

Planning Services

Gateway Determination Report

LGA	City of Parramatta
RPA	City of Parramatta
NAME	55 Aird Street (104 homes, 126 jobs)
NUMBER	PP_2017_COPAR_012_00
LEP TO BE AMENDED	Parramatta Local Environmental Plan 2011
ADDRESS	55 Aird Street, Parramatta
DESCRIPTION	Lot 4 DP 310151
RECEIVED	23 August 2017
FILE NO.	17/12097
QA NUMBER	qA417807
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal (**Attachment A**) seeks to amend planning controls to remove the maximum height of building (HOB) control and to increase the floor space ratio (FSR) applicable to land at 55 Aird Street, Parramatta. The concept design in the Urban Design Report (**Attachment E**) illustrates a 41 storey (8 storey podium with a 33 tower) mixed residential and commercial use development including:

- 7 storeys of above ground parking;
- 7 storeys of commercial; and
- 26 storey residential.

The proposed development would provide approximately 104 dwellings and 126 jobs within Parramatta CBD.

Site Description

The site is 658m² and located at 55 Aird Street, Parramatta (Lot 4 DP 310151).

Surrounding Area

The site is located within the Parramatta CBD, adjacent to Westfield Shopping Centre and close to Parramatta station and bus terminal (Figure 1 over).



Figure 1: Location of the site

Summary of Recommendation

Proceed to Gateway with conditions.

PROPOSAL

Objectives or Intended Outcomes.

The planning proposal seeks the removal of the HOB controls and increase in the FSR controls to facilitate a high density mixed use development at 55 Aird Street, Parramatta.

Explanation of Provisions

The planning proposal seeks to amend the Parramatta Local Environmental Plan 2011 (PLEP) to:

- remove the maximum indicated height on the Height of Buildings Map;
- require clause 7.6 (Airspace Operations) to apply to the site;
- increase the Floor Space Ratio (clause 4.4) from 4.2:1 to 10:1;
- access additional Bonus FSRs:
 - through demonstrating compliance with Design Excellence; and
 - through demonstrating compliance with High Performance Building Provision;
- apply a site-specific provision ensuring a Commercial FSR of 1:1 is included in the Base FSR 10:1, with any Commercial FSR above 1:1 excluded from the FSR calculation, allowing an additional Commercial FSR 3:1; and
- include a maximum car parking rate in line with Council resolution on 10 April 2017.

The planning proposal states that it seeks to align the proposed height and FSR controls for the site with the Parramatta CBD planning proposal (CBD PP), which is currently under consideration for a Gateway determination. The CBD PP contains a number of incentives that enable an increase in FSR on certain sites, provided they satisfy certain criteria. These are based on policies that are embedded within the draft CBD PP. The proposed controls recommended by Council aim to achieve consistency with the CBD PP and Table 1 below shows the current controls for the site, the proposed controls in the proposed CBD PP (currently with the Department for a Gateway determination), and the proposed controls in this planning proposal.

Control	Existing Controls in the Parramatta LEP 2011	Proposed controls for the site under the CBD Planning Proposal (PP_2017_COPAR_002_00)	Proposed Controls in the 55 Aird Street Planning Proposal
Base FSR	4.2:1	4.2:1 (is not subject to the sliding scale)	10:1 (including 1:1 commercial FSR) (This would be exempt from the Sliding Scale)
Incentive FSR (Value sharing Phase 1)	N/A	10:1 is reduced to 6:1 under the incentive FSR sliding scale due to site area thresholds, allowing up to 6:1 with a minimum site area 500m ² to 1,300m ² . The IFS as shown on the map, may still be achieved provided certain conditions relating to design excellence, compliance with SEPP 65 and activated street frontages are met.	N/A
Design Excellence bonus	0.6 = 15% of 4.2	0.9:1 = 15% of 6:1	1.5:1 = 15% of 10:1
High Performing Buildings Bonus	N/A	N/A - as the site does not meet proposed minimum site frontage or site area proposed in the CBD PP.	0.5:1 NB there currently is no high performing buildings bonus clause in PLEP 2011. Therefore, a new clause is required to introduce this bonus into the PLEP.
Opportunity Site (Value sharing Phase 2)	N/A	N/A - as site does not meet minimum site frontage or site area requirements proposed in the CBD PP	N/A
Site-specific provision, allowing additional Commercial FSR up to 3:1.	N/A	N/A - additional floor space for commercial premises is permitted on sites within a B4 zone, only if the development includes a minimum of 1:1 commercial floor space in the base and the site area is greater than 1,800m ² .	3:1 NB there currently is no such bonus clause in PLEP 2011. Therefore, a new clause is required to introduce this bonus into the PLEP.
Total Maximum FSR	4.8:1	6.9:1	15:1

