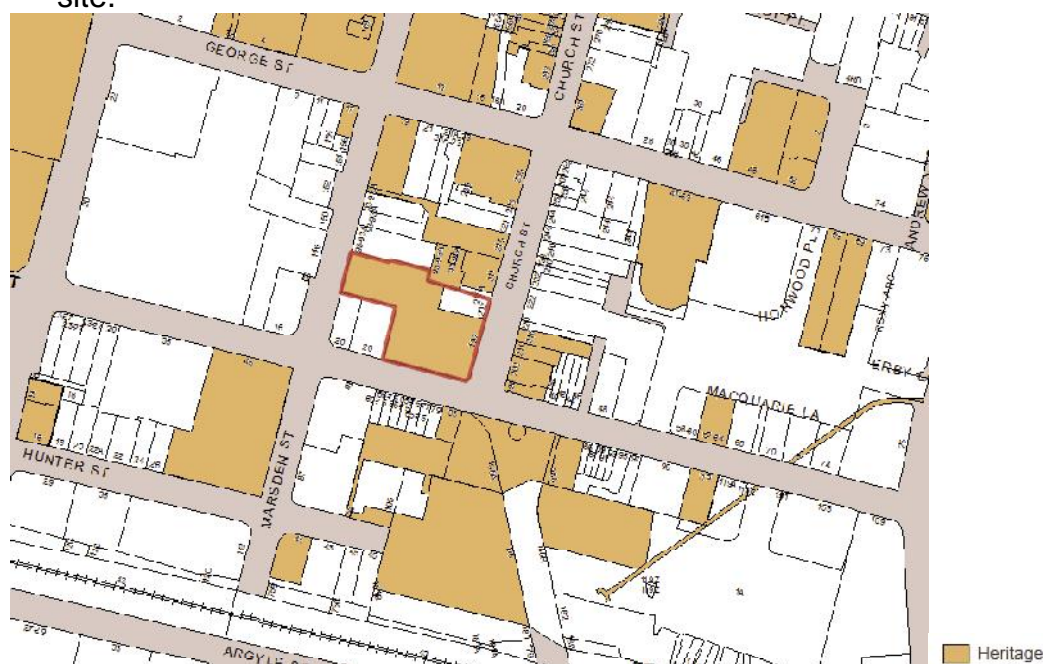


Figure 6 – Heritage Map

22. The subject site is partially flood affected (refer to **Figure 7**). The street frontage to Macquarie Street and Marsden Street would be affected in both the 20 year and 100 year flood events and are in the Medium Hazard zone. In addition, all of the property would be inundated in the Probable Maximum Flood event. However, as seen in **Figure 7**, the majority of the City Centre has some level of flood affectation.



Figure 7 – Flood Inundation Map

INITIAL PLANNING PROPOSAL

23. In March 2015 a Planning Proposal was lodged with Council in which the applicant sought to:

- Remove the current height controls of 12m and 36 metres that currently apply to the site under Clause 21 'Height of Buildings' of the PCC LEP 2007.
- Remove the current Floor Space Ratio controls of 3:1 and 4:1 that currently apply to the site under Clause 22 'Floor Space Ratio' the provisions of the PCC LEP 2007.
- Introduce site specific controls for the site by inserting a new clause titled 'Part 6 - Additional Local Provisions' to the PCC LEP 2007 which permits:
 - i. A maximum building height of 250 metres (approximately 80 storeys)
 - ii. A maximum Gross Floor Area of 71,000m² (which translates to an FSR of 16.5:1)
- The Site Specific Clause also proposes the following:
 - i. Application of an alternative definition of 'Gross Floor Area' (GFA) that is inconsistent with the definition within the PCC LEP 2007.
 - ii. Exemption from Clause 24 'Exceptions to development standards' of the PCC LEP 2007
 - iii. Exemption from Clause 22B(4) of the PCC LEP 2007 to remove the requirement to run a Design Competition.
 - iv. Exemption from Clause 22B(3)(d) of the PCC LEP 2007 to remove consideration of solar access in awarding Design Excellence to a design scheme.
 - v. Exemption from Clause 22B(6) to not permit a further height and/or FSR increase if Design Excellence is achieved on the subject site. i.e. 250 metres and a GFA of 71,000m² would be the maximum built form outcome permitted on the site.

