



IRF21/2879

## Plan Finalisation report – PP-2020-2616

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Parramatta Local Environmental Plan – Parramatta  
CBD – Amendment No. 56

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

Parramatta Local Environmental Plan 2011 (Amendment No. 56).

### 1.1.2 Planning proposal and LEP overview

The Local Environmental Plan (LEP) (**Attachment LEP**) seeks to guide the growth and development of the Parramatta central business district (CBD). The intent of the planning proposal (**Attachment A1**) associated with this LEP is to grow Parramatta as Sydney's Central River City, as outlined in the Greater Sydney Commission's Greater Sydney Region Plan.

At Council's Ordinary Meeting on 15 June 2021, City of Parramatta Council resolved to proceed with the planning proposal with a number of generally minor post-exhibition changes (**Attachment F**). These changes were made in response to submissions and the changing planning landscape, and are discussed in Section 5.2.

In reviewing the proposal for finalisation, the Department has considered the public exhibition submissions, public agency responses, Council's post exhibition changes and key issues, such as flooding, traffic, public amenity, heritage, solar access and urban design.

The Department also commenced a built form modelling exercise to comprehensively understand the built form outcomes facilitated by the proposal. Concern was raised with the potential height and scale of development possible through the proposed controls. The scale of buildings possible were seen to have the potential to impact the amenity, character and urban design outcomes in several areas in the Parramatta CBD. In particular, the Parramatta River foreshore, Parramatta North and areas on the edge of the proposal, where there is adjoining open space, heritage conservation areas and lower density residential areas.

While this planning proposal focuses on the creation of jobs and housing through built form outcomes, it is recognised that the CBD has significant cultural, social, historical and aesthetic qualities and the intended growth needs to support the aspirations set out in the Central City District Plan for Parramatta as a desirable place to live and work.

In recognition of the balance between place making and development outcomes, the Department has recommended most of the proposal to proceed to be finalised, however, land north of the Parramatta River and the block located between the Parramatta River and Phillip Street, Wilde Avenue/Smith Street and Charles Street, hereby referred to as the Phillip Street Block are recommended to be removed to allow further consideration of the built form outcomes and impacts on heritage, public open space, solar access and amenity. Additional changes to provisions relating to opportunity sites, unlimited commercial floor space ratio and incentives for community infrastructure are also proposed and discussed within this report.

### 1.1.3 Site description

**Table 1. Site description**

Site Description	The Planning Proposal ( <b>Attachment A1</b> ) applies to land across the Parramatta CBD. Refer to <b>Figure 1</b> . The land recommended to proceed is shown in <b>Figure 2</b> . The land recommended not to proceed is shown in <b>Figure 3</b> .
Type	Area
Council / LGA	City of Parramatta
LGA	Parramatta LEP 2011

The Parramatta CBD consists of a clearly defined and zoned commercial core. This is surrounded by a mixed-use zone that supports commercial and residential development through the permissibility of shop-top housing and commercial premises and other complementary land uses. Within the boundary of the CBD planning proposal there are also pockets of land zoned R2 Low Density Residential, R3 Medium Density Residential, SP2 Defence and Railway Corridor and RE1 Public Recreation.

The Parramatta CBD is divided by the Parramatta River. Parramatta North currently is distinctly lower scale and is adjoined by heritage items and conservation areas. The CBD is also traversed by the existing rail line providing access east to Sydney CBD and west to Penrith, Blue Mountains and beyond. Parramatta Light Rail Stage 1 is currently under construction and will provide finer grain public transport linking Parramatta CBD to Westmead, through Parramatta North, and to Carlingford in the north-east. The future Sydney Metro West will provide fast access to the Sydney CBD and Sydney Olympic Park with future transport corridors identified to traverse Parramatta in Future Transport 2056.

The Parramatta CBD contains many significant heritage items of world, national, state and local significance. The locality immediately surrounding the Parramatta CBD is dominated by heritage conservation areas, parkland and heritage precincts. The planning proposal does not seek any changes to the planning controls within the Park Edge Highly Sensitive Area on the western edge of the city centre adjacent to the World Heritage-listed Old Government House and Domain. A conservation agreement exists with respect to World Heritage-listed Old Government House and Domain and development in Parramatta CBD between the federal, state and local governments, signed in 2015. This agreement defines the Park Edge Highly Sensitive Area which has the potential to impact the heritage values and as such, no growth beyond the existing planning controls is considered.

The Department notes that some areas adjoining the Parramatta CBD boundary have been identified as Planning Investigation Areas, where future Council led planning is intended to occur.

Figure 1. planning proposal area in purple



### 1.1.4 Area progressing under the amending plan

The amending plan applies to majority of the land south of the Parramatta River, except for the Phillip Street Block, refer to **Figure 2**.

### 1.1.5 Areas not progressing under the amending plan

Two areas identified under the planning proposal are not progressing under the amending plan to allow further investigation, refer to **Figure 3**. These areas are:

- Parramatta North, and
- The Phillip Street Block.

These areas are considered sensitive due to heritage and public amenity values. To ensure these values are adequately considered and conserved, it is recommended these areas are removed to allow further investigation.

**Figure 2. Areas to proceed through the LEP shown in dashed blue line**

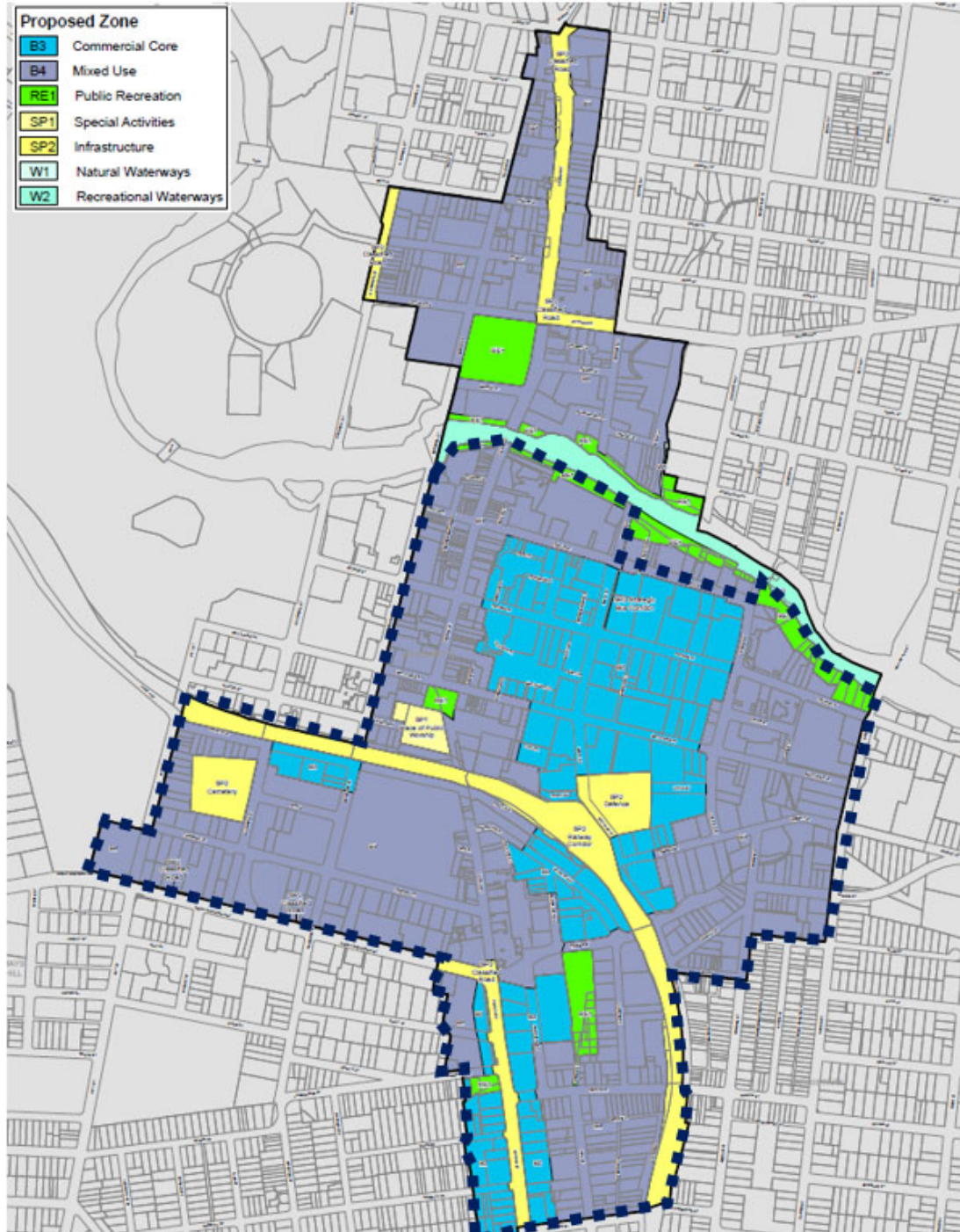
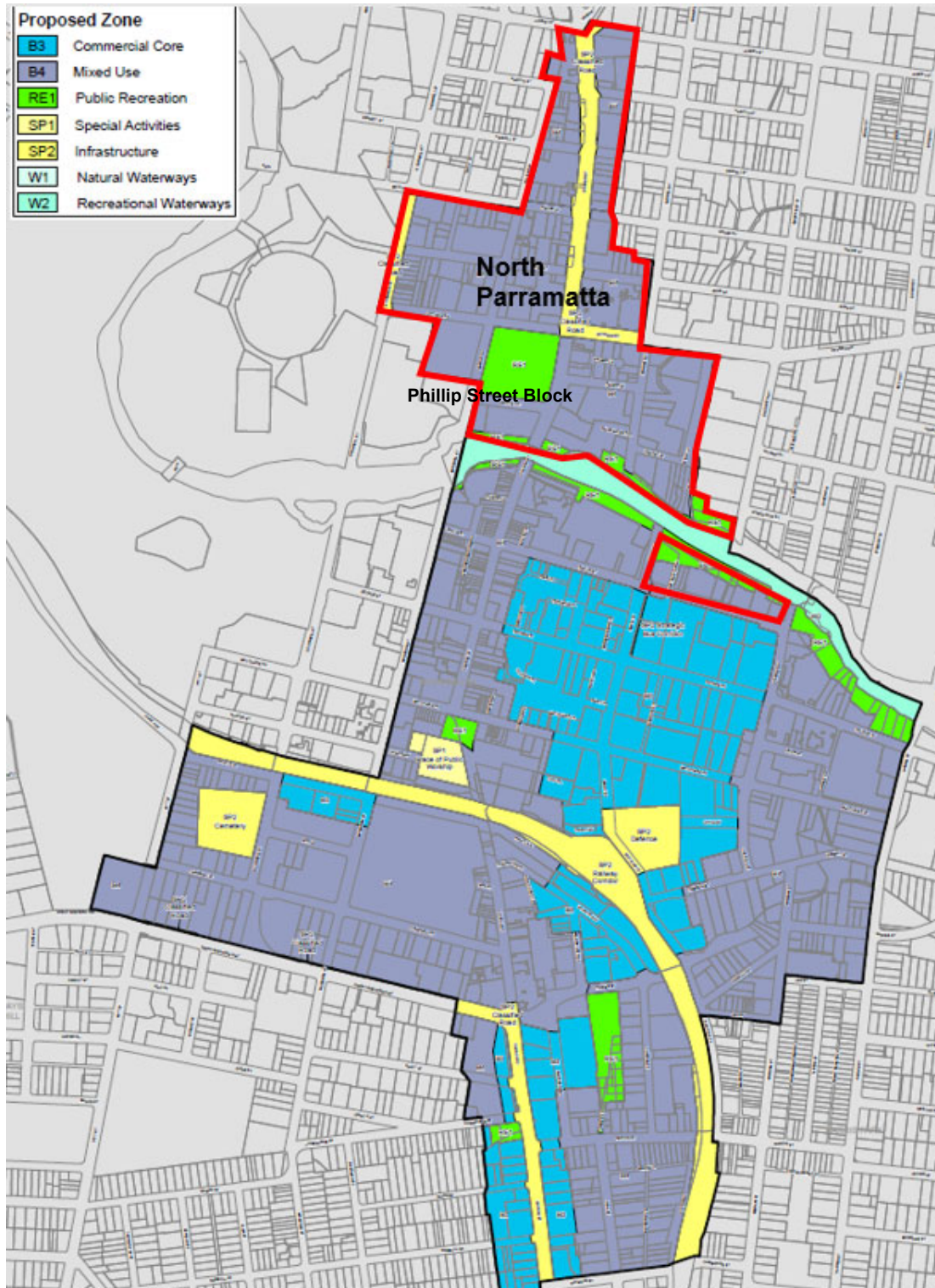




Figure 3. Areas not proceeding under the LEP in red



## 1.2 Purpose of plan

The LEP seeks to introduce a new planning framework for the Parramatta CBD and is estimated by Council to provide capacity for approximately 11,900 new dwellings and 43,300 new jobs, the Department's internal calculations suggest a lower number of jobs may be facilitated. It is noted these numbers are a hypothetical capacity and actual dwellings and jobs delivered will be dependent on take up, composition of uses and configuration of design and the Department considers the job generation estimate excessive.

## 1.2.1 Summary of proposed controls

The amending LEP recommended to be finalised seeks to make the following changes:

- rezoning of some sites, including expanding the commercial core of the CBD, through rezoning land along Church St at 'Auto Alley' from B5 Business Development to B3 Commercial Core;
- increase maximum height and FSR provisions;
- amend the permitted land uses within the B3 Commercial Core zone;
- introduce a solar plane access controls to restrict building height to protect identified areas of the public domain or of heritage significance in and surrounding the Parramatta CBD from overshadowing;
- amend the FSR sliding scale and introduce an out-clause to waive FSR sliding-scale provisions in certain circumstances;
- include definitions for certain terms to improve clarity and legibility of these terms;
- amend the airspace operations control to apply across the Parramatta CBD;
- introduce an active frontages clause to promote uses that attract pedestrian activity along certain ground floor street and public spaces in certain B3 Commercial Core and B4 Mixed Use zones;
- introduce a new flood planning clause to apply development controls to land affected by the probable maximum flood (PMF);
- amend the car parking clause to reduce maximum car parking rates to encourage active and public transport;
- introduce a new heritage clause requiring consideration be given to the impacts on heritage where development adjoining areas or items of heritage significance;
- introduce provisions that seek to preserve the built form and planning controls for land within the Parramatta Park and Park Edge Highly Sensitive Land and areas otherwise not subject to change, including Parramatta North and the Phillip Street Block;
- introduce a requirement for end of journey facilities in commercial premises to encourage pedestrian and cycle activity;
- introduce a clause to encourage the provision of dual water systems, to assist in future proofing the security of water supply;
- introduce a clause to encourage commercial development in the B4 Mixed Use by requiring a minimum FSR of 1:1 for commercial development;
- amend the existing design excellence clause;
- include an incentive 'high performing building design' clause which permits additional floor space up to 5% of the maximum FSR for development which includes residential uses where certain requirements are met;
- minor amendments to ensure references to Lot and DP numbers and legislation are accurate; and
- minor administrative amendments to reflect new structure of the LEP Part, consequential amendments and to site specific clauses to avoid duplication and inconsistency.

## 1.2.2 Mapped controls

Amendments are proposed to the following maps (**Attachment Maps**):

- land zoning map;
- height of building map;
- floor space ratio map;
- heritage map;

- land reservation acquisition map;
- additional local provisions map;
- additional permitted uses map; and
- special provisions area map.

The amending plan seeks to introduce the following maps (**Attachment Maps**):

- sun access protection map;
- active frontages map; and
- floodplain risk management map.

The written and mapped controls aim to provide opportunity for accommodating additional growth within the CBD whilst considering urban design, public amenity and as well as the constraints to development such as heritage, flooding and protecting solar access to public spaces.

## 1.3 Draft Parramatta City Centre Development Control Plan

Council has prepared and exhibited the Draft Parramatta City Centre Development Control Plan (draft DCP). The draft DCP will apply to all land under the CBD PP and will support the LEP controls anticipated under the proposal. The draft DCP introduces detailed controls that address design quality and built form, public domain, heritage, flood risk, vehicular access and parking.

The draft DCP will replace Section 4.3.3 in Parramatta DCP 2011. Minor consequential amendments are also required to section 4.4 of the Parramatta DCP.

The draft DCP was exhibited between 15 November and 13 December 2021. Council is currently considering the submissions received during the exhibition period.

## 1.4 State electorate and local member

The site falls within the Parramatta state electorate. The Hon. Dr Geoff Lee MP is the State Member.

The Hon. Dr Lee MP has made a number of representations to the Minister primarily concerned with delays to the progression of the planning proposal, representations on behalf of a constituent relating to the exclusion of areas zoned R4 High Density Residential from the planning proposal, and on behalf of City of Parramatta Council outlining concern for changes to the infrastructure planning framework (**Attachment B**).

The site falls within the Parramatta federal electorate. Julie Owens MP is the Federal Member.

To the team's knowledge, Ms Owens MP has not made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 13 December 2018 (**Attachment C**) determined that the proposal should proceed subject to a number of conditions. Conditions of the Gateway determination required Council to make a series of amendments to the planning proposal, undertake pre-exhibition consultation with State agencies and resubmit the proposal to the Department for approval prior to public exhibition.

A brief overview of the changes that occurred to the proposal between the issue of the Gateway determination and Department endorsement of the proposal for exhibition, including changes in response to early agency feedback, is as follows:

- the planning proposal was amended to include the findings of new studies and in response to studies that have been updated or completed since the Gateway determination was issued to address specific issues identified in the Gateway determination;
- the FSR sliding scale out clause was amended to increase the site area thresholds from 1000m<sup>2</sup> to 1,800m<sup>2</sup> for sites with an incentive FSR of 4:1, 6:1 and 10:1, are considered an isolated site and exhibit design excellence. A definition of 'isolated site' was also introduced;
- the inclusion of a new heritage clause, in addition to standard LEP heritage provisions, which includes specific heads of consideration for the CBD to provide guidance on what constitutes an appropriate transition;
- the removal of the West Auto Alley Precinct, the block east of Elizabeth Street and land within and adjacent to the Sorrell Street Heritage Conservation Area (HCA), zoned R4 High Density, to allow further heritage analysis to be undertaken;
- changes to FSR and HOB for certain sites in response to heritage study recommendations;
- additional analysis of the Marion Street precinct resulted in amendments to the incentive FSR and HOB controls and the introduction of active street frontages on certain streets in this precinct;
- the controls for the Church Street precinct were reviewed in response to additional studies including heritage and urban design. In response the controls for this precinct were amended to apply the following:
  - a 12m upper level (tower) setback to Church Street
  - maximum 12m podium height,
  - a maximum FSR of 10:1 (inclusive of bonuses) for most sites,
  - a maximum FSR of 3:1 for some smaller, narrow sites that mostly contain heritage items, and
  - the removal of Opportunity Sites for all sites within the Church Street Precinct, except for the site at 286-302 Church Street identified on the Opportunity Site Map as "Area 1", subject to certain criteria;
- the unlimited commercial FSR clause was amended to require the site to a minimum of 1,800m<sup>2</sup> in size;
- solar access provisions were amended to include a Solar Access Plane that protects sunlight access to Parramatta Square during 12pm and 2pm, and Experiment Farm and nominated curtilage between 10am and 2pm, on 21 June. A further subclause has been included to allow for a merit-based assessment of 'minor intrusions' of additional overshadowing to the Parramatta Square Protected Area;
- building heights have been reduced on various blocks across the CBD to reduce overshadowing to open space areas and land within Heritage Conservation Areas (HCAs);
- the Opportunity Site clauses were refined by:
  - removing certain sites from being eligible,
  - removing the unlimited commercial FSRs from the sites where the opportunity sites clause was removed, including the Church Street Precinct, and
  - the introduction of criteria to determine the land to which the bonus is suited.

The Gateway determination required that Council seek the Department's endorsement of the amended planning proposal prior to public exhibition. The Department issued this endorsement on 27 July 2020, in conjunction with an Alteration to the Gateway determination (**Attachment D1**) to allow the proposal to be publicly exhibited. The alteration provided conditions relating to solar access to Parramatta Square, drafting of high performing buildings and requiring the integrated transport plan be completed by finalisation.

The Gateway determination was also altered on 21 March 2021 to extend the timeframe for finalising the LEP to 30 September 2021 (**Attachment D2**). An additional requirement was also

applied to ensure that the proposal was submitted to the Department for finalisation by 1 July 2021. Council has satisfied this timeframe with the submission of the proposal by this date.