Table 1: FSR control comparison

Both the PLEP 2011 and the proposed CBD PP contain a sliding scale provision which reduces the applicable Base FSR or Incentive FSR on smaller sites. The sliding scale provision also encourages smaller sites, like this one, to be considered for amalgamation with neighbouring lots to achieve the mapped Base or Incentive FSR. In order to achieve the maximum FSR of 15:1 under the CBD PP, a minimum site area of 1800m² is required

under the sliding scale provisions, together with incentives for design excellence, opportunity sites and high performance building incentives, noting that of these incentives, only design excellence is embedded in the PLEP 2011.

An FSR of 15:1 is also proposed to be achieved under the draft CBD PP, via a proposed “FSR out clause” if the sliding scale is exempted due to demonstration of design excellence, compliance with SEPP 65 and creation of activated street frontages. As the Gateway Determination for the CBD PP has not been issued, there is no certainty that this proposed out-clause will be an accepted policy and it is therefore premature to apply the principles of this Clause to the subject site.

Council’s planning proposal seeks to justify that the site should be able to achieve a total maximum FSR of 15:1 (including Bonus incentives) due to the site’s isolation, with the key justification being that the increased FSR will enhance the future viability of the site for redevelopment. No documentation has been submitted to demonstrate that the proposed FSR is required to ensure financial viability of the site. Council staff have also raised concerns in their reporting that the proposed development may not achieve an appropriate urban design outcome as envisaged by the Apartment Design Guide, resulting in compromised amenity.

Mapping

The submitted maps require amendment prior to public exhibition to provide a proposed height of building map to align with the Gateway conditions.

NEED FOR THE PLANNING PROPOSAL

The planning proposal has been prepared to respond to the emerging character of Parramatta as a centre of national significance by increasing density and offering diverse housing options. The Planning Proposal seeks to achieve density outcomes that are foreshadowed in the Parramatta CBD PP and the Parramatta CBD Planning Strategy.

The proponent’s original planning proposal submitted to Council on 24 August 2015 requested a maximum FSR of 20:1 (including FSR bonuses).

The planning proposal submitted by Council for a Gateway determination has been informed by workshops and two Council resolutions. On 9 May 2016, Council endorsed a revised planning proposal to permit:

- Base FSR of 10:1 (including 1:1 commercial FSR);
- Bonus FSRs for design excellence and high performance building provisions, and for commercial floor space above the minimum 1:1 not being included in the total FSR, consistent with the proposed CBD PP; and
- no maximum building height but apply Clause 7.6 Airspace Operations (**Attachment F**).

However, there is an inconsistency within the resolution, as under the CBD PP the Bonus FSRs mentioned would not be available. To clarify, on 13 June 2017, Council reconfirmed its intention (**Attachment G**) to permit a base FSR of 10:1 (including a 1:1 commercial FSR), with access to additional Bonus FSRs of:

- 15% through demonstrating compliance with the design excellence provision;
- 0.5:1 through demonstrating compliance with the high-performance building provisions; and
- an additional 3:1 FSR for commercial floor space, above the 1:1 included in the base FSR; and

- no maximum building height but apply Clause 7.6 Airspace Operations.

The Department has considered the recommendation of Council staff, and Council's resolutions, and it is considered that the recommendation of Council's planning officer's (9 May 2016) of an FSR of 6:1 (6.9:1 including design excellence) is supported as it reflects the intent of the CBD Planning Strategy and CBD PP with regard to small sites in the CBD and this reduced FSR has the ability to provide a suitable urban design outcome. However, in order to ensure greater consistency between the draft CBD PP and the proposed PP, a mapped FSR of 10:1 is recommended, which will be reduced down to a base FSR of 6:1 under the sliding scale provisions in the Parramatta LEP 2011.

STRATEGIC ASSESSMENT

State

A Plan For A Growing Sydney

The planning proposal is consistent with A Plan for a Growing Sydney and Towards Our Greater Sydney 2056, as the proposal will provide additional residential dwellings within the Parramatta CBD close to the existing railway station and bus terminal, and will accelerate urban renewal and housing supply.

Draft Greater Sydney Regional Plan

Our Greater Sydney 2056 - A metropolis of three cities – connecting people seeks to reinforce the Parramatta CBD as the hub of the Central River City. The intent of the plan is to create 30-minute cities and improve connectivity, underpinned by an infrastructure strategy to guide growth. The planning proposal is consistent with this draft Policy through the provision of housing and the urban renewal and growth of the Parramatta CBD.