24. The increase in density sought by the applicant is to deliver a 70 storey mixed use tower which generates approximately 600 dwellings and 11,000m² of retail and commercial floor space in the podium of the development.

PRELIMINARY ASSESSMENT

25. After conducting an initial assessment of the Planning Proposal and supporting appendices, Council Officers wrote to the applicant on 12 May 2015 outlining the key issues with the proposal and the additional information required for Officers to continue their assessment.
26. The key issues related to:
- a. The introduction of a Site Specific Clause to remove the application of the standard clauses applicable to all sites within the PCC LEP 2007
 - b. The introduction of a Maximum Gross Floor Area control and the level of density sought as it translates to approximately 16.5:1
 - c. The proposed 250m Maximum Building Height and the absence of an aeronautical study that addresses its impact on airspace safety and airport operations.
 - d. The removal of the requirement to run a design competition
 - e. The content of the Urban Design Analysis which did not include the level of detail for Council to conduct its assessment
 - f. The treatment of Heritage Item 11 and the findings of the Heritage Assessment
 - g. The level of analysis within the Traffic Analysis and the amount of parking sought on the site given the site's close proximity to public transport.
27. Officers requested that the Planning Proposal be revised and resubmitted taking into consideration the key issues above, and that further analysis be conducted at a scheme seeking an FSR of 10:1. This is to maintain consistency with the recommendations of the adopted Parramatta CBD Planning Strategy and Council's resolution from 15 December 2014 (see Point 11).
28. Subsequent to the letter dated 12 May 2015, the following communication between the applicant and landowner occurred:
- a. On 29 May 2015, staff's position was further expressed at a meeting with the applicant and landowner, following which correspondence relating to the issues in Point 23 occurred across the months of June and July.
 - b. On 7 August 2015, the applicant wrote to Council that an alternative building scheme was being prepared for lodgement within a revised Planning Proposal.
 - c. On 7 September 2015, the applicant wrote to Council that an alternative scheme to address the Council's concerns relating to the built form and density was no longer being pursued. The letter requested Council Officers to continue processing the Planning Proposal lodged in March 2015 subject to some minor alterations (discussed in the next section).
 - d. On 1 October 2015, Council wrote to the applicant acknowledging their request to proceed with the original scheme, and reiterated the

outstanding matters raised in Council's letter dated 12 May 2015 that needed to be addressed to enable a proper assessment of the Planning Proposal prior to reporting to Council (including the updated Urban Design Analysis and Traffic Analysis, and submitting an Aeronautical Study).

FINAL PLANNING PROPOSAL

29. As detailed previously, on 7 September 2015 the applicant wrote to Council to advise that an alternative scheme with a lower Maximum Building Height and Floor Space Ratio would no longer be pursued, and for Council to proceed with its assessment of the original proposal described above with some minor amendments.
30. In the September 2015 letter, the applicant seeks to amend the Planning Proposal lodged with Council in March 2015 in the following manner:
 - Propose a Maximum Floor Space Ratio increase from 3:1 and 4:1 to 16.5:1 (inclusive of Design Excellence) instead of a Gross Floor Area control of 71,000m² within a Site Specific Clause.
 - Remove the application of a Maximum Building Height, or if Council deems a height control necessary from an LEP drafting perspective increase the Maximum Building Height from 12m and 36 metres to 250m (inclusive of Design Excellence).
 - Retract the Planning Proposal's original request to be exempt from Clause 22B(4) of the PCC LEP 2007 (to remove the requirement to run a Design Competition) with the applicant now proposing to pursue an International Architectural Design Competition at an appropriate stage of the development process.
31. In addition to the above, as Council was not instructed otherwise, the Planning Proposal still seeks a Site Specific Clause that proposes the following:
 - i. Application of an alternative definition of 'Gross Floor Area' (GFA) that is inconsistent with the definition within the PCC LEP 2007.
 - ii. Exemption from Clause 24 'Exceptions to development standards' of the PCC LEP 2007
 - iii. Exemption from Clause 22B(3)(d) of the PCC LEP 2007 to remove consideration of solar access in awarding Design Excellence to a design scheme.
 - iv. Exemption from Clause 22B(6) to not permit a further height and/or FSR increase if Design Excellence is achieved on the subject site. i.e. 250 metres and an FSR of 16.5:1 would be the maximum built form outcome permitted on the site despite achievement of Design Excellence.
32. The applicant's intent of the Planning Proposal is still to deliver a 70 storey mixed use (largely residential) tower that generates approximately 600 dwellings and 11,000m² of retail and commercial floor space in the podium of the development. However according to Council Officer's calculations (in consideration of the maximum podium height within the PDOP 2011