On 25 June 2021, the Department also amended the Gateway to require the consideration of a specific site in its finalisation at 18-40 Anderson Street, Parramatta (**Attachment D3**). This responded to the inability to finalise a site-specific planning proposal due to legal proceedings preventing the execution of the supporting planning agreement to deliver public benefits.

The Department notes that at the time of finalisation, the planning agreement for this site has now been signed and as such the LEP has been amended to reflect the intended outcomes exhibited site specific planning proposal. This is discussed further in Section 5.2.

The Department is satisfied that Council has met all the Gateway determination conditions (**Attachment C**).

## 3 Public Exhibition

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 21/09/2020 to 2/11/2020.

A total of 309 community submissions were received from the community including:

- 234 submissions from residents and individuals,
- 51 submissions from major landowners and developers,
- 14 submission from organisations, institutions and interest groups, and
- 10 submissions from public authorities and service providers.

Council's summary and response to these groups are at **Attachment E**.

This section addresses general submissions received from the community and agencies.

Community and agency submissions relating to specific topics such as transport, heritage and flooding are addressed under the relevant topic sections in this report.

### 3.1 General submissions

This section addresses general submissions received from major land holders, developers, residents and individuals, organisations, institutions and interest groups.

#### 3.1.1 Variations to proposed controls

A total of 51 submissions were received on behalf of major landowners and developers. Of these, ten were from landowners who had a site-specific planning proposal underway with Council. The issues raised predominately sought variations to the proposed controls, as follows:

- increases in height and FSR controls or changes to the land use zone, exemption from the FSR sliding scale, challenging the definition of an 'isolated site' or the 1,800 sqm site area requirement to access incentives, including the high performing building bonus and additional commercial FSR requests to have their sites identified as an Opportunity Site or on the Additional Local Provisions Map in order to benefit from incentive FSRs,
- variation to allow the eventual demolition or significant alteration of a heritage item and/or its curtilage,
- concerns raised about implications of a land reservation acquisition notation over a site or request removal of a notation,
- incorporation of sites outside the CBD planning proposal boundary,
- amendments to the wording of draft clauses to address a technical issue, and
- for existing site-specific planning proposal progressing – some submissions identified a potential issue in the proposed clauses and subsequent impact on their proposal.

## Council's Response

In reviewing these submissions, Council identified whether the requests were consistent/inconsistent with the CBD planning proposal and/or recent statutory process and/or whether the requested change would trigger re-exhibition and categorised the submissions into three decision pathways (**Attachment E**), as follows:

- **Decision Pathway 1 – Support a proposed change**

Some amendments were supported as seen as consistent with Council's policy framework for the Parramatta CBD including, supporting technical studies, Gateway determination and Alterations, a State Agency comment, or are of relatively minor impact that do not warrant re-exhibition of the CBD planning proposal. When considering numerical requests to increase densities Council adopted a 10% maximum exceedance to determine whether a request was substantive or not.

- **Decision Pathway 2 – Do not support a proposed change**

Council concluded that most of the requests should not be supported as the issues are inconsistent with Council policy or recent statutory process, and/or the change requested is substantial and would trigger re-exhibition of the CBD planning proposal.

- **Decision Pathway 3 – merit in further investigating a proposed change**

Some submissions were supported by Council officers as having merit for further investigation; however, these changes would require re-exhibition, consequently, to enable the change a separate planning proposal process is recommended.

It is noted that some sites are within a previously endorsed Planning Investigation Area and will be dealt with as part of Council's future Planning Investigation Area (PIA) work at a later stage.

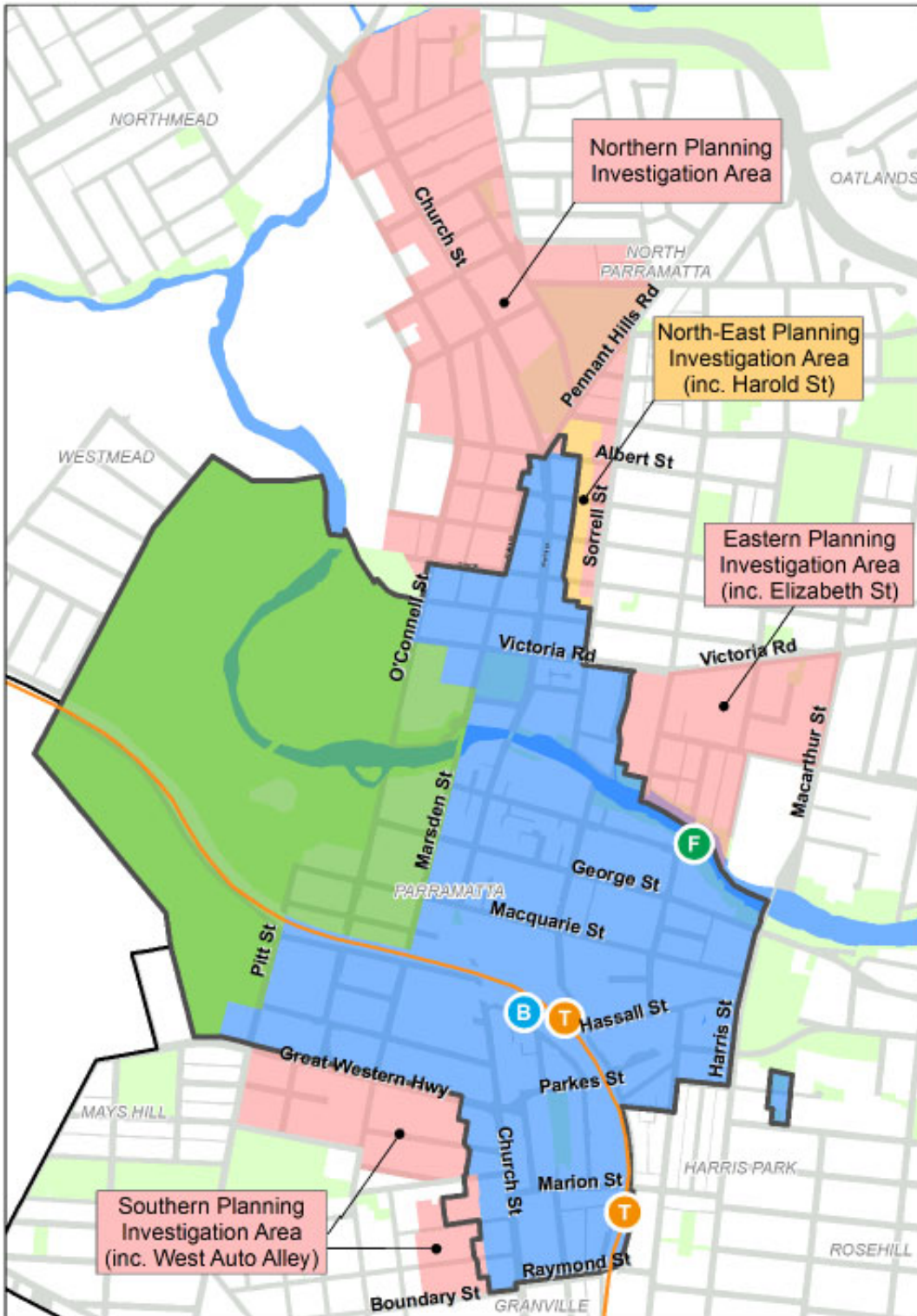
## Department response

The Department agrees with Council's position on matters which were not supported. Council's post exhibition changes (Pathway 1) are discussed in Section 5.1. The Department notes that Council intends to undertake further investigation on matters in Pathway 3.

### 3.1.2 Inclusion of the excluded R4 zoned land

Submissions requested land zoned R4 High Density Residential, specifically, West Auto Alley, Elizabeth Street and Harold Street be re-introduced into the CBD PP (refer to **Figure 4** for a map of these areas, noting West Auto Alley is part of the 'Southern PIA', Elizabeth Street is part of the 'Eastern PIA' and Harold Street is part of the 'North-East PIA').

Figure 4. planning investigation areas



### Council's response

On 25 November 2019 (**Attachment K**), Council resolved to remove these areas from the planning proposal and include them as Planning Investigation Areas within the Parramatta CBD Planning Strategy. It is noted this approach will allow for further investigation for uplift in these areas whilst balancing the impacts on heritage and open space. Introducing these areas now would be a substantial change to the version of the CBD planning proposal as exhibited and would trigger the need for the re-exhibition of the proposal.

## Department response

The Department supports Council's comment that reintroducing these areas would be a substantial change to what was exhibited. The Department also supports further work being undertaken in these areas to determine suitable controls, that balance heritage attributes, the provision and protection of open space and support the recently constructed Parramatta Light Rail. Further, the Department's decision to not proceed with the proposed planning controls for Parramatta North may allow for opportunity to review holistically with Planning Investigation Areas.

### 3.1.3 General objections or concerns

Several individual and organisation submissions have raised objections or concerns with the planning proposal as follows:

- heritage – concerns that the planning proposal does not adequately consider the CBD's heritage, the increased density will have a detrimental effect on heritage items, need for additional heritage protection including increased setbacks, and request for the deferral of North Paramatta from the proposal;
- overdevelopment – concerns that the proposed density will have negative impacts on heritage, amenity, including solar access, open space, schools and car parking. Concerns also identified issues with the quality of current development and a lack of supporting infrastructure;
- COVID 19 – concern that high density development does not promote social distancing to reduce the spread of COVID 19, and a decreased need for residential dwellings and/or commercial floorspace due to lack of population growth;
- environment – concerns identified a current lack of open space and suggested the provision of additional green space to support the proposal as well as an increased focus on green buildings;
- solar access – concern that the proposed solar access protection between 12pm and 2pm was too short and should be extended to be provided from 10am – 2pm at midday on 21 June; and
- parking – concern about the lower car parking rates proposed in the CBD planning proposal, which will discourage visitors.

## Council's response

Council noted these concerns and advised that the majority of the issues did not warrant changes to the proposal.

The proposed controls have regard to both the existing character and heritage and the need to evolve the city in a way that will achieve a range of objectives and actions. Council has prepared various studies related to urban design, overshadowing, parking, bulk and scale and heritage to seek to put in place controls to guide future development of all parts of the proposed CBD while protecting heritage, character, solar access, parking and urban design (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations).

## Department response

The Department notes that the CBD PP is accompanied by a range of studies that have considered heritage, overshadowing and urban design. Additional heritage controls have been introduced that seek to protect and conserve heritage items and Heritage Conservation Areas (HCA). Overshadowing controls have been introduced that seek to protect key locations at certain times. The Department supports the provision of reduced car parking rates as lower parking rates are likely to encourage the use of public and active transport options.

The Department has also made post exhibition changes to not proceed with the proposed changes to Parramatta North planning controls of which a number of submissions objected to. Post exhibition changes have also been made to remove some provisions which facilitated additional



density for opportunity sites or for commercial and office premises uses. This change may assist in addressing concerns raised in relation to overdevelopment and the impact of density proposed. These changes are discussed further in Sections 4.3 and 4.5.

The Department is otherwise satisfied Council has adequately addressed the issues raised.

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council undertook pre-exhibition consultation and public exhibition consultation with the identified agencies.

Council summarised the submissions received from the various agencies in **Attachment E**. This section addresses general advice received from various agencies (**Attachment H**).

Council noted the following comments from agencies and advised that no further amendments to the CBD planning proposal are required in response to the following:

- Commonwealth Department of Agriculture, Water and the Environment advised that the Commonwealth and State Governments have all entered into an agreement to protect the area of Special Significance related to the Old Government House and its domain and notes the CBD PP is consistent with this agreement;
- Sydney Water supports Council's proposal to set higher BASIX targets and introduce dual water pipes. To assist Sydney Water's investigations into an integrated water management plan, Sydney Water requests early and ongoing engagement with Council;
- Endeavour Energy provided general comments on future service requirements;
- Property and Development NSW and Department of Education notes the challenges associated with the development of the CBD and maintaining solar access to existing and likely future dwellings, civic spaces and parks;
- NSW Environment Protection Authority (EPA) recommended that specific building design criteria be included for future development in the Parramatta CBD to manage air quality, noise impacts, water quality, waste and resource recovery. In addition, suggests the need to ensure an appropriate assessment of contamination is undertaken, including preparation of a DCP for key sites such as the Auto Alley precinct before the site is occupied/used.
- The Hills Shire Council notes that the reduction in car parking may not deter Hills residents from utilising private cars due to bus only access which could exacerbate traffic congestion. Further advocacy for additional capacity on Windsor Road and critical intersections (such as grade separation of Baulkham Hills Junction) and some satellite car parking areas would also contribute to improved accessibility between the Hills and Parramatta. Council welcome any opportunities to discuss the identification of a preliminary corridor and station options for mass transit from Parramatta to Norwest. Further, The Hills Shire Council's comments primarily relate to land north of Parramatta River, which will be addressed as part of a future stage PP as the Department has removed Parramatta North from the CBD PP. The issues raised do not require amendment to the CBD PP;
- Ryde Council and the Government Architect NSW were notified and requested to provide comments in response to the CBD PP, however submissions were not received from either.

### Council's response

Council noted these concerns but advised that the majority of the issues did not warrant changes to the proposal.

The proposed controls have regard to both the existing character and heritage and the need to evolve the city in a way that will achieve a range of objectives and actions. Council has prepared various studies related to urban design, overshadowing, parking, bulk and scale and heritage to seek to put in place controls to guide future development of all parts of the proposed CBD (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations).

## Department response

Most of these submissions are general comments or are matters for Council to address through local policy. Many of the issues raised can be appropriately considered through the future DCP and development application process. The Department understands that City of Parramatta Council works collaboratively with TfNSW to improve public transport and active transport options not only in the CBD but also in seeking connections with neighbouring LGAs. These are matters outside the scope of the CBD PP. However, as discussed under Section 4.7 of this report, the LEP includes provisions which seek to ensure infrastructure can support growth enabled by the CBD PP.

## 4 Assessment of key matters

The following section provides a thematic discussion of key matters associated with the amending plan, including consideration of public and agency submissions, Council's responses and resolved post exhibition changes, the Department's assessment of these matters and any additional post exhibition changes.

### 4.1 Transport

The amending plan will result in substantial uplift in new dwellings and jobs, generating a significant demand on the transport infrastructure within the Parramatta CBD.

To ensure traffic and transport impacts were adequately considered the Gateway determination issued on 13 December 2018 (**Attachment C**) required Council to prepare a Mesoscopic Traffic model, and an Integrated Transport Plan (ITP), in consultation with Transport for NSW. The intent was to identify and quantify the traffic and transport impacts of the CBD PP, formally consult with TfNSW prior to exhibition and again during exhibition and identify appropriate responses by Government.

A Strategic Transport Study (STS) was completed in 2017 and Council in partnership with TfNSW built on the STS to prepare a Mesoscopic Traffic Model and Integrated Transport Plan (ITP). The ITP is a strategic plan providing a detailed analysis of the transport required to support the CBD across all modes: walking, cycling, public transport and private vehicles, and provides guidance on when actions will need to be taken.

On 26 July 2021, Council endorsed the ITP (**Attachment I**).

#### 4.1.1 Submissions

The majority of concerns raised related to traffic, transport and parking. The submissions received from community members and Transport for NSW (TfNSW) are discussed below.

##### 4.1.1.1 Community submissions

Community submissions were concerned that the increase in development would intensify traffic congestion and lead to a shortage of car parking, particularly on street parking. Other submissions raised concerns that proposed parking rates would discourage future development and negatively impact land outside the CBD.

##### 4.1.1.2 Agency submissions

###### Transport for NSW

TfNSW submissions (**Attachment H**), acknowledged the proposal will strengthen Parramatta's position as Sydney's second CBD, supported the objectives and intended outcomes that promote active and public transport, supported the new maximum parking rates, and reinforced its commitment to work collaboratively with Council on the CBD proposal. The submission also raised the following issues:

###### Parking

TfNSW, while supportive of the new parking rates, raised concerns that parking rates may increase post exhibition and encouraged requirements for coach parking, end of trip facilities and controls aimed at reducing conflict with the Parramatta Light Rail.

### **Active street frontages**

TfNSW was also supportive of the provision of active frontages within the CBD, however, suggested further work is required in certain locations to ensure adequate pedestrian areas are provided with emphasis on bus interchanges. TfNSW advised it will work with Council to identify bus bay infrastructure needs on a case-by-case basis.

### **Infrastructure contributions**

TfNSW recommended Council should not finalise the planning proposal until a mechanism was in place to capture funding towards regional infrastructure due to a Special Infrastructure Contributions (SIC) not yet being in effect for the Greater Parramatta to Olympic Park Peninsula (GPOP) area.

### **Land reservations**

TfNSW noted the CBD PP outlines that 'the current road network has limited capability to expand; and new surface transport infrastructure like light rail further impacts on the road space allocation for private vehicles'. With Council proposing road widening through an amendment to the Land Reservation Acquisition Map, it is important to note that, whilst an array of investigations that aim at bridging the gaps between the long term vision set in Future Transport 2056 and short term initiatives are being undertaken, TfNSW has not concluded on a position to comment on the amendments to this map.

However, TfNSW identify that further studies could be undertaken to identify further improvements to capacity of the existing road network and public transport capability but would be unlikely to be completed prior to the finalisation of the CBD PP. However, TfNSW support the retention of the existing land reservation acquisitions identified under the current PLEP 2011.

### **Integrated Transport Plan**

TfNSW submissions acknowledged it had worked collaboratively with Council on the delivery of the ITP and supporting modelling. In its response to the public exhibition of the ITP, TfNSW also advised it was supportive of the Paramatta CBD Planning Proposal and the ITP, however, there were a number of items that require resolution prior to the finalisation of the proposal, as follows:

- required the ITP be completed to the satisfaction of TfNSW prior to the finalisation of the proposal;
- TfNSW suggested the inclusion of an action in the ITP identifying Council will work with TfNSW to investigate new bus layover areas to support additional bus services; and
- TfNSW required the integrity of all existing SP2 Classified Road LRA reservations identified within Council's current PLEP 2011 must be maintained.

### **Council response**

Council officers worked with TfNSW and RMS to deliver the STS, the mesoscopic model and the ITP. The STS quantified the likely travel demand resulting from the growth envisaged in the Parramatta CBD under the CBD Planning Proposal. Consequently, the CBD PP includes reduced parking rates and new controls to facilitate sustainable transport modes (pedestrian and cycling) to create a significant mode shift from private vehicle use to public transport, cycling and walking, to minimise to adverse transport impacts associated with increased development.

The Parramatta LEP 2011 contains provisions for development on certain land to require satisfactory arrangements be made for the provision of designated State public infrastructure. The Parramatta CBD will be identified as land subject to this provision, which will ensure a funding mechanism is in place to capture infrastructure costs.

In relation to car parking, end of trip facilities and requirements for coach parking, Council advised:

- the car parking rates will be retained as exhibited;
- the amending plan includes a clause requiring the provision of end of trip facilities for buildings which consist of entirely commercial uses and in mixed use development where more than 6,000 square metres of commercial premises is provided; and
- requirements for coach parking will be addressed under the CBD DCP and transport will be provided an opportunity to comment when this goes on public exhibition.

Council notes that active frontages and footpath widths are matters appropriate for the CBD DCP. Submissions in response to exhibition of the draft DCP are currently being considered by Council.

In relation to Land Reservation Acquisitions, Council notes TfNSW advice and confirms it is not in a position to comment on the proposed road widenings identified on the LRA Map. Council also notes that amendments have been made to the Land Reservation Map with the local road widening reservations being removed or reduced.

#### 4.1.2 Section 9.1 Direction 5.1 Integrating Land Use and Transport

This direction seeks to ensure all development designs, land use locations and urban structures improve access to housing, jobs and services by walking, cycling and public transport and to reduce car dependence. This direction applies as the proposal will create and alter zones and/or provisions relating to urban land.

The amending plan is supported by an STS, mesoscopic model and an ITP which were developed in consultation with TfNSW and give effect to the relevant guidelines specified under this Direction. Parramatta Council also has several plans and strategies aimed at improving active transport within the LGA. The amending plan is considered consistent with this direction.

#### 4.1.3 Department assessment and response

The Department notes State Environmental Planning Policy (Transport and Infrastructure) 2021 provides further guidance for development relevant to this LEP. The proposal is considered to be consistent with the SEPP and the referral requirements identified are noted.

##### **Parking**

The TfNSW submission raised concern that there would be changes to the exhibited car parking rates, for locations over 800m from Parramatta Train Station, planned Parramatta Metro Stations and over 400m from Harris Park Station.

