

LEADING

ITEM NUMBER	13.3
SUBJECT	Response to Post Gateway Review for the Planning Proposal for land at 55 Aird Street, Parramatta
REFERENCE	RZ/18/2015 - D05830960
REPORT OF	Project Officer-Land Use Planning
OWNER	Aird Lynx Pty. Ltd.
APPLICANT	Statewide Planning Pty. Ltd.

PURPOSE:

To seek Council endorsement of a draft submission to the Department of Planning and Environment on a Gateway review request for the Planning Proposal for land at 55 Aird Street, Parramatta. A review is being sought by the applicant of the proposed floor space ratio imposed by the Gateway determination conditions.

RECOMMENDATION

- (a) **That** Council advise the NSW Department of Planning and Environment that it supports the conditions imposed by the Gateway determination for 55 Aird Street as issued on 28 November 2017.
- (b) **Further, that** this report form the submission to the request for a review of the Gateway determination and be forwarded to the Department of Planning and Environment.

THE SITE

1. The subject site is located at 55 Aird Street, Parramatta, see Figure 1. The legal description is Lot 4 DP 310151. The site has an area of 658m² with a street frontage of 14m and length of 47m. Currently the site contains a 2 storey commercial building with a vehicular right of way along the eastern boundary, providing access to the retail tenancies fronting Church Street. The site adjoins a Westfield loading dock and retail tenancies back onto the site



Figure 1 – Location Map



Figure 2 – View of the site from Aird Street looking south

BACKGROUND

2. In August 2015, Council received a Planning Proposal for the site which sought to increase the Height of Buildings control from 36m (11 storeys) to 120m (38 storeys) and to increase the floor space ratio from 4.2:1 to 20:1.

3. Subsequent to concerns raised by Council officers, the applicant submitted a revised Planning Proposal in March 2016 which still sought a Height of Buildings control of 120m, however, with a revised floor space ratio of 15.1 (17.25:1 including Design Excellence).
4. At its Meeting on 9 May 2016, Council considered a report on the Planning Proposal (refer to Attachment 2) which recommended Council endorse the Planning Proposal subject to:
 - a maximum floor space ratio of 6:1 (6.9:1 including Design Excellence);
 - no height limit but rather, apply Clause 7.6 Airspace Operations under the Parramatta Local Environmental Plan 2011 (PLEP) to the site to require consideration of Federal Government airspace provisions; and
 - require a minimum of 1:1 floor space to be provided as commercial floor space (included within the 6:1 FSR).
5. Council subsequently resolved as follows:
 - “(a) That Council endorses the revised planning proposal contained at Attachment 1 to;*
 - permit a floor space ratio of 10:1 with design excellence and high performance building provisions and with any commercial floor space above the 1:1 not being included in the FSR consistent with the City Centre Planning Framework*
 - apply no height limit but apply Clause 7.6 Airspace Operations to this site to require consideration of Federal Government airspace provisions*
 - require 1:1 commercial floor space (included in the 10:1 FSR)*
 - (b) That a revised reference design and Site Specific DCP be prepared by the applicant at an FSR of 10:1 and submitted to Council.*
 - (c) That the planning proposal as amended and revised reference design be forwarded to the Department of Planning and Environment for Gateway determination.*
 - (d) That Council advise the NSW Department of Planning and Environment that the CEO will be exercising the plan-making delegations for this planning proposal as authorised by Council on 26 November 2012.*
 - (e) That Council invite the applicant to submit a Voluntary Planning Agreement (VPA) consistent with the CBD Planning Proposal and Value Sharing Policy.*
 - (f) That the outcome of the VPA negotiations and the Draft DCP be reported to Council prior to exhibition of the draft VPA, draft DCP with both to be exhibited with the planning proposal.*
 - (g) Further, that Council authorise the CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal, Draft DCP and VPA documentation that may arise during the plan amendment process.”*
6. Council considered a further report at its meeting on 13 June 2017 in order to clarify the above resolution and resolve some internal inconsistencies within the wording itself. The terms of Council’s previous resolution were confirmed at this Meeting.