and the minimum floor to ceiling heights with the Apartment Design Guidelines) a Maximum Building Height of 250m can deliver a development at 80 storeys.

ASSESSMENT OF PLANNING PROPOSAL

33. An assessment of the Planning Proposal is provided below.

Land Use Planning

34. The site's prime location in the centre of the Parramatta CBD and its proximity to the Parramatta Transport Interchange makes it a strategically desirable location to increase density. This aligns with the State Government's policy position in the Metropolitan Plan for Sydney, *A Plan for Growing Sydney* released in 2014, for higher density development to be located in close proximity to public transport.
35. However the proposed built form and scale of development generated by an FSR of 16.5:1 and height of 250m is considered excessive for the following reasons. Firstly, the proposal is considered to be out of context in relation to the fine grain character of Church Street given the significant height and density proposed. Secondly, the overshadowing generated by the bulk and scale of the tower across Centenary Square and Parramatta Square, two key pieces of the public domain. This is discussed in detail below under the heading 'Urban Design'.
36. As discussed above, on 27 April 2015 Council adopted the Parramatta CBD Planning Strategy (the Strategy). The applicant's proposed FSR of 16.5:1 is significantly higher than the FSR proposed within the Strategy.
37. The City Centre Planning Framework Review that informed the Strategy calculated that an FSR of 10:1 across the majority of the City Centre would deliver the floor space projections required to meet the residential and commercial targets projected by the State Government within the Metropolitan Plan for Sydney.
38. The adopted Strategy forms the overarching strategic framework that informs Staff's assessment and recommendation for the suitable density for the subject site. The Strategy identifies a 10:1 FSR for the area in which 197-207 Church Street, Parramatta is located. Sufficient justification to warrant such a significant variation from the adopted FSR of 10:1 was not provided, therefore Council Officers are unable to support the proposal in its current form.
39. To ensure consistency with the adopted Parramatta CBD Planning Strategy, Council Officers recommend an FSR of 10:1 on the subject site with the resulting built form being subject to compliance with the solar access provisions designed to minimise overshadowing in Parramatta Square. This is discussed in more detail within the section titled 'Urban Design'.
40. The subject site is located approximately 20km northwest of Sydney Airport and 11km north of Bankstown Airport. Airspace above the

Parramatta City Centre is affected by the operation of these airports. Whilst the applicant seeks the removal of a height control, the indicative building scheme submitted as part of the Planning Proposal shows a height of 250m which will encroach on the 155.1m Obstacle Limitation Surface (OLS) for Bankstown Airport over the Parramatta City Centre.

41. Council Officers requested in May and October 2015 that the applicant submit an Aeronautical Study as part of the Planning Proposal. This is to address the impact of any future development's impact on airspace safety, and is a requirement of the relevant aviation authorities.
42. The indicative building height of 250m translates to approximately 259AHD. The exact height of the Aspire tower is yet to be determined however is likely to be limited to a maximum height of 243AHD in order to comply with the Radar Terrain Clearance Control (RTCC) set by the aviation authorities. Therefore, without an aeronautical study, Council Officers are unable to support the removal of a height control, or the introduction of a 250m height control (which translates to a height of 259AHD), on the subject site when the maximum height for another site in the CBD affected by the same aviation constraints may be limited to 243AHD.
43. In the absence of an Aeronautical Study, compliance with Direction 3.5 Development Near Licensed Aerodromes of the Section 117 Ministerial Directions cannot be appropriately addressed at this stage. If Council is to support the applicant's FSR of 16.5:1 then this information will need to be provided prior to the Planning Proposal being sent to the Department of Planning and Environment for a Gateway determination.
44. While ultimately the removal of height controls for all sites in the CBD is an objective of the CBD Planning Strategy this approach has not yet been implemented for other Planning Proposals endorsed by Council within the CBD (ie they all include height in the PP where there is an existing height control in place). In order to maintain a consistent approach on CBD Planning Proposals it is recommended that the applicant provide Council with a reference design which complies with relevant criteria such as solar access and SEPP 65. This reference design will determine the appropriate height which can then be included in the Planning Proposal.