It is noted that the ITP does include additional 'category B' car parking rates for residential development located over 800m from Parramatta Train Station, planned Parramatta Metro Stations and over 400m from Harris Park Station, however, the amending plan does not seek to make changes to the exhibited car parking rates.

In its submission, TfNSW also suggested the LEP should include requirements for the inclusion of passenger pick up/set down areas onsite, including minimum parking rates for coaches and point to point transport vehicles for hotels, serviced apartments, and community facilities.

Council has advised parking rates for coach, freight and servicing were considered in the drafting of the CBD DCP. The draft DCP includes provisions for service lanes but does not address parking rates for coaches and freight.

##### **Active frontages**

The Department notes that TfNSW are generally supportive of the active frontage provisions and acknowledged it would work with Council on a case-by-case basis in relation to bus bay infrastructure. Council's comments indicated the DCP includes controls to guide active ground floor frontages in commercial and residential zones and for flood affected land and that it would consult with TfNSW when the draft DCP was exhibited. TfNSW was invited to comment on the draft DCP when it was exhibited in late 2021. Council is reviewing the submissions received. The Department is satisfied that Council will continue to work closely with TfNSW to resolve any issues associated

with the active street frontage provisions and that post-exhibition changes regarding active street frontages are not required.

### Infrastructure funding

In its submission, TfNSW identified the need for a funding mechanism to be in place to support regional transport infrastructure and recommended the proposal not be finalised until a mechanism to ensure the provision of State public infrastructure was in place.

The Parramatta LEP 2011 contains provisions for development on certain land to require satisfactory arrangements be made for the provision of designated State public infrastructure. The Parramatta CBD will be identified as land subject to this provision. This is discussed further in Section 4.7

### Road Reservations

Council has retained the existing SP2 Classified Road reservations within Council's current PLEP 2011.

### Integrated Transport Plan

The Department is satisfied that Council has worked closely with TfNSW on the ITP and has adequately addressed TfNSW comments, including the provision of an action to work with TfNSW to investigate new bus layover areas.

The Department has reviewed the supporting studies, agency advice, Council reports and relevant submissions and has considered the relevant 9.1 Direction, State Environmental Planning Policies (SEPPs) and strategic documentation and is satisfied there are no outstanding traffic and transport issues.

#### 4.1.4 Post exhibition amendments

Submissions from TfNSW and landowners raised concerns about land identified for acquisition for road widening, strategic bus corridors and regional cycleways. In response to these submissions, Council resolved to remove or reduce the following reservations:

- the local road widening on O'Connell St / Victoria Rd, Smith St north of Phillip St (west side) and the eastern side of Smith Street between Macquarie and George Streets were removed due to lack of space;
- the local road widening reservation on Smith St between George St and Macquarie St (east) has been partly reduced from 7m to 4m;
- the regional cycle way reservations on the southern side George Street, along the east side of Marsden Street and some portions of the regional cycle way reservation on the northern side of George Street have been removed;
- the local road widening reservation on the corner of Parkes and Harris Street has been reduced; and
- all existing SP2 Classified Road reservations identified within Council's current PLEP 2011 have been retained, as required by TfNSW.

The Department has also made some general post-exhibition amendments to the Land Reservation Acquisition map to ensure it is up to date and removes any land reservations that have already been acquired or are redundant. Further, as outlined in Section 4.7 in this report, the Department has amended the draft LEP to include provisions for the consideration of the delivery of State and regional infrastructure to support growth enabled by the CBD PP.

## 4.2 Heritage

Parramatta and its river is of great significance to Aboriginal and European heritage. A number of convict and colonial era developments and infrastructure remain and has resulted in places of

significant World, National, State, and local cultural heritage located within and in the vicinity of the Parramatta CBD. Views and vistas are also an essential part of and contribution to the quality of Parramatta's cultural landscape. Due to Parramatta's rich and varied history there are a number of areas with archaeological significance.

No changes are proposed to the existing heritage items under the LEP, however, the Harris Park West Heritage Conservation Area (HCA) has been reduced on the northern portion of the block bound by Ada, Wigram and Kendall Streets to exclude the redeveloped section as it does not contribute to the HCA.

In recognition of Parramatta's significant heritage, the planning proposal process has sought to recognise and preserve the significant values and character of the heritage items, conservation areas, views and vistas and the Parramatta River, while providing for urban intensification and integration of new development. The CBD PP is supported by a number of heritage studies (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations) including:

- Heritage Study, CBD Planning Controls, prepared by Urbis in 2015,
- Parramatta CBD, Heritage Study of Interface Areas, prepared by Hector Abrahams Architects in June 2017,
- Heritage Interface Areas, Parramatta CBD, Peer Review, commissioned by the Department and prepared by GML Heritage in August 2018, and
- Church Street, Parramatta, Independent Review of Proposed Planning Controls, commissioned by the Department and prepared by GLM Heritage in September 2019.

The following studies (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations). are also considered or related to heritage within and adjoining the Parramatta CBD:

- Marion Street, Precinct Plan, prepared by SJB Urban in September 2019,
- Parramatta CBD Planning Proposal, Review of Opportunity Sites, prepared by City of Parramatta Council in October 2019,
- Overshadowing in the Parramatta CBD, Technical Paper, prepared by City of Parramatta Council, in August 2020, and
- Preliminary Site Investigation, Auto Alley Precinct, Parramatta LGA, prepared by JBSG in February 2016.

The advice and recommendations of several technical experts in the heritage field and the concerns raised in community, agency and organisation submissions have been considered and where relevant incorporated into the final proposal.

## 4.2.1 Submissions

### 4.2.1.1 Community submissions

Many of the community submissions generally opposed the proposal on the grounds of heritage concerns, and Parramatta North was an area of particular concern. Submissions suggest that the planning proposal does not adequately consider the CBD's heritage, that the increased density will have a detrimental effect on heritage items, identified the need for additional heritage protection including increased setbacks, and requested for Parramatta North to be deferred from the proposal.

### 4.2.1.2 Agency submissions

#### **Heritage NSW, National Trust of Australia (New South Wales) and National Trust of Australia (Parramatta Branch)**

Submissions were provided by Heritage NSW, National Trust of Australia (New South Wales) (**Attachment H**) and National Trust of Australia (Parramatta Branch) and while it is noted that the National Trust is not a State agency, they are identified as a reputable organisation in the heritage

field. These submissions were concerned about the impacts the proposal would have on many of the city's heritage items, areas, places and views. Key concerns raised are discussed below.

### **Conservation Agreement**

Parramatta Park, Old Government House and Domain are subject to a conservation agreement between the Commonwealth, State and Local tiers of government and seeks to protect and preserve the significant values of these sites and potential impacts in adjoining land identified as highly sensitive edge area.

Heritage NSW requested Council ensure that the requirements of the Conservation Agreement (under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* to protect the World and National Heritage values of Old Government House and Domain in relation to its significant views and settings) continue to be upheld, and if necessary, make changes to the planning proposal to address these requirements.

It noted that while no changes are proposed in this heritage area the inclusion of this land within the mapped area of the proposal is misleading, and requested the maps excise Parramatta Park, Old Government House and the Government Domain from the proposal area.

### **Proposed incentive height and FSR controls**

The National Trust's Parramatta Branch found the proposed height standards confusing, stating it was unclear why there were two standards in some cases and incredibly large differences in the two and made the same argument for floor space ratio controls.

Heritage NSW acknowledged the objective of the incentive controls is to allow greater density and height where certain requirements are met and stated the intensification of development within the vicinity of heritage items may have adverse impacts, suggesting the following:

- new development should demonstrate an appropriate transition to heritage items and HCAs;
- Council should identify guidelines as to what constitutes an appropriate transition as the interface areas between proposed areas of uplift and heritage items or HCAs has the potential to cause adverse impacts on heritage items, including overshadowing, abrupt transitions in height and scale and deactivation of streets and smaller shopfronts;
- give consideration to revising the incentive height and FSRs to minimise the potential for heritage items to become isolated by large scale development;
- retain existing height and FSR controls on significant state heritage items; and
- give consideration to how overshadowing impacts can be mitigated to avoid any increase in overshadowing on Centenary Square, and St John's Anglican Cathedral.

### **Site amalgamation**

Heritage NSW noted that the proposal would allow for additional FSR through amalgamation of local heritage items with adjacent sites which may have positive impacts as a means of transferring unrealised heritage floor space and for heritage item to be retained and conserved as an independent streetscape element. Further, the amalgamation of lots should not result in the isolation of heritage items.

Council should also ensure that design competitions in the design excellence provisions respect and enhance the heritage of Parramatta.

### **Solar Access Protection**

Heritage NSW advised that solar access to State and National Heritage items/places, including Prince Alfred Square, Centenary Square and St John's Church, Hambledon Cottage, Elizabeth Farm and Experiment Farm Cottage are to be maintained..

Heritage NSW recommended further solar access modelling be undertaken for future development applications to minimise overshadowing as a result of taller tower development permitted under the proposal.

### **Protection of views**

To ensure the protection of heritage views, it is recommended that a list of significant view corridors within the Parramatta CBD are identified and protected through the planning proposal.

### **Church Street**

Church Street is historically important to the Parramatta CBD, and the section of Church Street north of the river has been a key historical entry point to the settlement of Parramatta for over 160 years and retains several locally significant heritage items. The National Trust found the proposed FSRs and 80m height limit are inappropriate for the following reasons:

- creates a disruptive backdrop of buildings to the Sorrell Street conservation area and reduces the existing blue-sky views;
- creates a visual clutter of various building materials, colours and reflective surfaces, and detracts from the aesthetic significance of the heritage places as seen around Marion Street; and
- allocating realistic achievable FSR and heights where heritage restrictions or heritage considerations exist to ensure the expectations of the developer and those who would like heritage values conserved are closer aligned.

The National Trust (NSW) recommended a maximum building height of 24m accompanied by a podium level with a height of 3 storeys along Church Street.

### **Prince Alfred Square**

The National Trust (NSW) notes Prince Alfred Square has been a public reserve and meeting place for the people of Parramatta for over 180 years, remains a centre for local gatherings north of the river and the growing population and workforce of Parramatta CBD will require more public open space.

The controls proposed under the CBD PP seek to prevent overshadowing to the southern half of the park between 12 noon and 2pm on 21 June, however, the development proposed on the block adjoining the park to the north will cast shadows across the northern portion and into the southern portion of the park earlier in the day which represents a significant loss of amenity and solar access for the park users.

As an important public open space and place of State heritage significance, the National Trust recommends Prince Alfred Park should not be overshadowed.

### **Centenary Square**

Under the proposal, some land around Centenary Square will be subject to a FSR of 10:1 and maximum building heights restricted by prohibiting further overshadowing to the Parramatta Square, between 12 noon and 2pm on 21 June.

In the National Trust (NSW)'s submission Centenary Square is described as a notable place for passive recreation and that significantly contributes to the character of Parramatta. It advises that allowing towers around the square will:

- hem the square in and result in the loss of its heritage setting;
- potentially block the sun at times outside the 12pm – 2pm protected timeslot;
- result in accelerated down winds created by downdrafts off high buildings which will result in a notable reduction of amenity in the square ; and
- create detrimental impacts on the ambience and cultural significance of the square and its associated heritage items.

The National Trust (NSW) recommends the FSR and building heights around Centenary Square and its associated heritage items should reflect and protect the cultural value and the sense of place that the square currently possesses, and minimise or ameliorate any negative impacts on amenity, such as loss of solar access and the creation of downdrafts.

### **Experiment Farm**



Council's Overshadowing Technical Paper found that protecting Experiment Farm from all day over shadowing is compromised by existing and approved development, and to prevent further all-day overshadowing impacts, the maximum building height would need to be reduced for 205 sites. However, the National Trust submission states that building heights below the proposed 243 RL maximum would ameliorate impacts on Experiment Farm and recommended further building shadow analysis be undertaken for Experiment Farm.

### **Roxy Theatre**

The submissions supported the retention of the 18m building height and the conservation of the Theatre in its entirety and protected from unsympathetic redevelopment.

### **Absence of a DCP**

The National Trust (Parramatta) raised concerns that the corresponding DCP which provides the necessary detail to fully understand the outcomes of the draft LEP is not available. The Trust is concerned outcomes using the LEP height and floor space ratio standards cannot be holistically understood, without DCP controls for setbacks, landscaping, materials, building form at upper levels and curtilage. The National Trust (Parramatta) also considers the proposed planning controls are not sympathetic, specifically noting that heritage items are mapped on a separate map and blanket FSR and building heights have been applied which do not distinguish heritage items. This gives the unrealistic expectation that sites containing heritage items may achieve these standards.

### **Ad-hoc Planning**

Concerns were raised about the number of 'spot rezoning' development applications that have been approved which have resulted in greatly increased heights and heritage buildings being delisted and targeted for demolition, overshadowed or compromised in their setting. The National Trust (Parramatta) notes a preference for Parramatta to be planned through a strategic approach.

## **Council response**

### **Conservation Agreement**

In response to Heritage NSW, Council has confirmed there are no proposed changes to the World Heritage listed items and land protected by the Conservation Agreement. The CBD Planning Proposal also identifies the Park Edge Highly Sensitive Area to ensure the current controls in Parramatta LEP continue apply to the land.

### **Overshadowing**

Council has prepared an overshadowing analysis which considered the impacts of development proposed through the CBD PP. Overshadowing impacts are proposed to be managed through the application of a sun access plane which applies height limitations to mitigate significant overshadowing to certain sensitive areas at nominated times.

Overshadowing testing revealed that Hambleton Cottage and Elizabeth Farm would only experience overshadowing in the late afternoon. Testing to the Harris Park West HCA found 75% of allotments achieved the benchmark which was deemed to be an acceptable degree of overshadowing and that some of the overshadowing impacts were caused by existing development.

Further, development application requirements include the need for solar access modelling where an increase in building height is proposed.

### **Transition, interface and site amalgamation**

In response to concerns about transition, interface areas and site amalgamation, Council advised in addition to standard clause 5.10 Heritage Conservation, an additional clause seeking to manage heritage impacts has been proposed, which requires development to demonstrate an appropriate relationship to heritage items and heritage conservation areas that responds positively to heritage fabric, the street and the wider area.

The design excellence clause which applies to the erection of a new building, or alterations and additions to an existing building; requires certain development to undergo an architectural design competition. Through this process, development must address heritage and archaeological matters, streetscape constraints and opportunities, impacts on any special character area, ground level interfaces, adverse impacts on adjoining buildings as well as overshadowing and solar access.

Additionally, Council has prepared a draft Parramatta CBD DCP which includes heritage controls which seek to protect heritage values and provide a suitable mechanism to ensure impacts to heritage are ameliorated or mitigated.

### **Roxy Theatre**

Council notes the support for retention of the Roxy Theatre and 18m height limit under the CBD PP. However, Council notes that as the Roxy Theatre is located within Council's Civic Link Precinct which may be subject to further review in the future, building heights for the site and surrounding block may change.

### **Absence of a DCP**

Council has prepared a supporting draft Parramatta CBD DCP that will include heritage controls and outline development requirements for heritage items and nearby properties that adjoin heritage items and HCAs.

### **Ad Hoc Planning Controls**

Council notes that the *Environmental Planning and Assessment Act 1979* establishes the requirements for amending planning controls which is undertaken through a site-specific planning proposal. This process requires the proposed amendment/s to be considered against the broader strategic framework for an area and are subject to a separate process outside of the CBD PP process. Council note the CBD PP does not propose any changes to the listings of heritage items and that development application processes are beyond the scope of the CBD PP. Council also noted that the majority of site specific planning proposal are consistent with the exhibited CBD PP.

Council officers consider the proposed LEP and DCP controls will seek to reduce negative impacts to heritage items.

## **4.2.2 Section 9.1 Direction 3.2 Heritage Conservation**

This Direction is applicable as the planning proposal applies to land comprising heritage items, objects, and places of environmental and indigenous heritage significance. To be consistent, a proposal must contain provisions that seek to conserve these items and areas. At the time of Gateway determination, this direction was unresolved and required further consideration after community and public agency consultation had occurred.

The proposal seeks to protect and conserve heritage items and areas through the provision of an additional heritage clause in the LEP. The additional clause requires development within the CBD to demonstrate an appropriate relationship with heritage items and areas by considering and mitigating impacts to heritage items. The clause also requires the submission of a heritage impact statement.

Solar access provisions in the additional heritage clause will seek to protect solar amenity on key places, with many of the areas identified having historical values. Further, the draft Parramatta CBD DCP contains a section on heritage which includes a range of controls that seek to protect and respect heritage within the Parramatta City Centre. The LEP also protects solar access to Lancer Barracks and Experiment Farm at certain defined times.

As discussed above and in Sections 4.3 Parramatta North and 4.5 Built form, a number of post-exhibition changes have been made to the CBD PP to ensure the proposal is consistent with this Direction.

### 4.2.3 Department assessment and response

#### **Conservation Agreement**

The Department supports the retention of the existing controls that apply to the Park Edge Highly Sensitive Area and will continue to work with both the Commonwealth and City of Parramatta Council to uphold these controls. The Department notes the inclusion of these areas within the planning proposal supports the administrative changes required to the LEP to ensure existing controls are maintained.

#### **Overshadowing**

Under the proposal, building heights for some sites are determined by Sun Access Planes. This seeks to prevent overshadowing at certain times of certain areas such as, the Parramatta River foreshore, key public open spaces and items of heritage significance. However, it is not possible to determine a maximum building height without undertaking modelling and further solar analysis. To enable detailed consideration of the proposed built form outcomes, including solar access provisions, the Department undertook 3D urban design modelling.

Generally, the modelling demonstrated that the solar access plane prevents additional overshadowing to the key areas identified during the specified times and that built form outcomes were considered satisfactory. Additionally, the draft DCP also contains controls to limit overshadowing impacts to additional key areas of open space within the city centre between certain times. Solar access is discussed in detail in Section 4.6 Solar Access.

However, the modelling showed the built form outcomes that could be achieved under the solar access provisions on the northern river foreshore and north of Prince Alfred Square were likely to lead to poor urban design and public amenity outcomes and require further consideration. This is discussed in greater detail under the Section 4.3 Parramatta North.

#### **Transition, and interface**

The Department notes that Council has undertaken a number of studies to understand urban design outcomes, heritage impacts and to inform the transition to lower density and heritage conservation areas that adjoin the CBD. It is understood that these studies did not agree on all matters, including the best approach for managing transition. In response to the recommendations in these studies Council made some changes to FSR and building heights to assist in the conservation of heritage items, to prevent overshadowing and to retain the prominence of historic views or areas such as Church Street. Council have also introduced an additional heritage clause that requires development to demonstrate an appropriate relationship with heritage items.

In response to the studies and submissions, the Department undertook built form modelling and commissioned an independent urban design report to assist in its consideration of the proposed controls and potential adverse impacts. Further consideration of transition and interface is discussed under Section 4.5 Built Form.

#### **Roxy Theatre**

The Department notes the 18m building height for the Roxy Theatre has been retained and notes that the draft Parramatta City Centre DCP includes controls to protect the Roxy Theatre. The draft controls aim to ensure the Roxy has a visual setting that allows it to be visually dominant in the immediate streetscape and not visually overwhelmed by new development. Street walls facing the Roxy must be 6 storeys high and designed with a restrained architectural expression, limited materials, finishes and colour palette and limited decorative detail.

The Department is satisfied that the proposed building height, heritage controls and draft DCP controls will ensure adequate consideration is given to the heritage attributes of the Roxy Theatre site.

## Absence of a DCP

The draft Parramatta City Centre DCP was exhibited between 15 November and 13 December 2021 which includes controls to guide built form, setbacks, landscaping, materials, building form at upper levels. The draft DCP also includes controls for development adjoining or nearby heritage items and HCAs. The Department notes that at the time of writing, the DCP is yet to be adopted, but is being progressed by Council. A deferred commencement of the draft LEP is proposed for six months to allow these matters to be finalised.

## Ad Hoc Planning Controls

The Department notes preference for strategic planning raised in submissions, rather than ad hoc site specific proposals. The Department notes any site specific planning proposals progressed ahead of the CBD PP have had to demonstrate site and strategic merits and be subject to community consultation. The Department is satisfied that the CBD PP is consistent with a strategic planning approach for the area.