7. Following the receipt of the revised reference design referred to in resolution (b) above, the Planning Proposal was forwarded to the NSW Department of Planning and Environment (DPE) in August 2017. A Gateway determination was issued by the DPE in November 2017 which permits the public exhibition of the Planning Proposal subject to conditions. The conditions include a requirement that the maximum FSR for the site be reduced to 10:1 with the application of the sliding scale provisions under Clause 7.2 of the PLEP 2011 (meaning that the effective FSR for the site is 6:1 or 6.9:1 with Design Excellence).

ISSUES/OPTIONS/CONSEQUENCES

8. The DPE has since received a Gateway review request from the applicant objecting to conditions 1a to 1f of the Gateway determination which provide for the following:-
- Include a maximum Height of Buildings control, and remove Clause 7.6 (Airspace Operations);
 - Amend the floor space ratio map to provide a maximum FSR of 10:1;
 - Ensure the sliding scale provisions of Clause 7.2 of the Parramatta LEP apply to the subject site;
 - Require a minimum commercial floor space 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;
 - Remove the reference to High Performing Building Incentives;
 - Revise the Urban Design report to reflect 1(a) to 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).
9. The DPE has written to Council seeking Council's comments on the Gateway review request. Council has been requested to provide any comments by 15 March 2018.
10. It is noted that the terms of the Gateway conditions apply a maximum FSR of 10.1: combined with the application of the existing sliding scale under Clause 7.2 of the PLEP 2011. Applying the sliding scale (based on a site area of 658m²) the effective FSR is **6:1** (6.9:1 when including Design excellence).
11. A summary of the height and FSR controls that are being sought by the applicant compared with the report to Council on 9 May 2016, the Council resolution and the CBD Planning Proposal is provided in the table in Figure 3 below:

	Existing	Planning Proposal	Council Officer's recommendation	Council resolution	CBD Planning Proposal**	Gateway determination
FSR	4.2:1	15:1 (17.25 including DE*)	6:1 (6.9:1 including DE*)	10:1 (11.5:1 including DE*)	4.2:1 (base) 10:1 (incentive subject to sliding)	6:1 (6.9:1 including DE*)

					scale) 6:1 (incentive after applying sliding scale) 6.9:1 (incentive including DE*)	
Height	36m	120m	No limit subject to Clause 7.6	No limit subject to Clause 7.6	36m (base) No limit (incentive)	To be determined by reference design

Figure 3 – table comparing FSR and Height of Buildings controls

*Design Excellence

**Note: Proposed Clause 7.2 2(c) within the draft PLEP 2011 amendment of the Parramatta CBD Planning Proposal allows for the maximum incentive FSR of 10:1 to be achieved subject to the Design Excellence provisions, provision of community infrastructure, compliance with SEPP 65 and the Apartment Design Guide and the inclusion of active frontages on the ground floor of the building facing the street. This is described later in the report as the sliding scale exemption clause.

Applicant's Gateway Review Request

12. The applicant has submitted a letter to the DPE in support of their Gateway Review request (refer Attachment 3). The letter requests the following change to the Gateway determination:
 - The applicant has requested the deletion of condition 1(c) from the Gateway determination which requires the application of the FSR sliding scale under Clause 7.2 of the PLEP 2011.
 - In its place, the applicant has requested that the sliding scale proposed under the draft Clause 7.2 2(c) within the draft PLEP 2011 amendment of the Parramatta CBD Planning Proposal be applied (this clause is described in this report as the sliding scale exemption clause). This allows for the maximum incentive FSR of 10:1 to be achieved subject to the Design Excellence provisions, provision of community infrastructure, compliance with SEPP 65 and the Apartment Design Guide and the inclusion of active frontages on the ground floor of the building facing the street.
 - Conditions 1(c) and 1(d) of the Gateway determination remove the bonus floor space for high performing buildings and commercial floor space in addition to the minimum 1:1 floor space. The applicant has requested that these bonus provisions be reinstated in the Planning Proposal.
13. The applicant's letter asserts that the Gateway conditions unnecessarily restrict the development and are targeted towards encouraging amalgamation. The letter argues that amalgamation is not practical in this instance as the properties adjoining the site that address Church Street are subject to fragmented ownership and are currently occupied by successful businesses.