Urban Design

45. The submitted Urban Design Analysis provides extensive detail on one preferred architectural design scheme for the subject site, which is referred to as 'The Boomerang' (refer to **Figure 8**).



Figure 8 – Indicative Skyline: The Boomerang, Aspire, and PS Stage 5 & 6

46. The applicant acknowledges that this is only one building design option for the subject site with the future design competition informing the final design. However, the applicant argues that an FSR of 16.5:1 and a height of 250 metres (or no height control) is required to provide the necessary building envelope to create a world-class landmark building.

Density

47. Council Officers requested that a reference design and area schedule be submitted to determine whether the site can satisfactorily accommodate the Gross Floor Area generated by an FSR of 16.5:1 (71,000m²), and to determine whether a satisfactory 'in-principle' street level and podium design can be delivered which is compliant with the PDCP 2011 and the Apartment Design Guidelines.
48. This is part of Council's consistent approach in assessing all major planning proposals by demonstrating that the development sought is contextually appropriate, provides a satisfactory built form outcome (under various architectural design schemes), complies with NSW state wide planning design guidelines, and can provide a building envelope that can deliver a form that exhibits design excellence.

49. The information submitted does not satisfactorily meet staff's requirements and does not provide sufficient justification for the density to be delivered under an FSR of 16.5:1. The information submitted to date presents a scheme that is excessive and significantly overshadows two key pieces of public domain: Centenary Square and Parramatta Square (discussed further below).
50. In their latest response, the applicant argues that compliance with the PDCP 2011 and the Apartment Design Guidelines will not enable sufficient flexibility in delivering an iconic building. In response, Council Officers consider that a compliant scheme can be delivered at a lower density that will still enable an appropriate envelope for flexibility in architectural design.

Solar Access to Parramatta Square

51. The Planning Proposal significantly overshadows Parramatta Square and Centenary Square, two critical areas of the public domain. Solar access to the public domain is an essential amenity asset that adds both tangible and intrinsic value to Parramatta as a city, to the surrounding businesses, and towards events and interactions facilitated within the precinct.
52. Solar access to Parramatta Square is protected by Clause 29E of the PCC LEP 2007, which makes reference to the solar access provisions for the square within the PDCP 2011.
53. The provision of solar access to Parramatta Square has been subject to extensive review and consideration by Council, with the controls proposed to be reduced to require development to only 'minimise' overshadowing. Item 7.7 within the Business Paper from the 23 November 2015 Council Meeting provides a detailed summary of the history of review and proposed amendments to Section 4.3.3.7 of the PDCP 2011.
54. At the 23 November 2015 Council Meeting, Council resolved to endorse an amendment to the PDCP 2011 that requires development to 'minimise' the degree of overshadowing. A control was introduced so that buildings must be designed so as to ensure that no point of the area hatched in red in **Figure 9** is in shadow for a period greater than 45 minutes between 12pm-2pm mid-winter.