## Proposed incentive height and FSR controls

The proposal sought to provide base and incentive height and FSR controls. The base set the general height and FSR provisions and the incentive controls could be achieved where development satisfied certain community infrastructure requirements. As discussed in Section 4.7, the Department has made a post exhibition change to consolidate the incentive provisions with the base height and FSR maps to identify the incentives as the maximum provisions for each site.

# 4.3 Parramatta North

The proposal, as exhibited, incorporated land north of Parramatta River. Parramatta North is characterised by distinctly lower scale development with existing commercial and retail premises fronting Church Street, with a cluster of recent mixed use developments occurring at the intersection of Pennant Hills Road and Church Street. Parramatta Light Rail Stage 1 will traverse Church Street through Parramatta North.

Prince Alfred Square, a central formal civic park, is located at the junction of Church Street and Victoria Road in Parramatta North and is identified as being of State heritage significance. Parramatta North also includes a number of local items clustered around the Catholic Primary and High Schools, and State listed Roseneath Cottage and Kings School group of items. Further to the west is the boundary of the World Heritage and State Heritage listings of Parramatta Park and the Old Government House.

This area also contains the Parramatta River northern foreshore, an area of key open space, important to both residents and people who work in the Parramatta CBD. The northern foreshore comprises a children's play area, public seating, a paved pedestrian shared pedestrian/cycle path and pedestrian footbridge connecting south Parramatta to north Parramatta. The northern foreshore is also traversed by an 15km regional bike route that connects Parramatta Park to Wentworth Point. The area also contains the Western Sydney Stadium, completed in 2019, which provides capacity for 30,000 attendees and includes public play areas and sports courts.

## 4.3.1 Submissions

### 4.3.1.1 Community submissions

Many of the community submissions generally opposed the proposal particularly in relation heritage concerns in Parramatta North. Submissions requested Parramatta North be removed from the proposal to allow further consideration of heritage values and a review of the proposed controls. Generally, the submissions were concerned that Parramatta North contains a significant number of heritage items and the proposed building heights, bulk and scale was not compatible with this area and would diminish heritage values, green streetscapes, amenity, and solar access and result in Parramatta North losing its heritage values and consequently its character.

### 4.3.1.2 Agency submissions

The Heritage NSW, National Trust of Australia (New South Wales branch) and the National Trust of Australia (Parramatta branch) submissions specifically identified concerns with the area north of the Parramatta River, matters raised include:

- the proposed building height of 80m along Church Street in North Parramatta would result in Church Street being lined by 30-storey tower buildings which would divide the two HCAs and completely disregards the significant heritage that exists in Parramatta North. Retention of the existing controls was sought;
- suggested State Heritage Registered items are not be subject to increased height and density;
- seeks the removal of incentive heights and FSRs and supports the retention of existing height and FSR controls at the corner of Villiers Street and Church Street to avoid overshadowing of Prince Alfred Square and St Patrick's Cathedral and to retain the prominence of the Church Street precinct;
- recommends solar access be maintained to Price Alfred Square, beyond the parameters set by the proposal; and
- the scale of proposed development along the culturally and historically significant Parramatta River is inappropriate. It is necessary to prevent development from dominating the river by maximising green space, retaining blue open sky, transition development down to the river and protecting view lines to the Lennox Bridge.

### Council response

Council acknowledges that the proposed controls promote the introduction of tower building forms that are not part of the current fabric of the area north of the river and that the character of the area will change, particularly with the introduction of the light rail and the density needed to support that new infrastructure. However, Council argues the proposal aims to evolve the CBD so it can realise its role of the metropolitan centre for Western Sydney. Council states the proposal has to balance the integration of land use and transport to make the most efficient use of new infrastructure by ensuring it is accessible to greater numbers of residents and businesses against the issues of heritage and character.

Council also advises the amending plan is supported by heritage and urban design studies that consider heritage items and precincts within and surrounding the new CBD boundary, including the land north of the river and the findings of these studies have led to Council implementing an additional LEP clause to manage heritage impacts. The intent of this clause is to ensure development demonstrates an appropriate relationship to heritage fabric, the street and the wider area. The protection of heritage is intended to be further strengthened through supporting DCP controls that outline development requirements for heritage items and properties that adjoin heritage items and HCAs.

Council also note that overshadowing impacts to Prince Alfred Square are mitigated through the Sun Access Protection (SAP) provisions, which recognise the significance of Prince Alfred Square and seek to ensure sunlight access is maintained to 50% of the Square between 12pm and 2pm.

Council flagged that the Department may consider the issues raised by these agencies to be an unresolved Public Authority objection requiring closer consideration once Council has forwarded the plan to the Department for finalisation.

### 4.3.2 Department assessment and response

In consideration of the substantial number of submissions that raised concerns with the proposed controls for Parramatta North, the Department undertook an analysis of this area, examining the difference between the existing and proposed controls and the potential benefits and impacts from these controls. The Department also undertook its own built form modelling of this area to better understand the potential maximum built form outcomes.

The proposal seeks to apply a maximum incentive building height of 80m and FSR of 6:1 along the Church Street spine. Where development takes up the bonus provisions building heights could reach 92m and FSR could reach a maximum of 7.2:1. The Church Street spine also comprises a number of heritage items and adjoins the North Parramatta and Sorrel Street Conservation Areas, refer to **Figure 6**.

The Department's analysis notes that the proposal is seeking to balance growth in this area to leverage greater accessibility provided by the Parramatta Light Rail Stage 1 and seeks to introduce active frontage provisions to assist in the activation of Church Street in Parramatta North. However, following further analysis and built form modelling, the Department identifies the following concerns:

- the proposed controls in this area may compromise the area's unique heritage attributes, either through the demolition of heritage items or through development that poorly or unsympathetically incorporates heritage items or in built form dominating heritage items. Consequently, this may reduce the heritage fabric and character of Parramatta North and result in a general disruption between heritage items, views, and character;
- the provision of uniform FSRs and building heights may result in homogenous built forms where there is little building modulation, leading to a lack of interesting and varied development;
- the uniform controls also lead to a hard transition between the Church Street spine and the adjoining heritage conservation areas, noting Council investigation into the future of these adjoining areas is still underway providing difficulty in understanding the adjoining context. The Department's modelling incorporated building setbacks and certain design criteria as set out in the Apartment Design Guide, such as best practice floor plate size and building separation.
- **Figure 7** shows a 3D image of possible development in Parramatta North under Council's proposal as modelled by the department, noting the hard transition to the adjoining low density heritage conservation area. The 3D modelling has been undertaken to understand the maximum expression of controls, and it is noted that this is hypothetical and development of all sites is unlikely and would need to respond to land constraints. **Figure 8** shows modelling undertaken by Council as part of the draft planning strategy for the North East Planning Investigation Area showing a more varied skyline due to differing assumptions of the model; and
- building heights and FSRs should be commensurate with the scale of the Parramatta River and should seek to protect the natural, historical and cultural qualities of the river that are central to the identity of Parramatta and its place as the Central River City.
- the exhibited proposal seeks to protect half of Prince Alfred Park and the southern foreshore of the Parramatta River from overshadowing at select times, and submissions which suggest this is insufficient are acknowledged. The Department's modelling has also noted that in some cases the sun access plane leads to heights in excess of the adjoining land, which appears to be an unintended consequence of the provision. While maintaining solar access is a key consideration, it should not be the only input to urban design considerations.

Figure 6. Parramatta LEP 2011 Heritage map, Parramatta North area of the CBD proposal in blue hatching

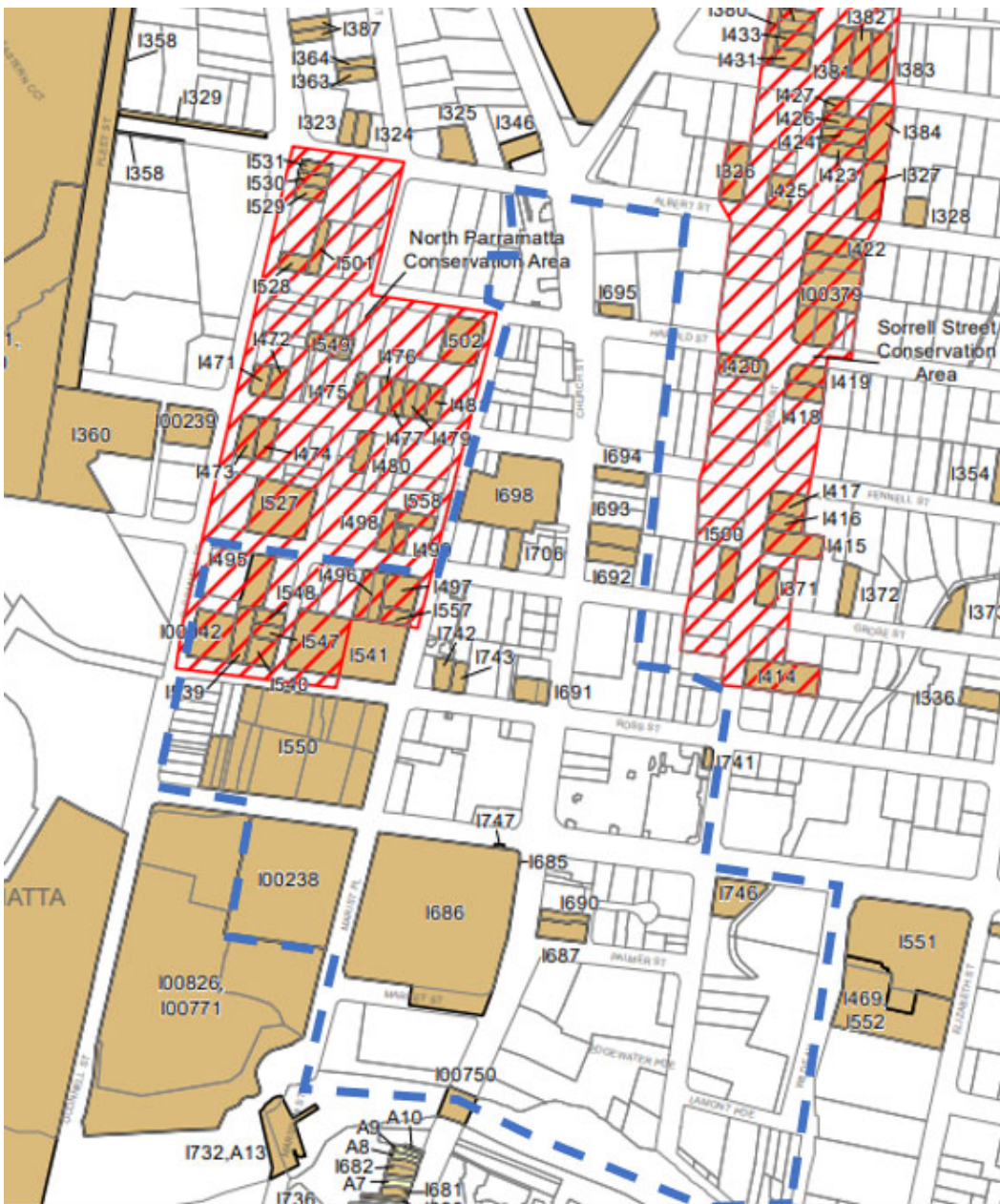
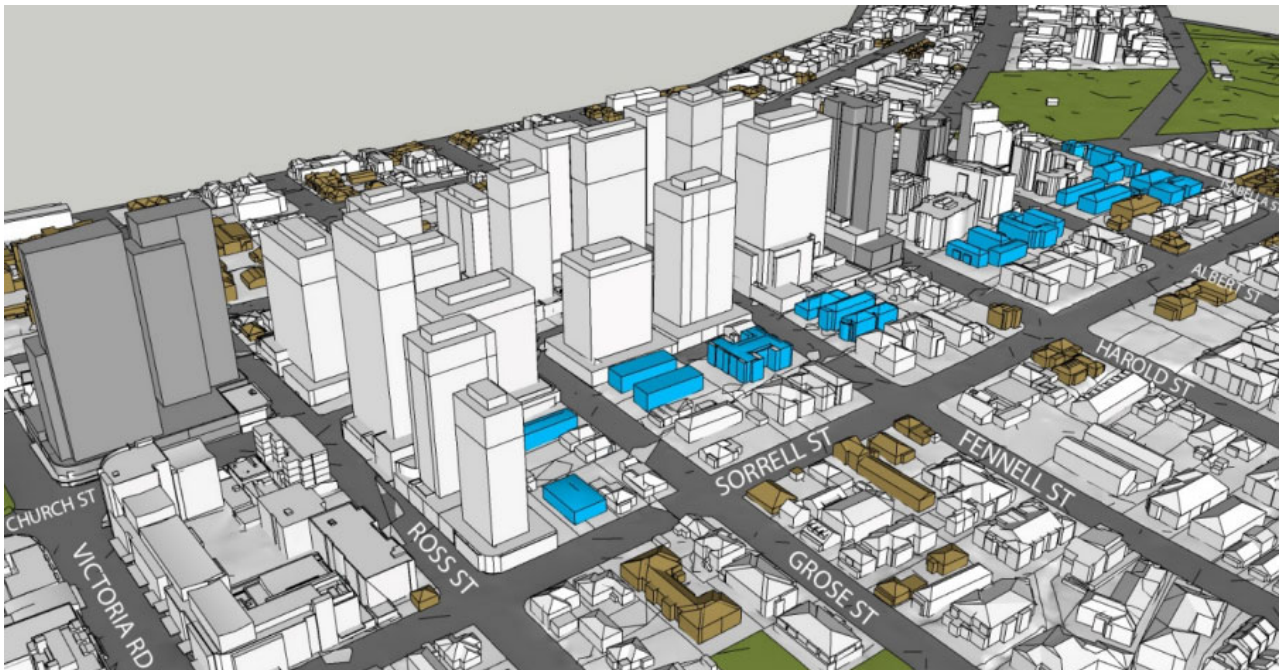


Figure 7. image taken from DPE modelling for Parramatta North



Figure 8. image taken from City of Parramatta Council modelling for Parramatta North, as part of the North-East Planning Investigation Area Draft Planning Strategy (November 2020)



#### 4.3.3 Post exhibition amendments

In response to these concerns the Department recommends the area of land known as Parramatta North not be progressed as part of this plan. This allows further consideration to be given to the provision of development within proximity to the Parramatta Light Rail, transitions, solar access, lower building heights and FSR along the river, consideration of the adjoining HCA and heritage attributes generally, community concerns, amenity, and character. It is noted that Council is currently undertaking a review of planning provisions within the planning investigation areas and this may provide opportunity to review holistically providing a more complete picture of future character and built form transition.



## 4.4 Flooding

A significant proportion of the Parramatta CBD is situated within the floodplain of the Parramatta River and its tributaries (refer to **Figure 9**). Flooding within the Parramatta CBD is typical of flash flood catchments with floodwaters arriving quickly without significant warning, cutting access to areas and buildings, before receding quickly. The management of flood risk and stormwater within the Parramatta CBD has been a key consideration throughout the plan making process.

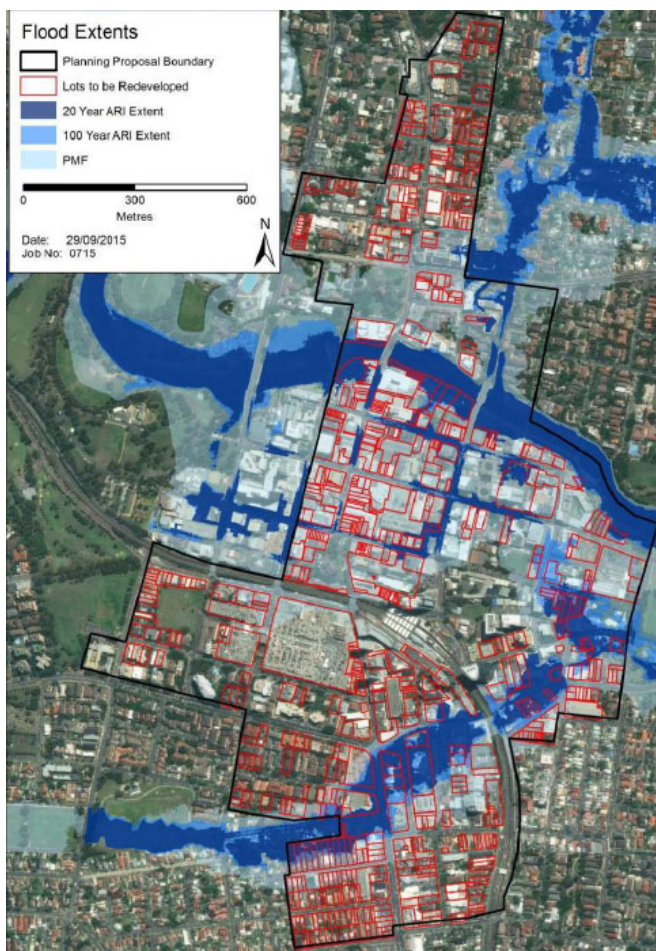
The proposal has considered the impacts of flooding within the Parramatta CBD, as well as the impacts of development on the floodplain. The CBP PP is supported by the following studies (**Attachment A2** – Council’s links to supporting studies, Gateway determination and Alterations):

- update of Parramatta Floodplain Risk Management Plans, prepared by Molino Stewart Pty Ltd in October 2021;
- Parramatta CBD Flood Evacuation Assessment, prepared by Molino Stewart Pty Ltd in September 2017; and
- Horizontal Evacuation Pilot Study – Parramatta CBD, prepared by SJB dated 29 August 2017.

On 11 October 2021, Council resolved to approve the Updated Parramatta Flood Risk Management Plans (**Attachment J**).

The advice and recommendations of above studies were considered and where relevant incorporated into the final proposal.

**Figure 9. flood extents through the Parramatta CBD**



## 4.4.1 Submissions

### 4.4.1.1 Community submissions

Concerns raised by the community in relation to flooding primarily relate to the impact of flooding on the Parramatta CBD and the importance of providing shelter and emergency egress in a flood event. Some of the submissions request implementation of flood related development controls and appropriate consideration of flood management and risk as a result of the changes to height and density controls. Some submissions also note the information relied upon for the draft report should be updated considering the frequency and duration of large weather events and the impact on the floodplain.

### 4.4.1.2 Agency submissions

#### **Environment, Energy and Science Group (formerly the Office of Environment and Heritage now Environment and Heritage)**

EES considers the amendments and analyses in these reports to be reasonable. While EES does not object to the plan, it does note that shelter in place is not an evacuation method, as evacuation means to move people away from the risk area and advises that all matters regarding flood evacuation, community education and awareness and sheltering in place are the primary responsibility of the NSW SES, and its endorsement is considered essential. EES noted flooding levels and design need to account for changes with climate change.

#### **NSW State Emergency Service (SES)**

SES was consulted by Council formally on 19 December 2019, and again on 21 September 2020, but has not provided a formal submission to date.

#### **Council response**

Council's responses to community submissions confirm flood modelling was being undertaken at the time, which has since been completed and endorsed by Council.

Council notes the majority of the comments by EES and advises that SES have not made any formal submissions to date despite contact being made via the statutory requirements of the Gateway determination Conditions 2 and 4 to invite a submission. Should SES provide a submission after the planning proposal is endorsed by Council, Council will rely on the Department to address any matters arising from a late submission.

## 4.4.2 Department assessment and responses

The Department notes that consultation with the SES occurred through both formal consultation periods and through briefing and discussions on the proposal including following exhibition, however, a formal submission was not provided. While EES has suggested endorsement by SES as essential, the Department considers that Council has provided many opportunities for feedback from SES and has suitably considered flood risk and proposes appropriate mitigation measures.

#### **Review and update of the Floodplain Risk Management Plans (upper and lower Parramatta River catchments)**

In response to the Gateway conditions Council has reviewed and updated the Floodplain Risk Management Plans for the upper and lower Parramatta River catchments that covers the Parramatta CBD area. This was endorsed by Council at its meeting on 11 October 2021.

The updated Floodplain Risk Management Plans (**Attachment A2** – Link to supporting studies) state that while the planning proposal increases the overall population at risk, it will also provide the opportunity to decrease the risk to that population through encouraging redevelopment which is more compatible with the flood risk. The report concludes that the intensification of development in the Parramatta CBD represents a tolerable risk to life and property providing that amendments are made to the Parramatta LEP 2011, and Parramatta Development Control Plan (DCP) 2011, to better manage some of the risks of flooding to life.

## Evacuation analysis

Council undertook detailed evacuation analysis for the Parramatta CBD, assessing the feasibility of various evacuation options and evacuation infrastructure upgrades, and subsequently prepared the Parramatta CBD Flood Evacuation Assessment and Horizontal Evacuation Pilot Study.