This issue is addressed on page 8 of the Council report at Attachment 2 in which it was noted that the development of the site in isolation will result in poorer urban design and amenity outcomes. As such, it is considered that the sliding scale provisions which encourage amalgamation are appropriate and should remain in this case.

14. The applicant's letter is accompanied by an Economic Viability Statement prepared by PPM Consulting (included in Attachment 3). This Statement argues that an FSR of 6.9:1 does not allow for economies of scale and will result in lower quality apartments. Further, the controls encouraging amalgamation may have an unintended consequence of stifling any redevelopment.
15. The arguments made in the applicant's Economic Viability Study do not adequately address the reasoning behind the sliding scale provisions and the improved urban design outcomes which can be achieved from amalgamated sites.
16. The applicant's letter refers to the building envelope study in their original Urban Design Report which accompanied the Planning Proposal. The applicant claims that the site can be developed at a density higher than that allowed under the Gateway determination while still achieving a good planning outcome. This issue is addressed on pages 7 to 11 of the Council report at Attachment 2.
17. The applicant's letter refers to the sliding scale proposed under the draft Clause 7.2 (2c) within the draft PLEP 2011 amendment of the Parramatta CBD Planning Proposal (described in this report as the sliding scale exemption clause). This allows for the maximum incentive FSR of 10:1 to be achieved irrespective of the sliding scale subject to the Design Excellence provisions, provision of community infrastructure, compliance with SEPP 65 and the Apartment Design Guide and the inclusion of active frontages on the ground floor of the building facing the street. The applicant has requested that this clause be applied to their site in place of that which operates under the existing provisions of the PLEP 2011 which would give them flexibility to achieve a greater FSR of upto 10:1.
18. Differing FSR scenarios were discussed on pages 12 and 13 of the Council report at Attachment 2. The report noted that the site is too small to provide adequate front, side and rear setbacks, putting the onus on neighbouring sites to provide setbacks. It also results in a blank wall on the eastern façade facing Church Street with no tower setback. Reducing the tower floor plate will result in opportunities to provide more appropriate setbacks and an FSR of 6:1 will significantly reduce the height of the blank wall. Any further flexibility to the FSR controls reduces certainty for the community and creates an unrealistic expectation for the developer about what is an appropriate density for the site.

CONSISTENCY WITH COUNCIL CBD PLANNING PROPOSAL

19. Council resolved to progress with the CBD Planning Proposal on April 11 2016. In doing so it endorsed a framework for future planning controls for the CBD. This section looks at the different decisions made during the processing of the PP and details their compliance with the CBD Planning Proposal of April 11 2016.

20. Council's resolution of 9 May 2016 on the site specific planning proposal for this subject site is generally consistent with the CBD PP but varies from the framework adopted on in April 2016 in the following manner:-

- Sites with an area greater than 1800m² can provide additional commercial floor space above the minimum 1:1 required for all sites without it being included in the FSR for the site. This site has an area of 658m² and so would not be eligible for this FSR concession under the CBD PP. Council's resolution for the Site Specific PP allows this concession for this site for additional commercial floor space.
- A site of this size would not be eligible for the High Performing building FSR bonus (of 0.5:1) under the CBD PP but Council has endorsed its application in its resolutions for the Site Specific Planning Proposal.

21. The gateway determination issued by the Department of Planning in November 2017 is generally consistent with the CBD PP but varies from the framework adopted in April 2016 in the following manner:-

- The Gateway determination indicates that the FSR shown on the map should be 10:1 which is consistent with CBD PP. It also applies the sliding scale in Clause 7.2 of the Current LEP. The sliding scale in the CBD PP is different but the impact is the same the effective FSR when you apply either sliding scale to the subject site is a maximum FSR of 6:1.(6.9:1 with design excellence)
- The CBD Planning Proposal includes a clause (which might be described as a sliding scale exemption clause) which allows the applicant to achieve the mapped FSR (ie 10:1 in this case) subject to the development application satisfying certain criteria related to achieving design excellence, compliance with SEPP 65 and the Apartment Design Guide, provision of community infrastructure and achievement of active frontage to street frontages.