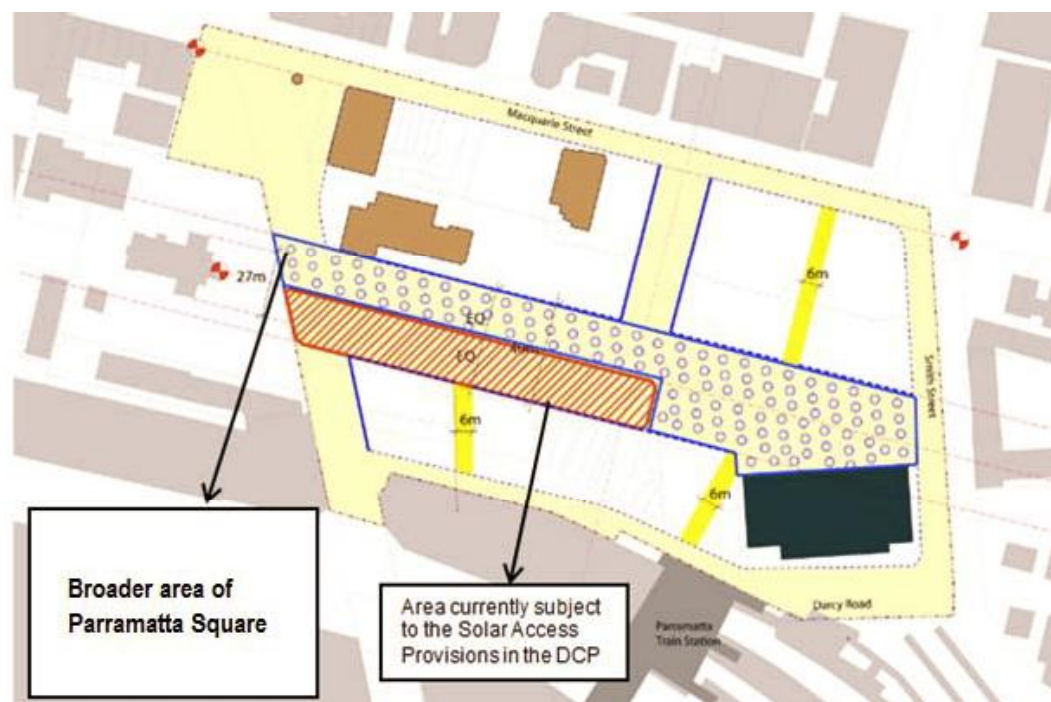


Figure 9 – Solar Access Protection in Parramatta Square

55. The indicative building envelope and the positioning of the tower to result from the applicant's proposed FSR of 16.5:1 and height control of 250m (or no height control) does not comply with this control. Any future development to result from the proposed planning controls would overshadow one point in the designated area (area hatched in red in **Figure 9**) of Parramatta Square for a time greater than 45 minutes between midwinter 12pm-2pm. Council's 3D Model determined that the proposed development scheme at 16.5:1 would overshadow one point in the designated area for approximately 65 minutes.
56. Council Officers recommend an FSR of 10:1 for the subject site. This is to maintain consistency with the recommendations of the Parramatta CBD Planning Strategy. Officers request the applicant carry out the necessary testing and modelling to determine what FSR and built form can result on the subject site when complying with the solar access provisions resolved by Council that require no point of the protected solar access area of the square to be overshadowed for more than 45 minutes.
57. Officers note that this approach to managing solar access to Parramatta Square is site specific as it only considers the shadow cast by individual buildings, and does not consider the cumulative overshadowing impact future adjacent development will have on the protected area within the square.

Design Excellence

58. The Planning Proposal originally sought an exemption from the requirement to run a Design Excellence Competition under Clause 22B of the PCC LEP 2007 and proposed an alternative process to achieve Design Excellence.

59. Following the preliminary assessment of the Planning Proposal, Council Staff recommended that the application of Clause 22B is the most appropriate mechanism for achieving Design Excellence on the subject site, and is the process that Council applies to all other sites within the City Centre. To ensure consistency this requirement should be retained.
60. The applicant's request to retain the application of Clause 22B and run an architectural design competition is supported by staff. A design competition process:
 - Facilitates a forum for a range of solutions to be developed by three architects in response to a project brief and for the best solution to be selected by an experienced design jury.
 - Ensures that design excellence is considered at several steps in developing the concept design, and early on in the project when it is most cost effective and easiest to make changes.
 - Allows Council to contribute to the project brief to ensure the right elements are included and considered in the design.
 - Allows for a broad spectrum of design expertise to be involved and contribute to the project compared to an alternative design excellence process where a single architect is commissioned by the applicant.