The evacuation assessment considered three evacuation approaches, based on the 20-year ARI, 100-year ARI and PFM flood events, as follows:

- Horizontal Street Level (HSL) evacuation. This would be achieved by vehicle, before roads are cut by floodwaters, and was not considered to be realistically achievable, noting evacuation would take between 8-11 hours and due to the flash flooding nature in the CBD evacuation may be required with just one to two hours notice;
- Horizontal High Level (HHL) evacuation. This approach would be achieved on foot, by using a network of elevated walkways, and would allow for late evacuation. The assessment found this option would be costly, have significant impacts on the CBD urban landscape and heritage buildings and evacuation times would be consistent with the flood duration; and
- Vertical Evacuation through Sheltering in Place (SIP). In this approach evacuees would reach a refuge above the flood level within their building and wait for floodwaters to recede. The assessment found SIP is the most suitable flood emergency response strategy for Parramatta CBD, as most of the buildings are multi storey. Noting that provisions would need to be made for building access for people in the public domain and development controls would need to be imposed, on development, to ensure adequate provisions are provided.

Both the report and pilot study reiterated that the Parramatta CBD is subject to flash flooding with floodwaters rising within a few hours from the beginning of the rainfall, and there may be less than one hour of warning before an event. The analysis concluded the short time available for evacuation and the current lack of a flood warning system make flood emergency response in Parramatta CBD a difficult exercise and determined that shelter in place is considered the most achievable and practical solution.

## Introduction of flood risk management planning provisions to the PLEP 2011 and Parramatta City Centre DCP

In recognition of flood behaviour, flood history and hazards posed by flooding in the Parramatta CBD, Council were granted 'exceptional circumstances', which enabled Council to prepare a flood risk management control for its LEP, beyond the flood planning level. Consequently, the amending plan is seeking to introduce a clause which would require buildings on flood affected land, up to the PMF within the Parramatta CBD to:

- provide a shelter in place area, connected to emergency electricity and water supply and of sufficient size to provide refuge for all occupants of the building (including residents, workers and visitors); or
- provide flood free pedestrian access between the building and land that is above the PMF level; and
- be able to withstand the forces of floodwaters, debris and buoyance resulting from the PFM.

This clause is in addition to controls under the prescribed Standard Instrument clause 5.21 Flood Planning.

Further, the draft Parramatta City Centre DCP proposes flood risk management controls to support the LEP provisions and to provide guidance and regulation for development on flood affected land. The draft Parramatta CBD DCP has been publicly exhibited and it is understood Council is currently reviewing submissions and considering the need for amendments. The draft CBD DCP includes a chapter specifically related to flood risk management which establishes controls to guide future development on flood prone land.

### 4.4.3 Section 9.1 Direction 4.1 Flooding

This direction applies as the amending plan seeks to create or alter provisions that affect flood prone land.

At the time the Gateway determination was issued, Section 9.1 Direction 4.1 Flooding (formerly 4.3 Flood Prone Land) remained unresolved. The determination included conditions requiring Council to provide additional information to satisfy the requirements of the direction and to consult with State agencies EES and SES.

Due to the local flood behaviour, Council was also granted 'exceptional circumstances' to enable consideration of a new LEP provision that would apply flood planning controls up to the probable maximum flood level, within the CBD.

The Department considers the CBD PP has adequately addressed the objectives of this direction, for the following reasons:

- Council has updated the Floodplain Risk Management Plans that covers the Parramatta CBD area (Upper and Lower Parramatta River Catchments) and undertaken a detailed evacuation analysis for the Parramatta CBD;
- the updated Floodplain Risk Management Plan and evacuation analysis documents (Parramatta CBD Flood Evacuation Assessment 2017 and Horizontal Evacuation Pilot Study for Parramatta CBD 2017) support the amending plan and conclude that the intensification of development in the Parramatta CBD:
  - represents a tolerable risk to life and property providing that amendments are made to the Parramatta LEP 2011 and Parramatta Development Control Plan (DCP) 2011 to better manage some of the risks of flooding to life,
  - that while the planning proposal increases the overall population at risk, it will also provide the opportunity to decrease the risk to that population through encouraging redevelopment which is more compatible with the flood risk, and
  - that shelter in place is considered the most achievable and practical evacuation solution due to the short time available for evacuation which makes flood emergency response in Parramatta CBD a difficult exercise.
- the Department and EES recognises flooding in the Parramatta CBD warranted the granting of exceptional circumstances. This enabled Council to prepare and consult on a new LEP flood provision for flood affected land within the CBD, up to the PMF level;
- the proposed flood clause seeks to ensure buildings provide optimal flood emergency evacuation outcomes and can withstand the force of floodwater, debris and buoyancy resulting from a PMF event;
- EES advises the amendments and analyses in these reports are reasonable, and raise no objections, however, it is advised that NSW SES endorsement of the amending plan is essential;
- Council has consulted with NSW SES, however, no response was received.

Noting Council's response to the submissions, general support from the EES, and the advice and recommendations contained within the technical reports, the Department is satisfied that flooding has been adequately addressed and the LEP's inconsistency with this direction is justified through supporting studies and mitigation measures introduced.

## 4.5 Built form

The proposal seeks to expand and intensify commercial activities and support higher density mixed use and residential development in the CBD, through the provision of tall slender towers. To achieve these outcomes the proposal is seeking to significantly increase building heights and FSRs and to introduce additional bonus FSR or building height where development meets certain criteria, such as design excellence.

To understand the built form outcomes sought through the proposal the Department undertook built form modelling which took into account building heights, FSR controls, bonus FSR and building height provisions, solar access controls, as well as provisions taken from the Apartment Design Guide and draft Parramatta DCP including building separation, floor plate sizes, setbacks and building steps. The Department has undertaken this thorough assessment to ensure controls are appropriate for finalisation given the significance of the Central River City and the evolution of the planning proposal.

A number of recent significant developments within the CBD have been approved or constructed, including sites along the river. Modelling undertaken by the Department has incorporated these future forms to understand the context, noting concerns regarding controls for land between Phillip Street and the River.

#### 4.5.1 Unlimited FSR provisions for office and commercial premises in the B4 and B3 zone

To encourage A-grade office development within the B3 Commercial Core the planning proposal introduced a clause that would exempt office development from any FSR controls provided the site has an area of greater than 1,800m<sup>2</sup>. This essentially allows for unlimited FSR for this use, establishing height as the primary determinant of built form in the LEP.

Similarly, in the B4 Mixed Use zone the planning proposal sought a minimum FSR of 1:1 for commercial uses and exempted any additional FSR above the 1:1 on certain sites, identified on the Additional Local Provisions Map, with a site area of greater than 1,800m<sup>2</sup>.

The intent of the clause is to exempt commercial development from the overall maximum FSR controls to activate land on the edge of the B3 Commercial Core zone and facilitate the provision of a range of commercial uses (business, office and retail) that will contribute to the long term economic and jobs growth of the CBD. As with the provisions for B3 zoned land, this allows for unlimited FSR to be provided with the height limit the primary control in the LEP for built form.

However, in finalising the proposal the Department undertook built form modelling which identified concerns that maximum building heights, inclusive of bonus (up to 243m) and unlimited FSR provisions could lead a proliferation of bulky buildings, homogenous built form outcomes, poor solar outcomes, walls of development fronting the Parramatta River, Church Street, George Street and Prince Alfred Park, all areas of key historical importance. Concerns were also raised about the loss of blue-sky, potential for wind tunnel effects and a lack of built form transition.

The Department's Height and Floor Space Ratio Practice Note advises that height and FSR controls should be adopted for all strategic centres and in areas where urban growth is planned. The use of height and FSR controls establish a primary building envelope, to ensure the size of the building is appropriate to the land size and compatible with the surrounding area. The provision of an unlimited FSR combined with significant building heights is likely to result in large bulky buildings and risks undermining Council's objective for tall slender towers. Further there are no development guidelines for commercial development such as the Apartment Design Guide for residential and Council is reliant on DCP controls to guide setbacks and tower separation.

In light of these concerns and noting that once controls are approved, the resulting development could irreversibly impact the amenity, character and identify of the Parramatta City Centre. Consequently, the Department engaged an independent consultant to undertake a rapid assessment of the proposed controls and urban design outcomes associated with the CBD PP.

The assessment suggests that the proposal was at risk of:

- permitting and encouraging over development within the CBD that risks significant adverse impacts to the existing public domain, heritage qualities and the natural environment of Parramatta, and
- risks visual dominance over the Parramatta River which is critical to the cultural identity of Parramatta as the Central River City and its role in creating a desirable place to live and work.

In response to the concerns about poor development outcomes demonstrated by the modelling and the recommendations made in the independent design review, the unlimited FSR provisions are recommended to be removed. In doing so, the Department considers that the objective to create a CBD of tall slender towers is more likely to be achieved, and that by allowing the maximum height to be retained, greater flexibility is available to allow for density to be expressed within the height limits. The Department notes the recommendations of independent design review and notes that Council may consider further justification to support this control in a future planning proposal.

The Department acknowledges the intent of the provisions is to encourage employment generating uses which will be important for the development of Parramatta as Sydney's second CBD, however these incentives should not be at the expense of amenity and design considerations which will also influence the success of the Central River City as a desirable place to live and work.

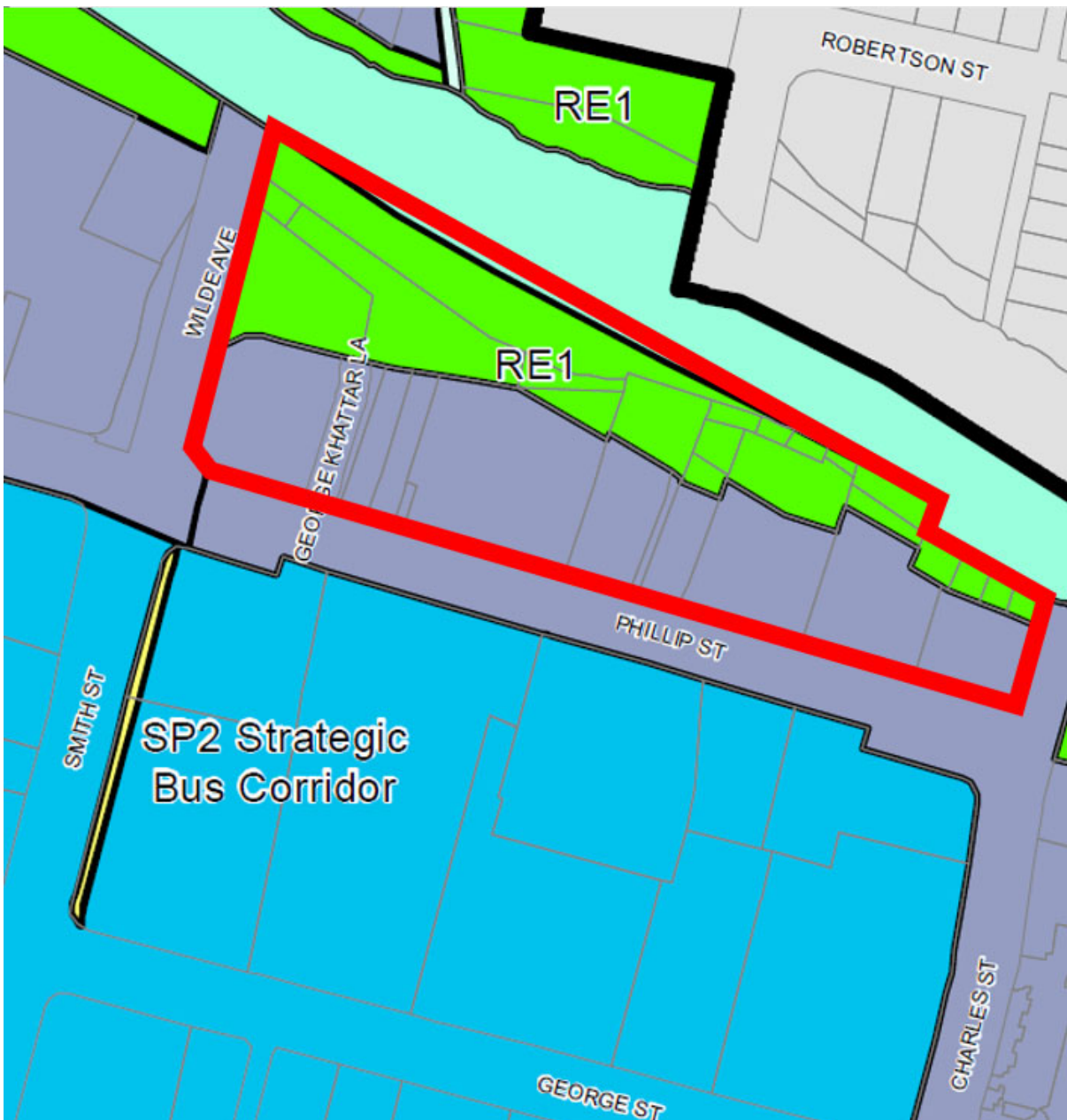
While the incentive provisions are proposed to be removed, the requirement for development to provide a minimum commercial FSR of 1:1 on land in the B4 zone is to be retained.

#### 4.5.2 Phillip Street Block

The Phillip Street Block (**Figure 10**) is located between the southern foreshore of the Parramatta River and Phillip Street and between Wilde Avenue and Charles Street. Existing development in this block comprises a mix of medium density, 5 – 6 storey commercial and residential developments. The Parramatta Ferry Wharf is located at the western end of the block.

The southern foreshore comprises public picnic tables and seating, a paved, shared pedestrian/cycle path and the Elizabeth Street footbridge connects south Parramatta to north Parramatta. The shared path joins the 15km regional bike route located on the northern foreshore, that connects Parramatta Park to Wentworth Point. The southern foreshore area also contains a number of large shady trees, areas of green open space and adjoins the Powerhouse Museum's Parramatta site. The importance of the southern foreshore area is recognised under the Parramatta CBD as the proposal included controls seeking to prevent overshadowing to the southern foreshore at certain times.

Figure 10. Extract from the Proposed Land Use Zoning Map of the 'Phillip Street Block' outlined in red (Source: Revised Proposed LEP Maps – Attachment A4)



Council officers in its post-exhibition report to the 15 June 2021 Council meeting (**Attachment F**), recommended further analysis was required for the land parcels on the northern side of Phillip Street fronting the River between Smith Street and the Charles Street Ferry, as preliminary urban design work identified potential unsatisfactory outcomes from building heights along the river and to respond to the issues raised in submissions including those from National Trust (Parramatta Branch) and the Parramatta Heritage Advisory Committee. The report advised, that if the recommendation was adopted by Council it would mean that any controls proposed under the CBD PP within this block including increased heights and FSRs, opportunity sites and minimum commercial provisions would not be progressed.

However, at the 15 June 2021 Council meeting, Council resolved to proceed with the proposed amendments to this site including incentive building heights and FSR, minimum commercial provisions and the opportunity sites bonus (**Attachment F**).

## Department assessment

Submissions from the National Trust of Australia (NSW Branch) raised concerns about the proposal in relation to river, advising it considered the heights of the buildings and their setbacks adjacent to the river need to acknowledge the cultural and historical significance of this landscape.

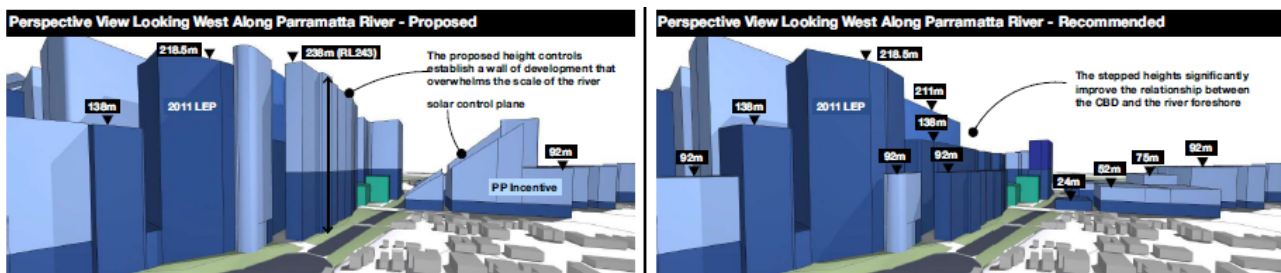
The Department's built form modelling similarly raised concerns that the proposed building heights and FSRs along the river foreshore permit development that would visually dominate the scale of the river. In response to Department's modelling an independent rapid urban design assessment was commissioned.

This report found that Parramatta has a unique relationship with its river and the CBD PP risks jeopardising this relationship for future generations. The report also notes recent development along the river appears to commercialise the foreshore and visually dominates the river corridor. This type of development is similar to Barangaroo in Sydney, but the river is substantially different in scale and aspect to Sydney Harbour. The resulting massing controls could result in built form that detracts from the character of the river and could adversely impact Parramatta's identity and its desirability as a place to live and work.

**Figure 11** demonstrates maximum building heights under the Parramatta CBD and the report's recommendations.

In consideration of Council officer comments, submissions, the Department's built form modelling and the findings of the independent design study, the Department has recommended that the Phillip Street Block not progress as part of the CBD PP and that the block retains its current controls.

**Figure 11. Proposed and recommend building controls along the Parramatta River (source Bennett & Trimble Parramatta CBD Planning Proposal Rapid Assessment)**



### 4.5.3 Opportunity Sites

In response to concerns about bulk and scale, the Department has also reviewed the proposed opportunity sites clause, which would facilitate additional FSR of 3:1 where development meets certain conditions and is identified on the proposed Opportunity Site Map.

The intent of this clause is to allow additional residential development, within the B4 Mixed Use zone, providing the site is greater than 1,800m<sup>2</sup>, meets certain dimensions and the applicant demonstrates, via a site specific DCP, that the site can accommodate the additional FSR, design excellence and satisfaction of high performing building provisions. Initially this clause was also linked to the provision of community infrastructure.

The following studies were prepared to support the opportunity sites provisions proposed by Council (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations):

- Urban Design and Feasibility Study for the Church Street Precinct (June 2019)
- Urban Design and Feasibility Study Parramatta CBD Planning Proposal – Review of Opportunity Sites, prepared by City of Parramatta Council (October 2019)
- Parramatta CBD Opportunity Sites – Heritage Review, prepared by City of Parramatta, (October 2019)



- Overshadowing in the Parramatta CBD Technical Paper, prepared by Parramatta City Council, dated 12 August 2020

### Department response

The Gateway determination (**Attachment C**) required the proposed opportunity sites be reviewed in response to concerns it may result in overdevelopment. The assessment at this stage suggested the provision may result in a proliferation of large towers, where one or two of towers may be acceptable. The Gateway condition required the opportunity sites provision be reviewed in relation to site depth, site isolation, and impacts to heritage areas and heritage streetscapes. The Gateway required the clause to be removed where the additional bulk and scale could have an adverse impact on the surrounding amenity and heritage. A further condition required consideration be given to removing opportunity site provisions from Church Street if the additional height and FSR would have an adverse impact.

Consequently, Council undertook additional studies to review the opportunity sites, including those sites located along Church Street. The supporting studies found a significant portion of land identified as opportunity sites were not suitable for the additional FSR, due to overshadowing and visual impacts, impacts on adjacent heritage items, bulk and scale, conservation of blue sky views, inability to meet minimum site requirements or obscuring views. As a result, the majority of opportunity sites were removed from the Opportunity Sites Map, prior to the exhibition of the planning proposal (**Figures 12 and 13**). It is noted that Council did not support all recommendations of the review and provided additional analysis in support of these departures.

