

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

Dept. Ref. No:	PP_2016_PARRA_015_00
LGA	City of Parramatta
LEP to be Amended:	Parramatta LEP 2011
Address/ Location:	197 and 207 Church Street and 89 Marsden Street, Parramatta
Proposal:	To amend the floor space ratio and height of building controls on the subject site.
Review request made by:	<input type="checkbox"/> The council <input checked="" type="checkbox"/> A proponent
Reason for review:	<input type="checkbox"/> A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background information

Details of the planning proposal	The proposal sought to increase the maximum permissible FSR to 15:1 (excluding design excellence) subject to compliance with the existing sun access provisions for Parramatta Square within Clause 7.4 of Parramatta LEP 2011; the inclusion of a clause requiring an international design competition to be held; and the maximum permissible building height to be determined by the design competition.
Reason for Gateway determination	<p>The Gateway (Attachment C) determined that the planning proposal should proceed, subject to a number of conditions, including:</p> <ol style="list-style-type: none"> 1. to change the explanation of provisions and proposed height of buildings map to indicate that the maximum height of buildings for the site is subject to clause 7.4 Sun Access; 2. amend clause 7.4 Sun Access, to ensure direct access of natural sunlight, and no additional overshadowing occurs between 12pm -2pm of the protected area of public domain within Parramatta Square; 3. amend the proposed maximum FSR to ensure consistency with the FSR controls proposed for the site in the Parramatta CBD Planning Proposal (PP_2016_PARRA_015_00), and to ensure that the maximum potential FSR, including design excellence bonus, will comply with clause 7.4 Sun Access (as amended above); and 4. forward the amended planning proposal to the Department of Planning and Environment for endorsement prior to community consultation. <p>The reason for the Gateway determination was to ensure no additional overshadowing of the protected area of the public domain within Parramatta Square between 12pm and 2pm in mid-winter. The protected area of Parramatta Square makes up 31.5% of the public domain within the Square and is identified on the Key</p>

	Sites Map Special Provisions Map Sun Access Protection Map (CL10) of Parramatta LEP 2011 (Attachment H).
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Council views

Date Council advised of request:	Council was advised of the request to review the Gateway determination on 20 December 2017.
Date of council response:	Council provided a response on 5 March 2018.
Council response: List issues / points provided in response	<p>Council advised that it, 'neither supports or opposes the proponent's Gateway Review Request lodged in relation to the Gateway Determination issued for 197 Church Street regarding the provision of solar access to the solar protection area of Parramatta Square.' (Attachment D1)</p> <p>Parramatta City Council has also previously written to the Department and Greater Sydney Commission (Attachment D2) in relation to their proposed development at 5 Parramatta Square (which sits to the north of the protected area of Parramatta Square) in which they state they do not support the zero shadow policy. This letter predates the advice from Council in relation to the Gateway review.</p>

Proponent justification

Details of justification:	<p>The proponent sought the Gateway determination review on 14 December 2017. The proponent's request is accompanied by a submission that discusses:</p> <ul style="list-style-type: none"> • the merits of allowing an FSR of 15:1 on the site; • the proposed development will not overshadow any part of the protected area of Parramatta Square for more than 45 minutes at any point between 12pm and 2pm, consistent with the existing DCP controls; • the adverse economic implications of the proposed solar access controls; • the potential for a heliostat to provide light and heat to the protected area of Parramatta Square; • procedural fairness in terms of the timing of the proposed change to the planning controls which requires no overshadowing of Parramatta Square; • undue emphasis being placed on comments made by the Chief Commissioner of the Greater Sydney Commission in relation to solar access to Parramatta Square in the Department's planning assessment report (Attachment F); and • the limited opportunities for cumulative impacts to occur. <p>The information supplied by the proponent, along with appendices is provided at Attachment E and has been previously supplied to the Commission.</p>
Material provided in support of application/proposal:	<p>The proponent has provided additional material to support their Gateway review application. This includes details of the International Design Competition that has been held, an economic analysis and further information and technical details on the potential use of heliostats. This additional information has been provided to the Commission for their consideration.</p>

Assessment summary

<p>Department's assessment</p> <p>Provide a summary assessment of the Department's position/views on the review request</p>	<p>The Department's position on the Gateway determination review application is that the Gateway should remain unchanged. The Department continues to hold the view that solar access to the protected area of public domain within Parramatta Square should be provided between 12pm and 2pm in mid-winter.</p> <p>The proposed amendments to the sun access provisions in Clause 7.4 were also included in the site-specific planning proposals for 220-230 Church Street and 48 Macquarie Street (Greenway), Parramatta (PP_2016_PARRA_004_00) and 20 Macquarie Street, Parramatta (PP_2017_COPAR_011_00). The Greenway planning proposal has been placed on public exhibition and is therefore a Head of Consideration in the assessment of Development Applications. The inclusion of the required amendment to clause 7.4 in all three planning proposals is a result of the Department's concerns regarding cumulative impacts. This is addressed in the Gateway Determination planning assessment report relating to the subject planning proposal at Attachment F.</p> <p>The Department planning report also notes the following:</p> <ul style="list-style-type: none"> • the current DCP controls that permit overshadowing of Parramatta Square for no more than 45 minutes were introduced on 23 November 2015. Prior to this date, the planning controls required no overshadowing of Parramatta Square; • The Chief Commissioner of the Greater Sydney Commission has publicly supported the proposed new controls protecting Parramatta Square following the Gateway determination for the Greenway planning proposal. • the proposed alternative solution, involving the use of a heliostat to reflect the sun's rays onto Parramatta Square, was not considered an acceptable solution in this location as it would not provide the same level of public amenity and there was potential for the heliostat performance to be compromised by future development in the Parramatta CBD. <p>The Department has been requested to consider applying a savings and transitions clause in relation to DA310/2017 which is currently subject to legal proceedings in the Land and Environment Court. This request, from Parramatta Mission, is provided at Attachment H. The proposed development will overshadow a part of the protected area of Parramatta Square between 12pm and 2pm and this is one of the issues being considered as part of these proceedings. The matter was heard in early March 2018 and at the time of preparing this report, the findings were not yet available.</p>
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COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that the planning proposal should not proceed.

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

Any additional comments:

Nil



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