Heritage Management

61. The subject site includes State Heritage Item 11 - Shop and Potential Archaeological Site. The site is also near a number of other heritage listed items in the PCC LEP 2007 (refer to **Figure 6**). Whilst the listing applies to the total site, only the section facing Church Street is of heritage interest. The part of the site facing Macquarie Street has been redeveloped and no longer has heritage value.
62. The item along Church Street is of significance in the Parramatta area for historical and aesthetic reasons. It is an example of Inter-War period Stripped Classical architecture that demonstrates the commercial role of Parramatta in the twentieth century. The building is associated with a number of other buildings that were part of the Murray Bros department store chain.
63. Following an assessment conducted by Council's Heritage Officer, the key issues relate to:

The impact of any future development on the heritage value of the site

64. Council's Heritage Officer does not agree with the findings of the applicants final submitted Heritage Assessment Report that includes an assessment of the building fabric and asserts that many of the original features of the building (including the internal structure and caretakers flat) are of little heritage significance.
65. The façade and internal structure of the building contributes to the fine-grain retail streetscape of Church Street, and contributes strongly to the townscape and history of the City Centre. Officers recommend that more

than just the façade be preserved in order to retain the significance of the item, and its ability to transfer historical themes to the community.

66. The indicative design scheme submitted with the Planning Proposal presents a detailed and progressed architectural design scheme. The scheme positions the tower in the middle of the site having the potential to undermine the integrity of the item. Furthermore, the scheme does not integrate the architectural and spatial qualities of the Murray Bros Heritage Item.
67. The applicant acknowledges that this is only one design option for the site. Given the scheme will be going through a design competition, Staff recommend that the tower be repositioned away from the heritage element of the site towards Marsden Street as this does not contain heritage or archaeological value.
68. Furthermore, the scheme should preserve and incorporate the heritage item into the new building. Officers recommend this requirement be embedded into the future design competition brief, and request that more of the fabric of the original Murray Bros Store be kept (including elements of internal structure and the caretakers flat), and the envelope of the proposed tower and podium must be located so as to allow for this to be conceivable.

The impact of any future development on the archaeological values of the site

69. The site is listed as having potential archaeological value. However as it is currently developed it is difficult to determine the status of any ruins and therefore will require further investigation during the excavation stage of any future development. The Office of Environment and Heritage (OEH) is the consent authority for any future Development Application, and the applicant will need to ensure compliance with their requirements during construction and for the future management of any relics.
70. The applicant met with the OEH in August 2015 after which the applicant provided meeting minutes to Council Officers on the outcome of that meeting. The uncertainty of the archaeological value of the site due to the fact it is currently developed with an existing basement car park was discussed.
71. Council Officers recommend that further information be obtained by OEH that provides a clear indication to Council on the acceptability and conditions of any eventual redevelopment of this site. This will be used to inform the design competition brief and any future development application assessment. As discussed above, the OEH is the consent authority for archaeological matters and Council will be required to comply with their guidelines and final assessment regarding the sites value.

The impact of any future development on adjacent heritage items

72. Staff raise concern over the impact future development will have on adjacent heritage items, including its overshadowing on St Johns Church

(Heritage Item - 8) in Centenary Square. Whilst Centenary Square is not subject to any specific solar access provisions within the PDGP 2011, consideration of the impact of future development on the square and the heritage items within the square is crucial to ensure their intrinsic value is retained and not undermined by surrounding development.

Catchment Management

73. As mentioned previously, small portions of the site at the Macquarie Street and Marsden Street frontage are affected by the 20 and 100 year ARI. The site is also affected by the PMF, as is much of the Parramatta CBD.
74. The Planning Proposal includes a series of commitments that will need to be incorporated into the detailed design of the building to ensure awareness, safety and access in the event of a flood. The applicant will be required to submit details of these design features and evacuation measures as part of the Design Excellence and Development Application processes.
75. The proposal has been reviewed by Council's Catchment Management team and is considered satisfactory with respect to Direction 4.3 Flood Prone Land of the Section 117 Minister Directions subject to compliance with the series of commitments within the Planning Proposal as detailed above.