**Figure 12. Opportunity Sites Map submitted with the planning proposal for Gateway (April 2016)**

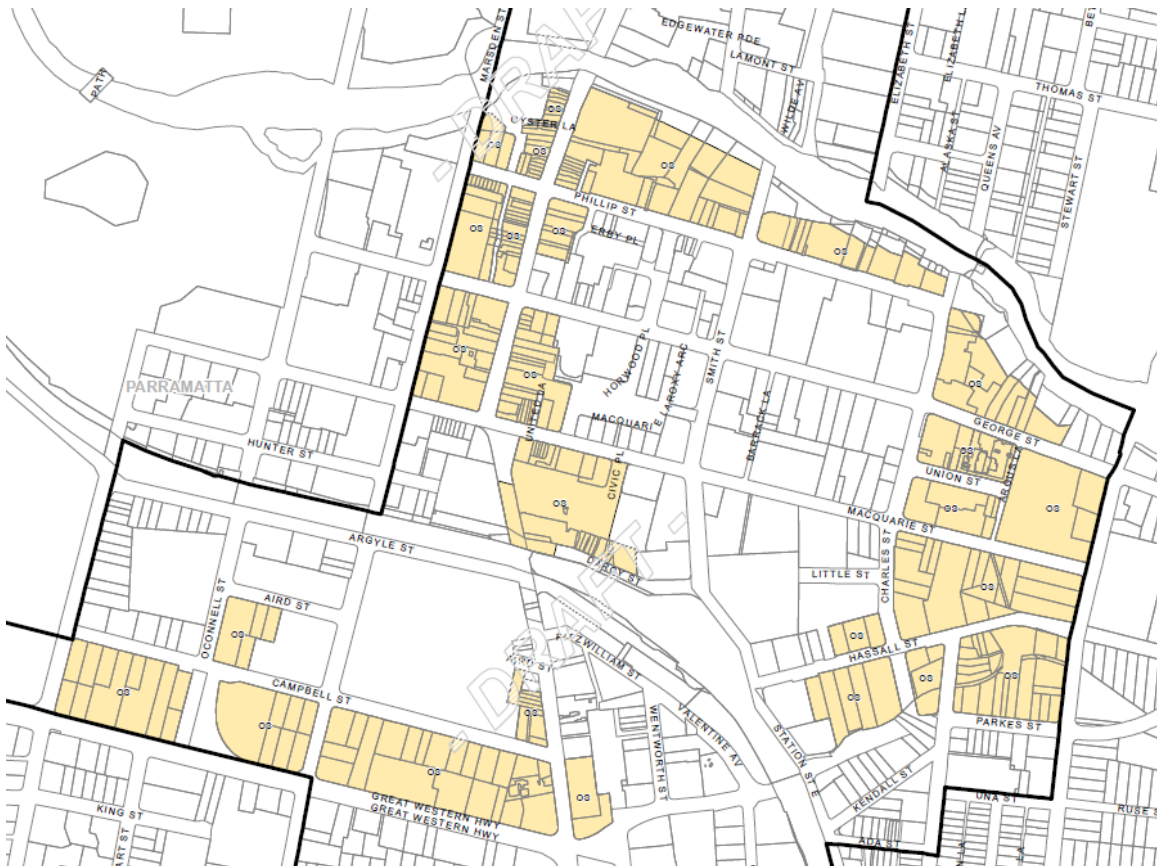
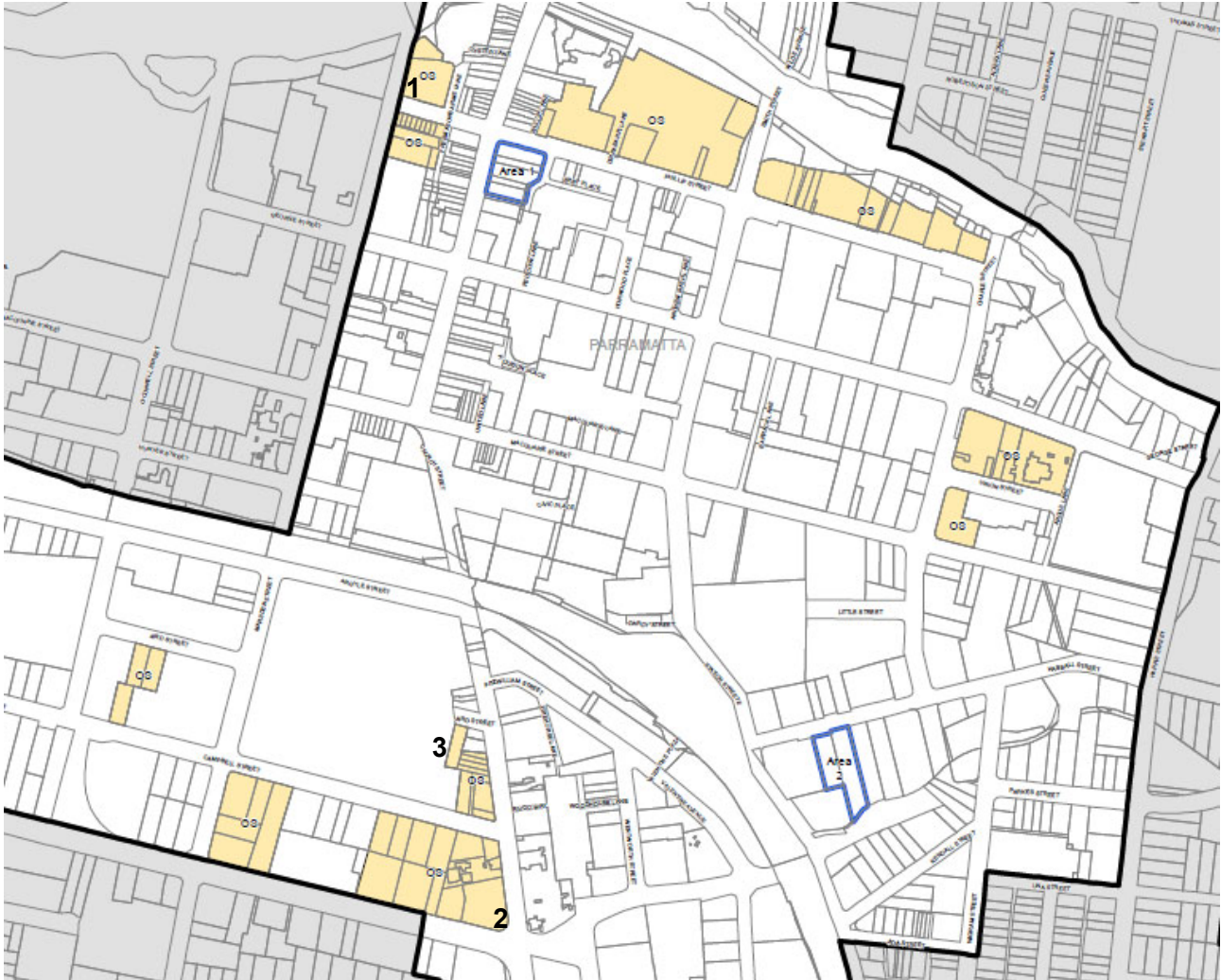


Figure 13. Opportunity Sites Map submitted for finalisation (June 2020)



The Department notes that the exhibited planning proposal required a site specific DCP process to be completed prior to achieving the additional FSR. This process was intended to require a DCP or concept development application to demonstrate that the site was capable of the additional FSR and could respond to any site constraints. However the inclusion of the provision through mapping of identified locations, will likely set expectations that this FSR can be achieved.

The Department also notes that in the proposal as exhibited, Opportunity Sites were only able to access additional 3:1 FSR where community infrastructure requirements had been met. However, post exhibition changes to the LEP have removed this requirement due to changes to the planning agreement framework discussed in this report under Section 4.7.

Concerns for the potential negative impacts of unlimited FSR provisions have also led to a removal of this provision, discussed in Section 4.5. This would then mean opportunity sites, typically on the fringe of the CBD, are the sites with greatest development capacity.

In light of this, the Department has undertaken a review of Opportunity sites, recommending they not proceed. The Department's assessment found that generally a 10:1 FSR (plus other design excellence and high performing buildings bonuses) provides an appropriate balance between development objectives and public amenity, overshadowing and heritage considerations. As noted in Section 4.5.2 the Department has recommended that Phillip Street Block not be progressed under this amendment.

The Department notes that for many opportunity sites, heritage and overshadowing have been key considerations, and are discussed within the proposal's supporting studies, including sites on the corner of Church St and Phillip and the corner of Phillip and Marsden Streets (refer to **Figure 13**). Both sites adjoin the Church Street Precinct, a historic streetscape comprising of a large number of heritage items. The Park Edge Highly Sensitive Area adjoins the site to the west and has a maximum building height of 54m.

The Review of Opportunity sites recommended a limited building height Phillip and Marsden Streets to mitigate visual impacts in relation to scale and view lines to adjacent heritage and recommended the opportunity site bonus may be retained for the southern site if supported by further work. The review for Area 1 similarly raised concerns and recommended Council remove the Opportunity Site FSR and unlimited commercial FSR bonuses for this precinct acknowledging the heritage and overshadowing constraints. The bonuses were recommended to be retained on both sites as there was considered to be no perceivable difference in overshadowing at Phillip and Marsden and Area 1 provided opportunities for amalgamation.

The independent design review commissioned by the Department, considered the scale of development outcomes more broadly within the CBD and did not support the abrupt transition to the Park Edge Highly Sensitive Area. The review suggested the proposed height controls have the potential to impact the scale, character and significance of the Park Edge Special Area, Parramatta Park and the Old Government House and Domain and recommended reduced heights of 103m in this area.

The Department has reviewed the proposed controls for these sites and the suite of supporting documents within the planning proposal and is satisfied that the removal of the unlimited commercial FSR bonuses and a maximum FSR of 12:1 inclusive of bonuses would result in satisfactory development outcomes which achieve the objectives of the planning proposal and that does not compromise the adjoining heritage along Church Street and George Street.

Opportunity sites are also proposed for sites between the Parramatta River and Phillip Street, which is a key location within the CBD, recommendations regarding the removal of the eastern portion of this land is discussed in Section 4.5.2. Much of this remainder of these opportunity sites are proposed to be occupied by the Powerhouse Museum, the development of which is currently underway. Given the museum site will be a key community asset and cultural institution, and is a distinctly lower scale than adjoining sites, further consideration would be required to understand how any additional FSR would relate to the museum site and Parramatta River foreshore.

The Department also notes site specific proposals have been finalised for a number of sites proposed to be subject to opportunity sites bonus, including 2 – 10 Phillip Street, 87 Church Street and 6 Great Western Highway and 55 Aird Street, identified as 1-3 in **Figure 13** respectively. These site specific proposals introduced bespoke controls which for some sites includes incentives to facilitate particular uses. Additional residential FSR beyond these provisions is not considered appropriate.

5-7 Hassall Street is identified as Area 2 (**Figure 13**) and can avail the Opportunity Sites bonus if the sites amalgamate. Under the CBD PP the site is proposed to have a maximum building height of 122m and FSR of 10:1. If the design excellence and high performing building bonus were achieved this would allow maximum building heights of 146m with an FSR of 12:1. The Opportunity Site bonus would see a permissible FSR up to 15:1 on this site.

Council's Technical Paper on overshadowing identified this block for revised incentive height controls to reduce overshadowing impacts on the Harris Park Heritage Conservation Area. As part of the review of Opportunity Sites, it was recommended that this site be removed due to an inability to achieve the yield through the additional FSR and concerns for overshadowing impacts. Council responded to this recommendation suggesting that if the sites were amalgamated, they would have the potential to achieve the FSR without significantly overshadowing.

The Department's modelling exercise reviewed this site considering bulk, scale overshadowing and solar access, while considering building setbacks, tower separation and tower slenderness. With reduced height available for this site, an FSR of 15:1 put greater pressure on setbacks, resulting in bulky built form. It is noted that development in this location will overshadow the Harris Park HCA and additional density will likely increase the severity of overshadowing.

Similar concerns are expressed for sites either side of Union Street, subject to a maximum FSR of 10:1 and maximum building heights of 211m. A small part of the southern portion of the northern block is subject to sun access provisions that seek to protect Experiment Farm. If all bonus provision were taken up the maximum building height would be 243m and the maximum FSR would be 15:1. The site is noted to be partially subject to recent mixed use development.

The Department's modelling exercise reviewed this area giving consideration to bulk, scale overshadowing and solar access, while considering building setbacks, tower separation and tower slenderness. The Department's review suggests that additional FSR on these sites will put greater pressure on setbacks and reduce solar access. This area provides a transition point as maximum building heights to the south and east are impacted by sun access planes and built form outcomes will be denser. The Department is not satisfied that an additional 3:1 FSR on this site is appropriate and consequently, does not support the retention of the opportunity sites clause in this location.

The Department has also considered the proposed controls for land to the south of the railway line. The Department notes that some of these sites are upon the highest topography in the CBD and form a transition point as the southern edge of the CBD. Sites to the south of this area are identified as planning investigation areas, and as such their future character is not known. The Department considers that this is not an appropriate location to provide additional density through the opportunity sites provisions.

The Department notes that opportunity sites between Campbell Street and the Great Western Highway have been reduced through the opportunity sites review. The area in the middle of the block was removed from the original Opportunity Sites Map to retain the visual setting down to St John's Church and beyond.

The provision of the opportunity sites bonus has been considered for the sites identified to progress to finalisation, and the opportunity sites bonus is not supported for the following reasons:

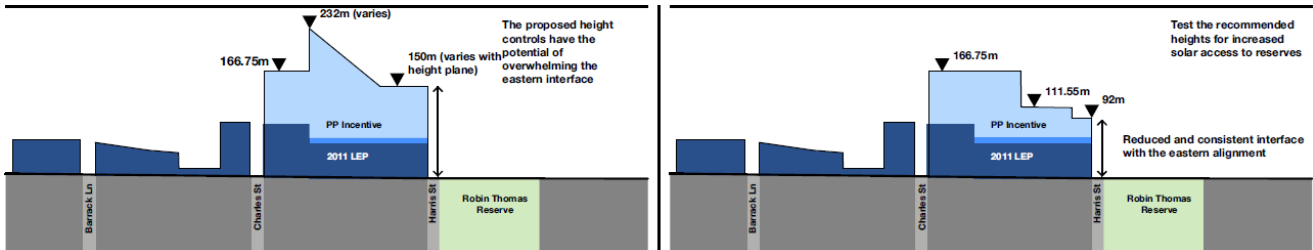
- additional FSR has not been supported across the CBD as the provision of a FSR of 12:1 is considered to facilitate a more appropriate built form, while maintaining adequate tower separation, tower slenderness as per the Apartment Design Guideline. Additionally, lower FSRs mitigate overshadowing impacts and maximum solar access to the development, adjoining development and the CBD in general;
- the opportunity sites provision initially required satisfaction of provisions related to providing community infrastructure, and community infrastructure is now proposed to be facilitated through alternative mechanisms;
- additional FSR through opportunity sites provision would lead to these sites being of greatest scale within the CBD, following amendments proposed by the Department; and
- additional FSR raises concerns about bulk and scale and impacts of bulk and scale on heritage within the CBD.

Consequently, the opportunity sites clauses have been removed from the draft LEP and mapping as a post exhibition change by the Department. This change is considered appropriate and will result in reduced environmental impacts.

## 4.5.4 Transition

The Department notes that Council have taken a ‘hard edge’ transition approach where development maintains a consistent height and then has a sudden reduction in height and scale to the adjoining area, typically outside of the CBD boundary. The Department notes the alternative approach often taken includes the ‘stepping’ of built form through gradual increases in height and density. **Figure 14** shows the different approaches, with the hard-edge transition on the left and a stepped transition approach on the right.

**Figure 14. comparison of a hard edge (left image) and stepped transition (right image)**



To understand the built form outcomes along the western (Church Street) and eastern (Harris Street) boundaries of the CBD, the Department undertook 3D modelling, to examine possible built form outcomes.

This modelling exercise typically applied a maximum FSR of 12:1, consistent with the Department’s recommendation to remove proposed unlimited FSR provisions. An FSR of 12:1 is generally the maximum FSR achievable on sites, using base FSR and bonus FSR provisions.

The modelling found that Council’s recommended hard transition approach used in conjunction with a reduced FSR as recommended by the Department may allow for building outcomes which are sufficiently varied and would not result in a homogenous wall or tower like development along the eastern or western edges of the city. Given the CBD location, the Department considers this approach strikes the right balance between built form outcomes and growth of the CBD.

## 4.6 Solar Access

The Gateway determination for the Parramatta CBD PP dated 13 December 2018 (**Attachment C**) and the Alteration of Gateway determination dated 27 July 2020 (**Attachment D1**), include specific requirements relating to solar access within the Parramatta CBD.

In summary, the Gateway required prior to exhibition for further assessment of the overshadowing impact of the proposed controls on public open spaces and specific sites (including Experiment Farm, Parramatta Square and Heritage Conservation Areas) in and surrounding the CBD compared to the existing controls.

Further, the Alteration of Gateway determination included an additional condition relating to solar access to ensure protection of compensatory area of solar access at the eastern end of the Parramatta Square at the Spring and Autumn equinox. This condition recognised that the proposed maximum built form under the Parramatta CBD proposal would result in overshadowing to approximately half of the protected area of Parramatta Square between 1.30pm and 2pm at the Spring and Autumn Equinoxes. At this time, an equivalent period of the eastern end of Parramatta Square is in sun which provides compensatory solar access which the condition sought to protect.

To address the Gateway conditions the following studies were undertaken (**Attachment A2** – Council’s links to supporting studies, Gateway determination and Alterations):

- Overshadowing in the Parramatta CBD Technical Paper, prepared by City of Parramatta Council, dated 12 August 2020; and
- supplement to the Overshadowing Technical Paper, prepared by City of Parramatta Council, dated 7 April 2021.

Post exhibition changes to the plan are proposed by the Department which will further limit the impact of overshadowing expected in some areas of the CBD discussed in Sections 4.3 and 4.5, however the Department notes that the items raised in the Gateway determination conditions have generally been addressed.

## 4.6.1 Submissions

### 4.6.1.1 Community submissions

The submissions provided by members of the community illustrated common themes as summarised below:

- supported the inclusion of solar access provisions;
- recommend sun access protection should be provided from 10am – 2pm at 21 June;
- concerns that high density development will impact on solar access and will result in overshadowing;
- submissions repeatedly raised concerns that heritage buildings, Heritage Conservation Areas and public spaces would be overshadowed;
- several submissions raised concern about overshadowing impacts on Experiment Farm;
- some submissions requested a detailed urban design plan for North Paramatta be prepared to have proper regard for heritage, orientation, overshadowing and the public domain; and
- many submissions requested a review of the height controls for various sites stating they are likely to result in substantial overshadowing of adjoining properties.

#### Council comment

The CBD PP has incorporated a solar access plane to protect certain areas between nominated times on 21 June. Council officers consider the proposed solar access provisions reasonably protect solar access and amenity to the land and spaces as required by the Gateway. Additionally, a clause has been introduced that seeks to manage adverse impacts to heritage items and HCAs. Further, future residential development will be required to comply with the Apartment Design Guideline which includes specific solar access controls for apartments, and the draft Parramatta DCP contains provisions to achieve standards of amenity in relation to solar access.

### 4.6.1.2 Agency submissions

A total of 12 agency submissions raised concerns about solar access and overshadowing. Submissions were received from Heritage NSW, National Trust (Parramatta and NSW branches), Property and Development NSW with the Department of Education, School Infrastructure NSW, and Environment, Energy and Science.

#### Heritage NSW

Heritage NSW raised concerns about potential increased overshadowing on Prince Alfred Square, Centenary Square, St John's Church, Hambledon Cottage, Elizabeth Farm and Experiment Farm and recommended Council consider how to mitigate this to avoid any increases. It also identified part of the Harris Park HCA as vulnerable to overshadowing and recommended appropriate building controls be established to protect solar access and recommended further solar modelling for future development applications to minimise overshadowing impacts of tower development in the CBD.

#### The NSW and Paramatta Branches of the National Trust

These groups raised concern that maximum building heights will lead to overshadowing of heritage listed buildings, recommended that all of Prince Alfred Square should not be overshadowed and noted that allowing sunlight is critical to health. It recommended extending solar access protections to all day not just between 10am and 2pm on 21 June and requested additional shadow analysis be undertaken for Experiment Farm.

## Property and Development NSW

Property and Development NSW supported robust solar access protection controls to key locations such as civic spaces and parks and requested the CBD PP make it clear that overshadowing is expected in a high density area such as the Parramatta CBD.

## Department of Education

The Department of Education requested the following:

- Development Applications not be approved if the development adversely overshadows government schools. At least 70% of school spaces, including outdoor school play space should receive direct sunlight between 9am and 3pm in midwinter;
- recommended compliance with the sun access and overshadowing controls contained in the DoE School Site Selection and Development Guide and Educational Facilities Standards, and
- Roof top solar panels should not be overshadowed so they can successfully capture sufficient sunlight to feasibly power the school and that existing PV cells are protected.

## Environment, Energy and Science

The submission from Environment, Energy and Science states the foreshore area of the Parramatta River should be protected from additional overshadowing to mitigate impacts on the riparian corridor and future revegetation.