Regional / District

Draft West Central District Plan

The planning proposal is consistent with productivity and liveability actions plan for a growing and vibrant Parramatta city. To increasing dwellings through urban renewal, and provide employment generating floor space in close proximity to public transport.

Greater Parramatta and the Olympic Peninsula (GPOP)

The planning proposal is consistent with the GPOP vision to design Parramatta as a 30-minute city, providing higher-density dwellings within proximity to jobs, amenities, schools and services.

Local

Parramatta 2038 Community Strategic Plan

The planning proposal is consistent with Council's local strategy as it meets the key objectives to allow for an appropriate mix of residential and non-residential located close to public transport, shops and community facilities.

Parramatta CBD Strategy and Parramatta CBD Planning Proposal

The Parramatta CBD Strategy was adopted on 27 April 2015 and informed the preparation of the Parramatta CBD PP. The CBD PP was adopted by Council on 11 April 2016, and is currently lodged with the Department for a Gateway determination. The Department's position has not yet been established at the time of preparing this report in relation to the Gateway determination for the CBD PP, however, the CBD PP and CBD Strategy are relevant to the desired future character and the strategic assessment of the subject Planning Proposal.

Due to the size of the site being 658m², the maximum available FSR available to 55 Aird Street under the CBD PP would be 6.9:1, which applies both the sliding scale provisions and design excellence. This FSR is consistent with the underlying urban design analysis that occurred during the development of the CBD Planning Strategy and accompanying PP, and is also consistent with the desire to incentivise the amalgamation of small sites to achieve improved commercial floorplates within the CBD, commensurate with its status as Sydney's second CBD.

The proposed CBD PP proposes an "FSR out clause" which is to enable a maximum Incentive FSR for a site regardless of the site area and exemption from the sliding scale control, provided certain conditions relating to design excellence, compliance with SEPP 65 and activated street frontages are met. The intent of the sliding scale is to encourage site amalgamation that would generate the provision of larger building floorplates that improve commercial floorspace. This is also reflected in the Council endorsed High Performance Buildings Policy, which seeks to encourage high quality outcomes for new buildings through FSR incentives on large sites. Without site amalgamation, the subject site is unable to achieve a floorplate that would be consistent with this draft Policy.

It is considered that as the Department is currently assessing the proposed FSR "out clause" as part of the CBD PP, it is premature to apply the principles of this clause as the Department's position is yet to be established. In addition, it is not considered that the urban design merits of the proposal have been adequately demonstrated at an FSR of 15:1, particularly having regard to better design outcomes envisaged by SEPP 65.

It is recognised that it is desirable to encourage new commercial floorspace in the CBD and in particular, 'A Grade' office space, however, the size limitations of the existing site mean that while it is recognised as a 'opportunity site' under the CBD PP, this site will not achieve the desired outcome of large commercial floorplates unless it is amalgamated with the adjoining properties along Church Street to create a site area greater than 1,800m². The proposed floorplate within the Urban Design Report shows an available area of 416m². While it is agreed that any addition to the commercial offering in the Parramatta CBD is beneficial, there is considered to be inadequate justification to undermine the sliding scale provisions within the subject site and lose the opportunity for site amalgamations to occur which would improve this outcome.

Parramatta LEP 2011

The PLEP also includes a sliding scale provision which enforces Council's desire to amalgamate sites and provide floor space incentives. Due to the size of the site being 658m², the maximum available FSR available to 55 Aird Street under the PLEP would be 4.8:1 (including design excellence).

In accordance with the PLEP sliding scale provisions, the proposed Base FSR of 10:1 in the subject Planning Proposal would be reduced to 6.1 (Table 3). The Planning Proposal has not requested an exception from this sliding scale and it is not considered that there is adequate justification to apply this exception to the subject site based on urban design outcomes.

Sliding Scale	Base FSR available on the FSR Map	Site less than or equal to 1000m ²	Site greater than 1000m ² but less than 1,800m ²	Site equal to or greater than 1,800m ²
Parramatta LEP 2011. clause 7.2 Floor Space Ratio	10:1	6:1	(6 + 4X):1	10:1

Table 3: Sliding scale in the PLEP

The Design Excellence Bonus of 15% being 0.9:1 (15% of 6:1) would apply to the site. However, it is also noted that under the PLEP there is no High-Performance Building bonus provision available and it is premature to introduce this provision to a site specific planning proposal.

The application of a site-specific clause to permit an additional Commercial FSR of 3:1 (excluding the 1:1 within the Base FSR 10:1) can be applied but this is discussed in more detail as part of the site specific assessment below.