Traffic and Transport Management

76. The indicative design scheme lodged with the Planning Proposal indicates access into basement car parking via Macquarie Street. Whilst the location of the vehicular access point into the subject site can be determined at the Design Competition stage, staff reinforce that Marsden Street from a traffic management perspective is the preferred entry point into the site due to the fewer number of pedestrians expected on this street given that Macquarie Street may be the potential route for light rail.
77. Council is currently carrying out a Comprehensive CBD Traffic Study that investigates the cumulative impact of the 10:1 FSR growth scenario within the City Centre. This is required under the Parramatta CBD Planning Strategy to satisfy the statutory obligations and requirements of the State Government agencies to inform the Planning Proposal for the City Centre. Initial consultation with these agencies indicated that the City Centre cannot sustain the growth proposed in Council's Strategy without significant transport infrastructure investment. These concerns were raised under a 10:1 FSR growth scenario, therefore any increase above 10:1 cannot be supported by a traffic and transport management perspective until the traffic study is completed.
78. The findings of the study will provide Council Officers with recommendations on the most sustainable traffic model and will inform what the most appropriate maximum parking rate is for the City Centre.
79. If Council resolves to support an FSR greater than 10:1 on the subject site, Officers recommend that the maximum total parking provision for the site

be capped so it is no greater than if the development for the site was at an FSR of 10:1 until the findings of the transport study have been finalised. This will be reflected through a Site Specific Clause within the Planning Proposal to ensure it is mandated on the subject site.

80. Irrespective of the transport study being conducted, the site's proximity to Parramatta Station and the potential future Light Rail route justify the provision of a lower car parking rate on the subject site. This is consistent with the objectives of Transit Orientated Development.
81. Staff recommend the inclusion of sustainable transport options within the design scheme to reduce the amount of additional traffic generated from the proposed development. Some sustainable transport initiatives to be considered within the development scheme include:
 - a. The provision of bicycles and bicycle parking to limit car usage for local trips.
 - b. The incorporation of a car share and bike share scheme to reduce the need for individual car ownershipThese will be embedded within a Site Specific DCP which will be prepared and reported to Council at a later date.

PLAN-MAKING DELEGATIONS

82. New delegations were announced by the then Minister for Planning and Infrastructure in October 2012, allowing councils to make LEPs of local significance. On 26 November 2012 Council resolved to accept the delegation for plan making functions. Council also resolved that these functions be delegated to the Chief Executive Officer.
83. Should Council resolve to proceed with this Planning Proposal, Council will be able to exercise its plan-making delegations. This means that after the Planning Proposal has been to Gateway, undergone public exhibition and adopted by Council, Council Officers will deal directly with the Parliamentary Counsel Office on the legal drafting and mapping of the amendment. A recommendation of this report is that when the Planning Proposal is submitted to Gateway, it should advise the Department of Planning and Environment that Council will be exercising its delegation.

VOLUNTARY PLANNING AGREEMENT

84. A planning agreement can be made under section 93F of the EP&A Act and is a voluntary agreement between Council and the developer, under which the developer is required to dedicate land free of cost, pay a monetary contribution or provide other material public benefit, or any combination of these, to be used towards a public purpose. This may be in lieu of a s94A development contribution, as a part substitution or an additional benefit.
85. The Act specifies that a public purpose includes the provision of public amenities or public services, the provision of affordable housing, the provision of transport or other infrastructure relating to the land, the funding of recurrent expenditure relating to any of these, the monitoring of

the planning impacts of a development and the conservation or enhancement of the natural environment.