## Council response

Council advised that several measures have been considered in the protection of solar access to heritage listed items within the Parramatta CBD and surrounds, these include:

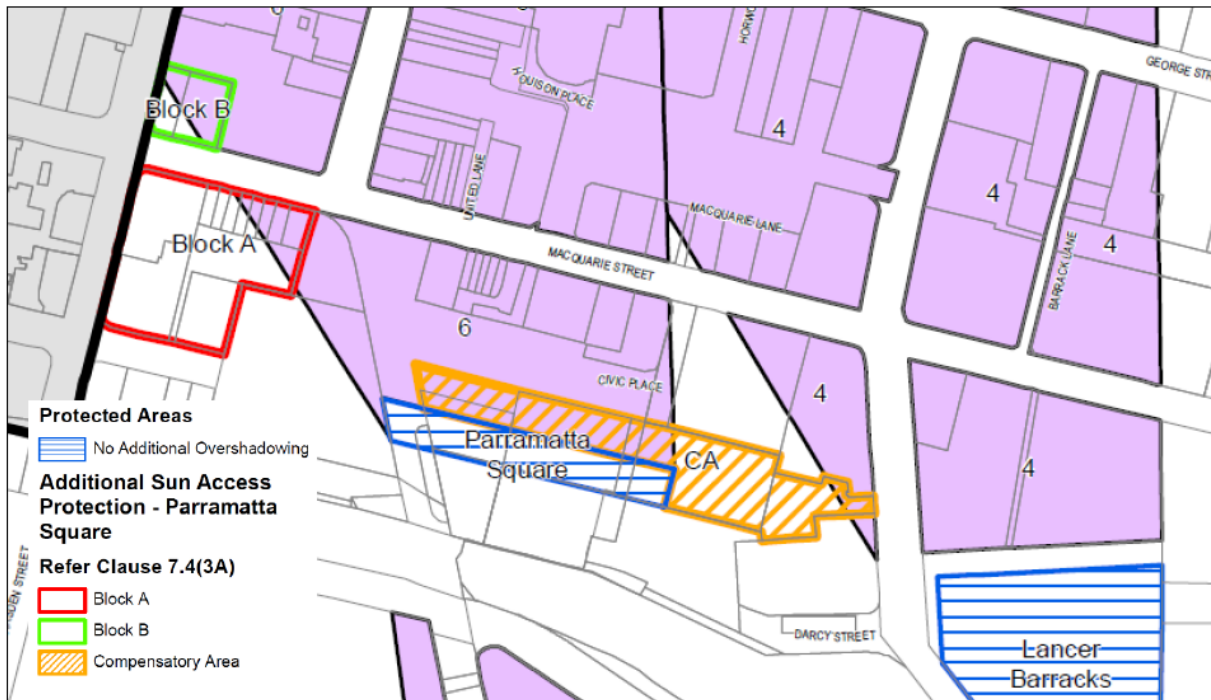
- The implementation of a Sun Access Protection (SAP) surface on the Special Provisions Map, to avoid any increase in overshadowing on heritage items. The application of the SAP surface, theoretically, would reduce the impact of overshadowing by limiting building heights to prevent additional overshadowing to the Parramatta Square Protected Area.
- The application of height limitations under the SAP for buildings located directly to the north, northeast and northwest of the St Johns cathedral and Parramatta Square prevents tall buildings above 54m being constructed in the area, mitigating opportunities for significant overshadowing and limiting the impacts of overshadowing to the cathedral.
- Solar access modelling undertaken as part of the technical papers confirms the potential overshadowing created as part of the CBD PP is unlikely to be substantially greater than the potential overshadowing based on current controls.
- Council's current Development Application requirements include the need for solar modelling (overshadowing testing) where an increase in building height is proposed and this is considered sufficient for any future development applications within the CBD.

Council states adequate consideration has been given to the concerns raised in submissions from the community and agencies, and further amendments to the CBD PP are not supported.

### 4.6.2 Council Post-exhibition changes

In response to further overshadowing assessment, the draft sun access clause has been amended to ensure development on two blocks, referenced to as Block A and Block B, does not cause overshadowing to the protected area of Parramatta Square between 1pm and 2pm on 21 March and 23 September in any year unless there is a compensatory publicly accessible area (**Figure 15**). The compensatory area must be at least equivalent in size to the area of overshadowing to the protected area of Parramatta Square that is unaffected by overshadowing at that time and which immediately adjoins and is contiguous to the eastern end of Parramatta Square. The Sun Access Protection Map has also been amended to include the identification of the compensatory area in orange hatching.

**Figure 15. Extract from the Solar Access Protection Map showing the ‘Protected Area’ and ‘Compensatory Area’ that together form the ‘Parramatta Square public domain area’. (Source: Council’s post-exhibition report – Attachment F)**



#### 4.6.3 Department assessment and response

The Department notes that solar access benchmarks have been utilised in determining solar access outcomes and that the amending plan includes sun access provisions which seek to protect certain key areas at nominated times from overshadowing. The clause seeking to manage impacts on heritage items and HCAsc. As discussed previously land north of the river and the Phillip Street block have been removed from the plan to allow further consideration be given to the planning controls on these sites and any future changes to these areas will be required to address solar access.

The Department notes the majority of the concerns raised relate to the overshadowing of public open spaces and heritage items within and surrounding the Parramatta CBD.

The proposed measures to address overshadowing, including the application of height limits, established based on advice provided in relevant studies and the insertion of an SAP clause in the LEP and controls relating to solar access and overshadowing in the draft CBD DCP, are considered appropriate to mitigate any potential future overshadowing.

Further, all land north of Parramatta River will not proceed as part of the CBD PP which removes the potential for overshadowing of Prince Alfred Park and the river foreshore. Additional changes which reduce the scale of development permissible may also lead to improved solar access.

The Department concludes that the majority of the concerns about solar access can be addressed through the proposed Sun Access Protection clause and map in the LEP, and the provisions of the draft DCP relating to solar access and overshadowing. The implementation of these controls will ensure that the impacts of new development will maintain adequate solar access to key open space areas and heritage items before development consent can be granted.

However, concerns raised in relation to the overshadowing and solar access impacts to properties in Parramatta North have been addressed by way of removing all land north of Parramatta River from the CBD PP as discussed in this report under Section 4.3 Parramatta North.



## 4.7 Infrastructure and supporting services

Growth of the Parramatta CBD will increase demand for infrastructure and supporting services including electricity, gas, water and sewer services arising from intensification of development in the CBD.

### 4.7.1 Submissions

#### 4.7.1.1 Community submissions

Community submissions raised concerns about the increased demand on services, facilities and infrastructure, overcrowding which may result in the reduction in quality of life, amenity and public infrastructure and services.

#### 4.7.1.2 Agency submissions

Comments were received from Endeavour Energy, Sydney Water, Schools Infrastructure NSW (as part of the Department of Education) and Transport for NSW (TfNSW) in relation to the provision of services, infrastructure and existing assets as summarised below.

#### Endeavour Energy

Endeavour Energy identified it owned 7 substations within the vicinity of the Parramatta CBD and advised it intends to ensure the network meets future challenges through integrating traditional network supply arrangements with distributed renewable generation and enabling the provision of energy storage capability to assure supply security. It also recognises that Council's planning controls achieve a reduction in CBD peak electricity demand and urges applicants/customers to contact an electrical consultant prior to submitting DAs.

#### Sydney Water

Generally, Sydney Water supports the proposed measures for higher BASIX targets, high performing buildings and dual piping for alternative water sources. They request early and ongoing engagement with Council on precincts and sub-precincts for intensification of dwellings and jobs. Sydney Water also note to assist with investigations into an integrated water management plan, Sydney Water requests early and ongoing engagement with Council on intensification of dwellings and jobs and the anticipated yearly staging of growth. This information is critical for assessing the total impact of the proposed changes and enables Sydney Water to effectively plan for water related infrastructure and funding.

#### Department of Education

In response to the anticipated uplift and growth enabled by the CBD PP, Schools Infrastructure NSW (SINSW) as part of the Department of Education has noted (**Attachment H**) this is likely to result in an increase of future student populations and demand. In response, SINSW have identified the need for improvements to various government schools within and surrounding the Parramatta CBD as well as for additional school sites. SINSW request for the LEP to include appropriate provisions to ensure sufficient school infrastructure is in place to support future development under the Parramatta CBD PP.

Further, SINSW requests that solar access to existing schools are retained, for public and active transport be enhanced and delivered to support growth in the Parramatta CBD and for schools to remain exempt from local contribution plans.

#### Transport for NSW

In its submission, discussed more broadly in Section 4.1, TfNSW identified the need for a funding mechanism to be in place to support regional transport infrastructure and recommended the proposal not be finalised until a mechanism to ensure the provision of State public infrastructure was in place.

#### Council response

In response to comments raised by community submissions Council advised the proposal seeks to address sustainability and liveability through the provision of a high performing building clause which seeks to provide an FSR bonus where certain development types meet energy and water targets. The proposal also includes provisions seeking to future proof the security of water supply within Parramatta by requiring all new development to install dual water reticulation systems. Public and active transport modes have been encouraged through reduced parking rates to encourage mode shift to public transport, walking or cycling and through the provision of end of journey facilities in new commercial development.

The draft DCP includes a section on urban cooling which outlines provisions to address the urban heat island effect by encouraging the use of green walls and roofs, heating and cooling systems and electric vehicle charging stations.

Council notes the comments from Endeavour Energy and Sydney Water and indicated it was supportive of ongoing engagement with Sydney Water to address appropriate mechanisms to support increased population.

In response to matters raised by SINSW, Council notes improvements to schools and new school sites to meet increased enrolment demand are noted but beyond the Council's authority and scope of the CBD PP. With regard to overshadowing, in summary Council state to reduce the impact to the Arthur Philip and Parramatta Public schools, reductions in height controls of up to 60% of the exhibited heights will be necessary, which will result in a sizeable loss of employment-generating yield in the core of the Parramatta CBD which is inconsistent with the long-standing policy position of the Parramatta CBD Planning Proposal to facilitate employment-generating development and is not supported by Council.

In response to SINSW request for Council to consider infrastructure to support the amenity and serviceability of schools and the surrounding area, Council notes the supporting Local Contributions Plan, Development Control Plan and other policies (such as the Integrated Transport Plan) as well as future development applications will enable the delivery of the initiatives identified by SINSW.

#### 4.7.2 Department assessment and response

The Department has reviewed the submissions provided by the relevant agencies and the Sustainability and Infrastructure Study prepared by Kinesis (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations). The Department notes the Utility agencies have confirmed servicing of the anticipated growth can be accommodated provided ongoing consultation and requirements are met as part of future development applications.

The Department notes the LEP seeks to introduce a new high performing buildings clause which requires different energy and water targets to be met by certain commercial developments and is encouraged to be met by residential development through an additional 5% FSR.

Based on the above, the proposal is considered satisfactory from supporting services perspective and the Department is satisfied this component of the CBD PP has been addressed. The Department notes that augmentation of utility infrastructure will be required as development occurs and can be subject to further review as development take up occurs.

#### State Infrastructure

The Gateway determination required that the planning proposal be amended to identify that a satisfactory arrangements clause would apply to the CBD to support regional infrastructure needs.

The Department notes that since Gateway determination, the contributions framework has been subject to reform which is ongoing. Consideration for a Regional Infrastructure Contribution is underway which would introduce a set contribution for development towards regional infrastructure. As this reform is not yet in place, interim solutions have been considered to ensure that Parramatta CBD's growth is supported by the required infrastructure.

The Parramatta LEP 2011 contains provisions that require satisfactory arrangements be made for the delivery of designated State public infrastructure, before the development of land for residential purposes, where the land is identified on the Intensive Urban Development Area map. To ensure the delivery of State infrastructure the areas where residential development is permitted within Parramatta CBD will be identified on the Intensive Urban Design Area Map.

As the Parramatta LEP 2011 provisions outlined above only relates to residential development, the concurrence of the Planning Secretary will also be required where development is proposed in the B3 Commercial Core. This reflects the generation of infrastructure needs from workers and visitors to the CBD. The Department notes this mechanism was not considered through the planning proposal or Gateway determination but the mechanism ensures that commercial development also provides a contribution where not captured under the existing satisfactory arrangements clause.

The combination of this approach will ensure new growth contributes towards infrastructure in the interim while broader reform is underway.

### Local Infrastructure

At Gateway assessment, the Department highlighted some concern for the proposal's approach to value capture, including conditions which required the removal of this language and consideration of alternative funding mechanisms for local infrastructure. The planning proposal sought a community infrastructure clause and two sets of FSR and building height provisions. A base FSR and height provision was set, with an incentivised height and FSR that could be achieved where development provided community infrastructure.

In April 2020 a draft planning agreements policy framework was released by the Department which sought to provide certainty of development outcomes while ensuring that development is supported by infrastructure through good strategic planning. The framework discouraged the use of planning agreements for value capture. In its endorsement of the proposal to proceed to exhibition, the Department noted this point of tension and allowed exhibition to occur acknowledging this matter would require further resolution at the finalisation stage.

In February 2021 the Department released the Practice Note on Planning Agreements confirming that value capture should not be the primary purpose of planning agreements. In its post exhibition consideration of the proposal, Council noted this policy and amended the planning proposal to include community infrastructure principles, rather than requirements. Council has also since adopted a draft 7.12 contribution plan to capture contributions towards local infrastructure, which is currently being considered by the Department due to the requested increase levy rate requiring approval of the Minister.

The Department acknowledges that Council has sought to address this policy direction through its post exhibition changes and that work is underway to plan strategically for the delivery of local infrastructure. It is considered that the amended proposal's community infrastructure principles would still suggest a level of value capture is required to access the higher planning controls. As such, the Department has made a further post exhibition change to remove the community infrastructure clause and consolidate the building height and FSR provisions into one map, retaining the incentive provisions as the maximums. This will also provide greater certainty to potential development outcomes and allow for ease of understanding when viewing controls.

## 4.8 Environment

Consideration has been given to the potential impact on the built and natural environment as a part of the CBD planning proposal.

It is noted, the proposal is supported by a Sustainability and Infrastructure Study prepared by Kinesis (**Attachment A2** – Council's links to supporting studies, Gateway determination and Alterations) which considers the impact of growth on infrastructure demand and environmental factors and recommends measures which have been included within the draft LEP. Dual water piping, high performing buildings, reduced maximum car parking rates and end of trip facility

provisions have been introduced to ensure that new development is of high sustainability performance and caters to reductions in water and energy consumption and car dependency.

It is noted that flooding has been discussed separately in Section 4.4 Flooding of this report.

## 4.8.1 Submissions

### 4.8.1.1 Community submissions

A small number of submissions raised concern regarding the perceived lack of consideration of the environment, including the information around assessing environment quality, within the planning proposal. Some submissions request that the scope of infrastructure be extended to ensure that environmental infrastructure is considered and funded. Other submissions noted that the planning proposal must highlight the importance of the Parramatta CBD to support sustainability outcomes, especially in relation to the health of the Parramatta River and the tree canopy.

### 4.8.1.2 Agency submissions

#### Environment, Energy and Science Group (EES)

EES noted that a nationally important Grey-headed Flying-fox camp occurs along the Parramatta River, in proximity to the CBD PP. Any proposed amendments should not allow an intensification of use in the vicinity of the flying-fox camp or lead to either direct or indirect impacts on flying-fox habitat.

EES suggested it does not support primarily hard pavement surfaces along Parramatta River and recommends the river is enhanced by planting a mix of local native vegetation that once occurred along the river in this area to mimic a more natural system. Additionally, an E2 Environmental Conservation zone is recommended to protect the river corridor. Furthermore, EES recommends that increased greenery in the CBD contains local native vegetation and the design excellence provision contains wording to address this matter.

#### NSW Environment Protection Authority (EPA)

The EPA notes measures such as public transport, precinct based design based on active transport and parking measures to manage demand are supported to contribute to improved air quality outcomes and healthy liveable spaces. EPA also suggest that criteria based on protecting sensitive land uses from traffic pollution should be included in the CBD PP.

Positive features of the proposal were also highlighted by the EPA for promoting and delivering sustainable high performing buildings, however EPA suggested it appears these design elements have not considered the effects of wind and overshadowing of roadways. EPA also noted the need to consider air quality and noise impacts in development.

EPA highlighted that contamination management should be considered holistically across the entire CBD PP area and detailed contamination assessments are recommended prior to development and occupation in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021.

EPA states the planning proposal does not include information on how the design of key sites in the CBD will support actions to protect and improve the health and enjoyment of the District's waterways. The EPA encourage integrated water cycle management as this can provide a least cost approach. In this regard, the EPA support the provision of dual water pipes.

Sydney Water provided a submission also supporting the inclusion of the dual piping requirements.

## 4.8.2 Council Response

Council notes that the planning proposal is consistent with Council's Environmental Sustainability Strategy 2017 which aims to protect and enhance the health of Parramatta's unique natural ecosystem and is supported by the Sustainability and Infrastructure Study 2015.

The proposal also includes provisions to manage increased demand for electricity, gas, water and sewer services from more intense development by introducing a new clause encouraging high performing buildings throughout Parramatta CBD which is discussed in Section 4.7.2 of this report.

The comments provided by EES are acknowledged by Council. It is noted that foreshore land south of Parramatta River does not contain native vegetation or other significant habitat and the predominant function is for recreation and events consistent with the current RE1 Public Recreation zoning. Council considers EES' proposed E2 Environmental Conservation zone along the river is inappropriate for high use public open space as it is highly restrictive and prohibits development other than for environmental or flood mitigation purposes. Council officers suggest that additional RE1 Public Recreation zone objectives related to protection and enhancement of ecological values and facilitate public enjoyment of these areas could be investigated as part of a future planning proposal process.

Council notes the matters raised by EPA and that wind effects, air quality and noise quality protection, and water quality are matters that have been considered in the draft DCP. Council support and have included references to the *NSW Government's 20 Year Waste Strategy* in the CBD PP.

### 4.8.3 Department assessment and response

#### **High performing building standards**

The Department notes the introduction of a high performing buildings clause in the CBD PP provides incentive for developers to achieve targets for energy efficiency and aligns with the NSW climate change policy framework.

#### **Contamination**

Council undertook a preliminary (desktop) investigation of the area within the planning proposal boundary and a site-specific contamination assessment of the Church Street (Auto Alley) precinct.

While the investigation identified potential soil and groundwater impacts, it did not identify the potential for gross or widespread contamination that may preclude a rezoning. The investigation recommended that a detailed site investigation be undertaken at the development application stage for the redevelopment of any land within the CBD.

SEPP (Resilience and Hazards) 2021 includes guidance for the remediation of land which can be further considered through future development applications. The Department is satisfied that satisfactory measures are in place to provide for the remediation of contaminated land and notes that the planning proposal is consistent with SEPP (Resilience and Hazards) 2021 and Section 9.1 Direction 4.4 Remediation of Contaminated Land.

#### **Acid Sulfate Soils**

The Parramatta CBD is mapped as containing acid sulfate soils. Under the planning framework, any land in the Parramatta CBD that is subject to a development application is required to consider the presence of acid sulfate soils in accordance with clause 6.1 of the Parramatta LEP. Given the extent of development in the Parramatta CBD, the relative difficulties in carrying out further testing and the ability to consider acid sulfate soils at the development application stage, it is considered that any potential inconsistency with Section 9.1 Direction 4.5 Acid Sulfate Soils is minor and no further consideration of this issue is warranted at the planning proposal stage.

The Department has considered the submissions made by the community and relevant agencies in relation to environmental matters. The Department considers Council's response to issues raised to be sufficient. The existing strategies applicable to the Parramatta CBD and the draft Parramatta CBD DCP provide appropriate mechanisms for protection and enhancement of the environment. Further, the Department notes Council's response to EES' proposed E2 Environmental

Conservation zoning along the Parramatta River and agrees that retaining the existing RE1 Public Recreation zoning is more appropriate for the foreshore given its primary purpose for recreation and the urbanisation which has occurred.

## 5 Post-exhibition changes

### 5.1 Council's Post Exhibition Changes

As discussed in Council's post-exhibition report and resolution dated 15 June 2021 (**Attachment F**) Council has made a number of post-exhibition amendments to the planning proposal document (**Attachment A1**) and proposed example draft Local Environmental Plan (**Attachment A3**).

These amendments include minor changes to draft clauses and maps in response to changes in strategic planning framework, as a result of site-specific proposals or to improve legibility. These amendments are also outlined in Council's 'Summary of changes to the planning proposal documentation' attached to the planning proposal (**Attachment G**).