Therefore, it is considered appropriate to allow an FSR of 10:1 on the site but only if this sliding scale provisions in the PLEP are maintained. This will serve to incentivise the amalgamation of the subject site in the future, but will also generate a more reasonable design outcome if the site cannot be amalgamated.

Section 117(2) Ministerial Directions

The planning proposal is consistent with all relevant s117 Directions, with further consideration of the following:

4.1 Acid Sulfate Soils

The proposal is inconsistent with this Direction as an acid sulfate soils study, required when an intensification of land uses is proposed, has not been prepared. This inconsistency is considered to be justified on the basis of minor significance, given that:

- (a) the affection is by class 5 acid sulfate soils; and
- (b) the matter will be further considered at development application stage under clause 6.1 of Parramatta Local Environmental Plan 2011.

It is recommended that the Secretary's delegate agrees that the inconsistency of the 117 direction, 4.1 Acid Sulfate Soils, is of minor insignificance.

State Environmental Planning Policies

The planning proposal is consistent with all the relevant State Environmental Planning Policies, with further consideration of the following.

SEPP 65

Council notes that the proposed concept plan, with an FSR of 15:1 presented in the Urban Design Report (**Attachment E**), does not deliver the design outcomes envisaged in *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)* or appropriately satisfy the guidelines within the Apartment Design Guide.

Council requested the proponent provide an updated concept plan with a base FSR of 10:1 that more appropriately addresses the guidelines within the Apartment Design Guide (ADG), but at the time of lodging this planning proposal it had not been submitted.

It is recommended that the concept design in the Urban Design Report be revised to more accurately demonstrate the proposed controls as conditioned by the Gateway determination, with a maximum FSR of 6.9:1.

SITE SPECIFIC ASSESSMENT

Social

Urban Design

As discussed above, the concept plan in the Urban Design Report (**Attachment E**) reflects an FSR of 15:1 and seeks to justify the proposed built form.

The Council report, dated 9 May 2016, states to achieve a tower, zero lot side setbacks are required with 120m high blank walls facing Church Street to respond to building separation and privacy requirements. The report states that the Urban Design Report does not provide a built form that complies with the SEPP 65 or appropriately satisfy the Apartment Design Guidelines. While the ADG is a guide only, it is given extra weight in the circumstances of the case to justify the removal of the sliding scale provisions for small sites.

It is considered that to adequately justify exemption from the sliding scale provision and therefore higher FSR, it should be demonstrated that site amalgamation cannot be achieved due to physical constraints such proximity to a heritage item, or other geographical feature. The planning proposal justification for the increased FSR is based on the sites isolation due to the surrounding developments and small size, which in itself is not adequate justification. It is considered that the site does not demonstrate any exceptional or unique characteristics that justify exemption from the sliding scale provisions. Further, there are concerns that the proposed urban design outcomes for the site will compromise the ability to achieve appropriate urban design outcomes on the adjoining sites fronting Church Street.

In regard to amalgamation opportunities (Figure 2), the sliding scale, in both the PLEP and proposed CBD PP, is a mechanism to encourage the amalgamation of smaller sites. It is noted that the planning proposal states that amalgamation attempts have been unsuccessful to date, however, it recognised that amalgamation may be achievable at the DA stage, particularly if there are incentives to encourage amalgamation. It is considered that the increase in the FSR to 15:1 would jeopardise any future amalgamation by reducing the financial incentive to amalgamate. It is considered that a single built form over all seven sites would achieve a higher level of amenity at a higher FSR and result in a better planning outcome. Further, the commercial floor space outcome would be improved through the generation of larger building floorplates, which is consistent with the intent of the sliding scale provisions.



Figure 2: Amalgamation opportunities.

It is considered that the amalgamation of this site would result in the best planning outcome, as demonstrated in Council's planning report of 9 May 2016. If amalgamation cannot be realised then the sliding scale in the existing LEP and proposed CBD PP, should be maintained and applied. This would result in an FSR of 10:1 being reduced to 6:1 plus 15% design excellence bonus. It is considered that permitting an FSR of 10:1, while retaining the sliding scale provisions, will incentivise site amalgamation and result in an improved urban design outcome for this locality.

It is recommended that the concept design should be revised to reflect the proposed planning controls prior to community consultation.