86. Council has an adopted VPA policy which sets out the principles governing such agreements, matters that Council will consider in negotiating agreements, steps in the negotiating process, public probity, notification requirements and implementation. The EP&A Act and Regulation sets out the legal and procedural framework for planning agreements.
87. The negotiation of a planning agreement is at Council's discretion. Key principles of Council's policy are that:
- planning decisions will not be bought or sold through planning agreements,
 - development that is unacceptable on planning grounds will not be permitted because of the benefits of a planning agreement,
 - the benefits of the planning agreement will bear a relationship to the application,
 - Council will not give undue weight to a planning agreement when making a decision on a development application, and
 - Council will not improperly rely on its position in order to extract unreasonable public benefits under planning agreements.
88. Procedurally, Council's policy requires:
- a Council resolution to undertake negotiations on a planning agreement,
 - appointment of a Council officer with delegated authority to negotiate a planning agreement on behalf of Council (this is not to be an officer with a key responsibility for the development application),
 - consideration of whether an independent person is required to facilitate the negotiations,
 - public exhibition of the draft agreement, once prepared, and
 - the elected Council will ultimately make the decision as to whether to approve the planning agreement.
89. A letter of offer to enter into a Voluntary Planning Agreement with Council has been made by the landowner under Section 93F of the Environmental Planning and Assessment Act 1979.
90. The letter of offer was made to Council on 4 March 2015 to consider, but not be limited to, the dedication of one or more of the items included in Attachment 2 to Council (subject to assessment, negotiation and valuation) to provide public benefit to the community. The following items from the letter of offer are supported by staff for further negotiation if endorsed and directed by Council:
- The dedication of multiple units for affordable housing
 - A monetary contribution towards the Parramatta Square public domain, River Foreshore Park, Robin Thomas Reserve, and upgrading of the Aquatic Leisure Centre
 - Dedication of a multi-purpose community space.
91. **The letter of offer states that the dedication of any combination of the above items will be in addition to Section 94A development contributions.**

92. There are potential planning and public benefits in the draft VPA proposal that should be further explored. The VPA offer will need to be fully investigated and assessed under the terms of Council's policy and the Act and Regulations. As part of this process, the following will need to be assessed:
- The likely uplift in land value as a result of the rezoning and increase in FSR;
 - An analysis of value uplift verses public benefit and whether the proportion of public benefit (contribution) proposed is acceptable;
 - The appropriateness of delivering contributions in a VPA in comparison to ordinary requirements of a Development Application; and
 - The public benefits of the proposed contribution.
93. If Council wishes to continue with the process, Council Officers will assess all aspects of the proposed VPA and to report back to Council for endorsement prior to exhibition.
94. Accordingly, this report recommends that, as required by Council's VPA policy, a formal resolution be made to proceed with negotiations and an appropriate officer be given delegated authority to negotiate the VPA on Council's behalf. It is recommended that delegation be given to the CEO of Council to negotiate the VPA. Following the negotiations, the draft VPA will need to be prepared by Council's legal representative.
95. VPAs must be notified publicly under the EP&A Act and Council's policy. Following the negotiation and assessment of the VPA, the matter will be reported back to Council for a decision about whether to proceed with public exhibition of the VPA.

NEXT STEPS AND CONCLUSION

96. It is recommended that Council endorse the recommendation of this report which in principle supports an FSR of 10:1 with the height to be determined by the applicant lodging with Council a reference design.
97. The reference design demonstrating a built form with an FSR no greater than 10:1 (excluding design excellence bonus) that complies with the solar access provisions within Clause 29E of PPCLEP 2007 and the PDCP 2011 and the building separation requirements of SEPP 65 Apartment Design Guide (ADG). This is to determine the appropriate height and ensure the development opportunities of adjacent sites, including 20-22 Macquarie Street which Council is currently assessing a Planning Proposal for, are not compromised.
98. Should the reference design propose a building height greater than 156AHD it must be supported by an Aeronautical study to address the relevant Section 117 Direction.
99. Officers request that the CEO be delegated responsibility to consider and finalise the reference design provided by the applicant prior to the proposal

being forwarded to the Department of Planning and Environment seeking a Gateway determination.

100. A Site Specific DCP will be prepared for the subject site to control the built form configuration of the Gross Floor Area and introduce sustainable transport options. This will be reported to Council prior to its exhibition.

101. Once a Gateway determination is received, the Planning Proposal will be placed on public exhibition and the outcomes of the exhibition will be reported to Council. The Site Specific DCP and VPA should be exhibited concurrently with the Planning Proposal. A report on the outcomes of the VPA negotiations will be put to Council before it is publicly exhibited.

Sonia Jacenko

Project Officer - Land Use Planning

ATTACHMENTS:

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| 1 | Applicant's Planning Proposal | 57 Pages |
| 2 | Voluntary Planning Agreement - Letter of Offer | 3 Pages |

REFERENCE MATERIAL