Minor amendments to the planning proposal document include:

- the inclusion of brief explanatory notes within the planning proposal. These notes provide short explanations of the post exhibition changes made to the proposal. For example, notes have been added to explain the changes the high performing building clause, the amendment from the term 'commercial premises' to 'non-residential development' in relation to achievement of incentive heights and densities, and to acknowledge that heavy and metro rail were added to the state contribution list;
- an update to the 'Miscellaneous Amendments' section of the planning proposal so that it is noted all site-specific clauses notified as part of a site specific planning proposal continue to apply as per the existing situation in the case where the site-specific clause does not exactly reflect the CBD PP endorsed clause for finalisation;
- a new section in the planning proposal advising that the maximum FSR and height of building controls may not be achieved as a result of other planning controls;
- an update to the job and housing target section of the planning proposal to confirm 24sqm per job is an appropriate benchmark;
- a new section in the planning proposal discussing the progress of the Integrated Transport Plan;
- a new section in the planning proposal advising Council is preparing a new section 7.12 development contributions plan with an increase levy to ensure a funding framework is in place for the Parramatta CBD;
- an assessment of the planning proposal under *SEPP Amendment (Build-to-rent Housing) 2021* and *SEPP No 70 Affordable Housing (Revised Schemes)*;
- an update to the 'Utilities, waste management and recycling services' section of the planning proposal to advise these services will be available and can support the increased population; and
- a new sub-section of the planning proposal under State and Commonwealth Interest discussing the main submission points on sustainability raised by the NSW Environment Protection Agency (**Attachment H**) including a subsequent amendment elsewhere in the planning proposal referencing the *NSW Government's 20 Year Waste Strategy*.

In summary, Council's notable post-exhibition amendments to the proposed LEP are:

- For 75 George Street, amend the Local Road Reservation (LRA) Map notation as it applies to this site from 7 metres to 4 metres.

- For the Westfield landholdings, amend the Land Zoning Map to replace the proposed B3 Commercial Core zone (as exhibited) with the existing B4 Mixed Use Zone and to make consequential amendments to retain existing controls for this land, being: amend the Height of Buildings Map to show existing heights of part 36m / part “Area 2” (Sun access protection surface); amend the Incentive Height of Buildings Map to remove all proposed controls for this land; and amend the Floor Space Ratio map to show the existing FSR of part 4.2:1/part 6:1.
- For the Walker Corporation landholdings at Parramatta Square, amend subclauses 7.6C(3) and 7.10(8)(b) to replace the words, “wholly of commercial premises”, with the words, “wholly of non-residential development” as they are consistent with the policy intent of the CBD PP in relation to this matter.
- For 14-20 Parkes Street, Harris Park, amend the Incentive Height of Building Map to increase the mapped height from 122 metres to 134 metres.
- Amend Clause 7.6A High performing buildings by including brief explanatory notes and title references to assist with implementation.
- Technical changes to terminology in Clause 7.4 Sun access protection, 7.6G Arrangements for contributions to designated State public infrastructure and Clause 7.6M Parramatta Park and Park Edge Highly Sensitive Area and other fringe areas, Clause 7.10 Design Excellence, Clause 7.6J Opportunity sites, and Clause 7.6H Community Infrastructure.
- Amend Clause 7.6H Community Infrastructure to require compliance with community infrastructure principles, rather than the provision of community infrastructure on site. One of the key elements proposed in Council’s exhibited CBD PP is that access to Incentive FSR and Opportunity Site FSR was to be through the inclusion of community infrastructure on site. Council’s proposed process for provision of the community infrastructure was intended to be stipulated through a separate Development Guideline, which would have included “value capture” monetary contribution rates to calculate the quantum of community infrastructure required, the contribution of which would be formalised through a planning agreement. Changes to the contributions framework led to this change and are discussed in Section 4.7.
- Amend Clause 7.4 Sun Access Protection and the Solar Access plan (SAP) Map to show the Compensatory Publicly Accessible Area that forms the balance of the Parramatta Square public domain area outside the already ‘Protected Area’ as described in the associated exhibited Clause 7.4.
- The following consequential changes are proposed to ensure that Council’s previous decisions on these site specific planning proposals are retained when the new CBD PP is finalised. In particular the existing provisions, and the existing and proposed maps where relevant will be inserted into the CBD PP, given that these site specific planning proposals have been finalised after the commencement of the exhibition period:
  - a. 87 Church Street and 6 Great Western Highway, Parramatta (Amendments 30 and 58)
  - b. 189 Macquarie Street, Parramatta (Amendment 51)
  - c. 55 Aird Street, Parramatta (Amendment 55)
  - d. 142-154 Macquarie Street, Parramatta (Amendment 48)
  - e. 470 Church Street, Parramatta (Amendment 47)
  - f. 33-43 Marion Street, Parramatta (Amendment 57)
  - g. 5 Aird Street, 12 Hassall Street and 20 Macquarie Street, Parramatta (Amendment 54)
- In response to submissions from TfNSW and landowners, remove or reduce some local road widening and regional cycle way reservations (as outlined in this report under section 4.1 Transport).

## 5.2 Department Post Exhibition Changes

Following the receipt of the revised planning proposal from Council, the Department has made further changes to the proposal.

Through the drafting process, the Department has undertaken its own reconciliation of the site-specific clauses and has removed clauses/sub clauses where they duplicate the provisions introduced under the amending plan. These generally relate to car parking, flooding and high performing building provisions as follows:

- Removal of site specific car parking provisions under Part 7 that are consistent with the general car parking provisions proposed under the CBD PP – under Clauses 7.9, 7.12, 7.13, 7.15, 7.16 and 7.23.
- Removal of site specific flooding provisions under Part 7 that are consistent with the general flooding provisions proposed under the CBD PP – under Clauses 7.16, 7.18 and 7.22.
- Removal of the site specific reference to the Design Excellence clause under Clause 7.20 Development on land at 55 Aird Street, Parramatta – as it no longer applies to this site.
- Removal of site specific high performing building provisions from 7.22 Development on land at 33 – 43 Marion Street, Parramatta that are consistent with the general high performing building provisions proposed under the CBD PP.

The finalisation of site-specific planning proposals during the evolution of the Parramatta CBD as well as a detailed review of the proposed maps and provisions has resulted in a number of further housekeeping post exhibition changes to:

- Additional Local Provisions map to ensure it only includes applicable sites under Part 7 Additional local provisions – Parramatta City Centre of the LEP.
- Heritage map to ensure it only includes applicable sites identified in Schedule 5 Environment Heritage of the LEP.
- Update Lot and DP references in Clause 7.5 Service apartments.
- Land Reservation Acquisition Map to ensure it is up to date in removing references to land that is no longer to be acquired and includes up to date references to the purpose of land reservation acquisitions.
- Special Area Provisions map to ensure it includes applicable sites under Part 7 Additional local provisions – Parramatta City Centre of the LEP that have been introduced through site-specific planning proposal since the CBD PP was exhibited.
- Correction of height for 135 George Street and 118 Harris Street, Parramatta which was exhibited at 130m despite a Council resolution to increase height to 144m. This increased height was subsequently exhibited through a site specific planning proposal and is considered appropriate to include in the CBD PP.

Changes have also occurred during the legal drafting of the LEP by Parliamentary Counsel. These changes generally seek to retain Council's intent of the planning proposal but depart from language and structure from Council's envisaged draft LEP (**Attachment A3**). In some cases, changes have occurred to ensure legal integrity. It is noted that Council provided this draft LEP to assist with consultation and it included explanatory notes outlining that it would be subject to legal drafting which could result in changes.

As noted in Section 2, the Department has amended planning controls for 18-40 Anderson Street, to reflect the exhibited outcomes of a site specific planning proposal which was unable to be finalised. This proposal seeks to rezone the land to B4 Mixed Use, require a minimum 3:1 commercial floor space, and increase height to part 0 metres and part 120 metres and FSR of 6:1. While this not consistent with the exhibited CBD Planning Proposal, the Department considers it is an appropriate amendment and has been subject to community consultation. The proposal is



supported by a planning agreement which provides public benefits including the expansion and embellishment of adjoining Jubilee Park.

As discussed earlier in this report throughout Section 4 Assessment of key matters the Department has also made the following post exhibition changes to the planning proposal:

- The introduction of provisions requiring the concurrence of the Department’s Secretary regarding the potential effects of the development in the B3 Commercial Core on existing and proposed infrastructure in the locality prior to issuing of any development consent.
- Removal of proposed amendments to Parramatta North. All land north of Parramatta River will not proceed as part of the CBD PP which removes the potential for overshadowing of Prince Alfred Park and the river foreshore and protects the heritage character of the area. The existing planning controls under PLEP 2011 are to continue to apply by removing proposed amendments for this area in the proposed mapping.
- For the block bound by Smith Street, Parramatta River, Charles Street and Phillip Street referred to as the “Phillip Street Block” for the existing planning controls under PLEP 2011 to continue to apply by removing proposed amendments in the CBD PP to this block.
- Removal of unlimited commercial/office premises FSR provisions. This amendment is in response to the concerns about poor development outcomes demonstrated by built form modelling as discussed in this report under Section 4.5 Built form.
- Remove the Opportunity Site provisions and map from the proposal. This amendment is in response to concerns about poor development outcomes demonstrated by built form modelling and analysis as discussed in this report under Section 4.5 Built form.
- Retain the minimum commercial FSR of 1:1 on land in the B4 Mixed Use zone.
- Removal of community infrastructure provisions.
- Consolidate the Incentive Height of Buildings map and Height of Buildings map to retain the proposed incentive provisions as a maximum.
- Consolidate the Incentive Floor Space Ratio map and Floor Space Ratio map to retain the proposed incentive provisions as a maximum.

**Table 2 Consultation following the Department’s assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	<Number> maps have been prepared by the Department’s ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (<b>Attachment L</b>)</p> <p>Council provided comments on the draft LEP that have been considered in finalisation of the instrument (<b>Attachment M</b>)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On <date> , Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b> .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 5.3 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified as outlined throughout this report and do not require re-exhibition. It is considered that the post-exhibition changes:

- Are a reasonable response to comments provided by the public authorities and community.
- Ensure that infrastructure provision and where required, investigation of built form outcomes, are matters to be further addressed at the development stage.
- Allow for the achievement of the objectives of the proposal and the vision of the Central River City while balancing against public amenity, heritage and built form considerations.

## 6 Local Planning Panel

The proposal was reported to Parramatta Local Planning Panel on 11 May 2021 who supported the findings of Council's assessment report and endorsed the reasons for the recommendation to approve the revised CBD PP.

## 7 Strategic merit

The site is within the Central City District and the former Greater Sydney Commission (GSC) released the Central City District Plan on 18 March 2018.

The District Plan commits to additional housing supply with access to jobs and services (Planning Priority C5) through a 21,650 five-year housing supply target for the Parramatta LGA, but this housing growth is intended to be supported by liveability, productivity and sustainability outcomes. The structure plan for the Central City District demonstrates that Greater Parramatta is the metropolitan centre of the Central City District.

The planning proposal seeks to deliver the vision of the Central River City through additional jobs and dwellings. The draft LEP seeks to balance this growth with the liveability and other priorities within the Plan.

The Department is satisfied that the draft LEP gives effect to the District Plan in accordance with section 3.8 of the EPA Act.

## 8 Ministerial 9.1 Directions and State Environmental Planning Policies

It is noted that since Gateway determination, Section 9.1 Directions have been renumbered and SEPPs have been combined and renamed.

### 8.1 Ministerial 9.1 Directions

At the time of Gateway determination the following 9.1 Directions remained unresolved:

- 3.2 Heritage Conservation (formerly 2.3 Heritage Conservation)
- 5.3 Development Near Regulated Airports and Defence Airfields (formerly 3.5 Development Near Licensed Aerodromes)
- 4.1 Flooding (formerly 4.1 Flood Prone Land)
- 1.3 Approval and Referral Requirements (formerly 6.1 Approval and Referral Requirements)
- 5.2 Reserving Land for Public Purposes (formerly 6.2 Reserving Land for Public Purposes)
- 1.4 Site Specific Provisions (formerly 6.3 Site Specific Provisions)

- 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan (formerly 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan)

The CBD PP is now consistent or justifiably inconsistent with these Section 9.1 Directions as outlined in the following table.

Section 9.1 Ministerial Directions	Consistency (or justifiably inconsistent)
1.3 Approval and Referral Requirements	<input checked="" type="checkbox"/> Yes, refer to below
1.4 Site Specific Provisions	<input checked="" type="checkbox"/> Yes, refer to below
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	<input checked="" type="checkbox"/> Yes, refer to below
3.2 Heritage conservation	<input checked="" type="checkbox"/> Yes, refer to section 4.2.2
4.1 Flooding	<input checked="" type="checkbox"/> Yes, refer to section 4.4.3
4.4 Remediation of Contaminated Land	<input checked="" type="checkbox"/> Yes, refer to section 4.8.3
4.5 Acid Sulfate Soils	<input checked="" type="checkbox"/> Yes, refer to section 4.8.3
5.1 Integrated Land Use and Transport	<input checked="" type="checkbox"/> Yes, refer to section 4.1.2
5.2 Reserving Land for Public Purposes	<input checked="" type="checkbox"/> Yes, refer to below
5.3 Development Near Regulated Airports and Defence Airfields	<input checked="" type="checkbox"/> Yes, refer to below
6.1 Residential Zones	<input checked="" type="checkbox"/> Yes, consistent at Gateway
7.1 Business and Industrial Zones	<input checked="" type="checkbox"/> Yes, consistent at Gateway

### Direction 5.3 Development Near Regulated Airports and Defence Airfields

Airspace above Parramatta is affected by operational requirements of Sydney and Bankstown Airports and the 9.1 Direction 5.3 Development Near Regulated Airports and Defence Airfields notes that where land is affected by the Obstacle Limitation Surface (OLS), the planning authority must prepare appropriate development standards.

The planning proposal submitted at Gateway determination sought to remove maximum heights for certain sites and noted that tall buildings may need to consider any impacts to airspace. The Gateway determination (**Attachment C**) required the implementation of a maximum height of buildings in the Parramatta CBD as there are known height limits associated with the operation of airports, or the provision of additional justification to support the removal of these heights. The Gateway also outlined additional consultation with authorities responsible for the management of air space and airport operations to ensure the amended planning proposal was appropriate prior to consultation. Direction 5.3 remained unresolved at the time the Gateway was issued.

Council undertook consultation with the Civil Aviation Safety Authority (CASA) and the federal Department of Infrastructure, Regional Development and Cities (DIRDC) (now Department of Infrastructure, Transport, Regional Development and Communications) as part of the pre-exhibition consultation required by the Gateway determination. This consultation led to a minor amendment to the plan to add an explanatory note and clarification on referral requirements.

The Department considers that the proposed airspace operations clause which outlines further requirements at the development application stage, consultation with relevant agencies and the inclusion of maximum mapped building heights allow for this direction to be satisfied.

## Direction 5.2 Reserving land for public purposes

Consistency with this direction remained unresolved at the time the Gateway was issued. While the proposal does not propose to change any land reservations for public purposes, there is a significant amount of infrastructure required to support the growth of the Parramatta CBD and the planning proposal contains few new SP2 Infrastructure zones to support infrastructure provision in the CBD.

Council note the draft Land Reservation Acquisition map is proposed to be amended to reflect road widening to identify strategic opportunities to improve capacity and capability of the existing road network, opportunities to improve public transport capability through localised intersection improvements and augmentation of existing bus lanes, and opportunities for a regional cycleway network within the Parramatta CBD.

Further, as discussed in Section 4.7 Infrastructure and supporting services of this report, the draft LEP is to include provisions to ensure sufficient infrastructure is provided to support any future development applications enabled by the proposed amendments.

The Department is satisfied the draft LEP includes sufficient mechanisms to enable supporting infrastructure can be delivered which is consistent with this Direction.

## Direction 1.4 Site specific provisions

The planning proposal contains site-specific planning controls and is therefore inconsistent with this Direction as it imposes development requirements in addition to those already contained in those zones. At Gateway determination, two site specific provisions were particularly noted:

- land principally along Church Street within the Auto Alley precinct; and
- certain land at Dixon, Rosehill and Boundary Streets.

These provisions seek to provide flexibility in permissible uses for an area in transition. At the time of Gateway determination this direction was unresolved as Council was to carry out further investigations into these precincts.

The Department notes that the draft LEP also includes consequential amendments to site specific provisions to allow for ease of use, ensure intent of planning proposal is reflected and removal of duplicate controls. While inconsistent with the objectives of the Direction, the Department considers these provisions are appropriate and the inconsistency is of minor significance.

## Direction 1.3 Approval and Referral Requirements

The planning proposal seeks to apply the Airspace Operations Clause to the entire CBD which has the potential to significantly increase the number of controlled activity approvals required from the federal government under the Airports Act 1996. At the time of Gateway determination, this direction remained unresolved until consultation with CASA and DIRDC had occurred.

As noted in Section 8.1.1 Council undertook consultation with the CASA and the DIRDC as part of the pre-exhibition consultation. This consultation led to a minor amendment to the plan to add an explanatory note and clarification on referral requirements.

To ensure State and regional infrastructure is appropriately considered to support growth, the LEP applies an existing Satisfactory Arrangements clause to land zoned B4 Mixed Use, and introduces a new concurrence clause for B3 Commercial Core land.

The Department notes that these provisions will increase referrals from future development applications, they are important inclusions to ensure that infrastructure and airspace operations are appropriately considered.

## Direction 1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan

At the time of Gateway determination, it was noted the planning proposal has the potential to be consistent with this Direction; however, it does not address the LUIIP and that Council had to address this to demonstrate consistency with this direction.

The Interim LUIIP also recognises the need for additional regional infrastructure to support growth. Council has adequately address the LUIIP in the CBD PP and further the Department has made post-exhibition amendments to the CBD PP to include provisions for the consideration of state and regional infrastructure as discussed in this report under Section 4.7 Infrastructure and supporting services.

The proposal is consistent with this direction.

## 8.2 State Environmental Planning Policies

State Environmental Planning Policy (SEPP)	Consistency
SEPP (Housing) 2021	<input checked="" type="checkbox"/> Yes, refer below
SEPP (Resilience and Hazards) 2021	<input checked="" type="checkbox"/> Yes, refer to 4.8.3
SEPP (Transport and Infrastructure) 2021	<input checked="" type="checkbox"/> Yes, refer to section 4.1.2

### State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 came into effect on 26 November 2021. The SEPP seeks to provide diversity in housing and encourage affordable and rental housing. The SEPP includes provisions transitioned from a number of other policies, including those in place at the time of Gateway determination and assessment. The planning proposal seeks to encourage additional housing in a well serviced location and does not prevent the principles of the Housing SEPP from being achieved.

It is noted that Council has highlighted concern with the potential of Build-to-rent provision of the SEPP undermining the objectives of the planning proposal and the provision of commercial floorspace within the CBD. While these concerns are noted, this is outside of the scope of the planning proposal.

## 9 Recommendation

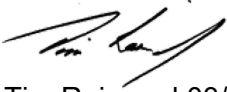
It is recommended the delegate of the Secretary:

- agree that the draft LEP's inconsistency with section 9.1 Directions 1.4 Site specific provisions and 4.1 Flooding is justified in accordance with the terms of the Directions.

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the draft LEP has strategic merit as it facilitates the vision for Parramatta CBD as a key component of the Central River City as identified in the Greater Sydney Region Plan and Central City District Plan;
- the draft LEP includes new provisions to manage heritage impacts, reduce car dependency, encourage sustainable building design and activation of streets to create a vibrant CBD fitting of its strategic vision;

- issues raised during consultation have been generally addressed, including through post exhibition changes made by Council and the Department;
- post exhibition changes proposed by the Department will allow for the right balance between growth of the CBD and protecting amenity, heritage and will ensure Parramatta is a great place to live and work.



Tim Raimond 03/05/2022

Deputy Secretary, Planning and Land Use Strategy



21/04/2022

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Acting Executive Director, Metro Central and North



20/04/2022

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11/04/2022

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## Attachments

Attachment	Document
A1	Planning proposal
A2	Links to planning proposal's supporting studies
A3	Council's revised proposed LEP Instrument
A4	Council's revised proposed LEP Maps
B	Local MP Representations
C	Gateway determination
D1-3	Alterations of Gateway determination
E	Council's submissions summaries
F	Council report and resolution
G	Council's summary of post-exhibition changes
H	Agency submissions
I	Council minutes 26 July 2021
J	Council minutes 11 October 2021
K	Council minutes 25 November 2019
L	Council consultation on draft LEP
M	Council comments on draft LEP