Site Specific Clause for up to 3:1 Commercial Floor Space

The planning proposal seeks a new site specific clause that would enable an additional Commercial FSR up to 3:1, on top of the 1:1 required within the Base FSR. The additional commercial floorspace is in addition to the proposed 6.9:1 and therefore will have an impact on the overall scale of the building increasing the floorspace to 9.9:1. The planning proposal does not provide justification for the additional FSR, and this clause is not consistent with the PLEP 2011. Due to the small size of the site only small floorplate commercial can be delivered whereas amalgamation of the site has the potential to deliver larger floorplate commercial consistent with the Parramatta CBD Strategy. Therefore, as there is no specific reasoning or justification for this clause, and as a result of the small commercial floorplate generated by the existing proposal, the 1:1 Commercial FSR within the Base FSR is considered adequate.

Maximum Height of Building

It is also considered that to align with previous Gateway determinations within the Parramatta CBD that a maximum height of building (HOB) control be retained.

It is noted that the CBD PP proposes a maximum HOB of 36m. As the proposed CBD PP is under assessment, the site-specific removal of a maximum HOB control is not supported, particularly given the CBD PP proposes a HOB control for the site.

Although removal of the maximum height of building control was permitted in the case of the Aspire Tower at 160-182 Church Street, Parramatta, this was considered to be an exception, in order to create a landmark tower of iconic status within the heart of the Parramatta CBD. Removal of the maximum height of building control for this proposal would create an undesirable precedent ahead of a decision on this matter in the broader context of the CBD PP.

In order to ensure that the proponent is able to achieve the base FSR of 6:1 for the site, it is recommended that a Gateway determination condition require Council to consider and set an appropriate maximum height of buildings prior to exhibition, rather than removal of the maximum height of buildings control and the need to require clause 7.6 (Airspace Operations) to apply to the site, noting that this should also take into account the potential for an FSR increase should site amalgamation occur.

Parking

The planning proposal will adopt the reduced parking rates in accordance with Council's endorsed Strategic Transport Study for the Parramatta CBD (Council resolution on 10 April 2017), and Council has confirmed that the site will not be directly affected by any proposed light rail or road widening and therefore the Department supports this proposal proceeding ahead of the mesoscopic traffic study being undertaken for the CBD PP.

The Urban Design Report (**Attachment E**) details seven storeys of car parking with twelve car parking spaces per storey. This will be updated prior to community consultation to reflect the proposed controls for reduced carparking as conditioned by the Gateway determination.

Environmental

It is considered that proposal does not result in any impacts on critical habitat, threatened species, populations or ecological communities.

Economic

The concept plan (**Attachment E**) and planning proposal detail a proposed development with a total FSR of 15:1. This includes seven storeys of commercial floor space with the potential to produce approximately 126 jobs, and twenty-six storeys of residential floor space with the potential to produce approximately 104 dwellings. It is considered that if the FSR is reduced to 6.9:1 (including design excellence bonus) these figures would reduce to approximately 18 Jobs and 39 dwellings.

It is considered that the increase in residential population has the potential to improve demand for local shops and businesses, and the proposal will result in additional dwellings and commercial space that will contribute to achieving the area's housing and employment targets.

CONSULTATION

Community

A 28-day exhibition period is proposed.

Agencies

It is considered appropriate that Transport for NSW – Roads and Maritime Services be consulted.

TIMEFRAME

The timeframe for completing the LEP is to be 12 months following the date of the Gateway determination.

DELEGATION

Council has requested delegation of the plan-making function in relation to this planning proposal and it is recommended that, due to the Parramatta CBD location, delegation of the Greater Sydney Commission not be issued in the instance.

CONCLUSION

It is recommended that the planning proposal be supported to proceed, and that a Gateway determination be issued with conditions.

RECOMMENDATION

That the delegate of the Secretary agree any inconsistencies with Section 117 Direction, 4.1 Acid Sulfate Soils are of minor significance.

That the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the Council is to update the planning proposal to:
 - (a) include a maximum Height of Building control and remove clause 7.6 (Airspace Operations);
 - (b) amend the Floor Space Ratio map to provide a maximum FSR of 10:1;
 - (c) ensure the sliding scale provisions of Clause 7.2 of the Parramatta LEP apply to the subject site;
 - (d) require a minimum commercial floorspace FSR of 1:1 (included as part of the 10:1 FSR) but remove the reference to commercial floorspace incentives over an FSR of 1:1;
 - (e) remove the reference to High Performance Building Incentives;
 - (f) revise the Urban Design Report to reflect 1(a) – 1(e) above and the reduced car parking rates in accordance with Council's endorsed Strategic Transport Study for the Parramatta CBD (Council resolution on 10 April 2017).

Council is to submit the updated planning proposal to the Department for endorsement prior to community consultation.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in

section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

3. Consultation is required with Transport for NSW – Roads and Maritime Services under section 56(2)(d) of the Act.

Transport for NSW – Roads and Maritime Services is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be 12 months following the date of the Gateway determination.



26/10/17

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