This clause would effectively allow an applicant to override the sliding scale and achieve the mapped FSR (ie 10:1 in this case) if they meet these criteria. The Gateway Determination does not include any provision of this type and therefore there is no opportunity for the applicant to apply for 10:1 under any sliding scale exemption clause. (ie if they want to gain approval for any FSR above 6:1 they could only do so by seeking a formal variation to the FSR in the LEP rather than via the sliding scale exemption clause which would be available to them under the CBD PP)

22. It is not possible to make a definitive statement to the effect that either Council's resolution on the Site Specific PP or the Gateway Determination are completely consistent with the Council Adopted CBD Planning Framework.

CONCLUSION

23. Given that;-

- the Gateway determination is generally consistent with the CBD Planning Proposal (not withstanding the departures described above)

- the relatively small nature of the site means that a higher FSR will lead to undesirable urban design outcomes in the view of Council Officers

It is recommended that Council not support the Gateway review request in this case and indicate to the Department that it supports the conditions included in the Gateway Determination.

CONSULTATION & TIMING

24. The DPE has written to Council seeking Council's comments on the Gateway review request. Council has been requested to provide any comments by 15 March 2018.

Felicity Roberts
Project Officer – Land Use Planning

Robert Cologna
Acting Service Manager – Land Use Planning

Sue Weatherley
Director Strategic Outcomes and Development

Jim Stefan
Acting Director City Services

ATTACHMENTS:

- | | | |
|---|--|----------|
| 1 | Gateway determination issued by the DPE on 28 November 2017 | 4 Pages |
| 2 | Report to Council dated 9 May 2016 | 13 Pages |
| 3 | Letter from applicant to DPE supporting their review request | 15 Pages |

REFERENCE MATERIAL



17/12097

Mr Gregory Dyer
Interim General Manager
City of Parramatta
PO Box 32
PARRAMATTA NSW 2124



Dear Mr Dyer *Greg*

Planning Proposal PP_2017_COPAR_012_00 to amend Council Local Environmental Plan 2011

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to increase the maximum Height of Building and Floor Space Ratio (FSR) provisions for land at 55 Aird Street, Parramatta.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have conditioned the Gateway determination to require the proposal to be updated to propose an FSR consistent with the draft CBD Planning Proposal and apply a Height of Building (HOB) that responds to the existing and intended future built scale. I note that if the site were amalgamated, there would be justification to enable a higher FSR to apply to the site, and this would assist in delivering Council's vision for Parramatta CBD.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 117 Direction 4.1 – Acid Sulfate Soils, is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

I have considered Council's request for delegation and determined not to issue an authorisation as the site is located within land subject to the Parramatta CBD planning proposal, currently being assessed by the Department for a Gateway determination.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 8 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Greater Sydney Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Stuart McIntosh to assist you. Mr McIntosh can be contacted on (02) 9860 1551.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

28/11/2017
Encl: Gateway determination



Planning & Environment

Gateway Determination

Planning Proposal (Department Ref: PP_2017_COPAR_012_00): to alter the height of building and floor space ratio controls at 55 Aird Street, Parramatta.

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Parramatta Local Environmental Plan (LEP) 2011 to alter the height of building and floor space ratio controls at 55 Aird Street, Parramatta should proceed subject to the following conditions:

1. Prior to community consultation, 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.

City of Parramatta PP_2017_COPAR_012_00 (17/12097)



Planning & Environment

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.

Dated *28th* day of *November* 2017.

A handwritten signature in blue ink, appearing to read 'Marcus Ray'.

Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and Environment

Delegate of the Greater Sydney Commission

ECONOMY

ITEM NUMBER	9.2
SUBJECT	Planning proposal for land at 55 Aird Street, Parramatta
REFERENCE	RZ/18/2015 - D04177817
REPORT OF	Project Officer Land Use
LANDOWNER	Charles Apartments Pty Ltd
APPLICANT	Statewide Planning Pty Ltd

PURPOSE:

To allow Council to consider a planning proposal seeking to remove the maximum height limit (currently 36 metres/11 storeys) and increase the floor space ratio for land at 55 Aird Street, Parramatta for the purposes of requesting a Gateway determination from the Department of Planning and Environment.

RECOMMENDATION

- (a) **That** Council endorses the revised planning proposal contained at **Attachment 1** to;
- permit a maximum floor space ratio of 6:1 (6.9:1 with design excellence bonus)
 - apply no height limit but apply Clause 7.6 Airspace Operations to this site to require consideration of Federal Government airspace provisions
 - require 1:1 commercial floor space (included in the 6:1 FSR)
- (b) **That** a revised reference design and Site Specific DCP be prepared by the applicant at an FSR of 6:1 and submitted to Council.
- (c) **That** the planning proposal as amended and revised reference design be forwarded to the Department of Planning and Environment for Gateway determination.
- (d) **That** Council advise the NSW Department of Planning and Environment that the CEO will be exercising the plan-making delegations for this planning proposal as authorised by Council on 26 November 2012.
- (e) **That** Council invite the applicant to submit a Voluntary Planning Agreement (VPA) consistent with the CBD Planning Proposal and Value Sharing Policy.
- (f) **That** the outcome of the VPA negotiations and the Draft DCP be reported to Council prior to exhibition of the draft VPA, draft DCP with both to be exhibited with the planning proposal.
- (g) **Further, that** Council authorise the CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal, Draft DCP and VPA documentation that may arise during the plan amendment process.

THE SITE

1. The subject site is located at 55 Aird Street, Parramatta, see Figure 1. The legal description is Lot 4 DP 310151. The site area is 660m² with a street frontage of 14m and length of 47m. Currently the site contains a 2 storey commercial use with a vehicular right of way along the eastern boundary, providing access to the retail tenancies fronting Church Street. The site adjoins a Westfield loading dock and retail tenancies back onto the site.



Figure 1 Location map



Figure 2 Street view of the site viewed from north east

COUNCILLOR WORKSHOP

2. The details of this planning proposal were presented at a Councillor workshop on 18 April 2016.

BACKGROUND

3. A planning proposal for land at 55 Aird Street, Parramatta was submitted on 24 August 2015 seeking to increase the FSR from 4.2:1 to 20:1 and height from 36 metres (11 storeys) to 120 metres (38 storeys). The applicant submitted a revised planning proposal in March 2016 seeking an FSR of 15:1 (17.25:1 plus design excellence) and height of 120 metres. A revised Urban Design Report was also submitted with new indicative floor plans reducing the number of apartments per level from 5 to 4.
4. Council adopted the Parramatta CBD Planning Strategy at its meeting of 27 April 2015. The Strategy is the outcome of a study which reviewed the current planning framework and also a significant program of consultation with stakeholders and the community. The Strategy sets the vision for the growth of the Parramatta CBD. Council has subsequently prepared a planning proposal which has been informed by workshops and Council resolutions.
5. The Parramatta CBD Planning Proposal (CBD PP) was endorsed by Council on 11 April 2016. The CBD PP proposes that a potential increase in height and FSR can be sought for sites within the Parramatta CBD subject to the provision of community infrastructure. The CBD PP allows no height limit and a maximum 10:1 FSR to apply to the majority of sites within between the Great Western Highway and the Parramatta River
6. Under the CBD PP a sliding scale applies to small sites. This provides an appropriate FSR that avoids overdevelopment whilst allowing flexibility for landowners to potentially reach the maximum 10:1 FSR. The purpose of a sliding scale for FSR is to control density on small sites and encourage amalgamation and facilitate better design outcomes. Table 1 is an extract from the CBD PP as adopted by Council.

Part 2 – FSR of 10:1			
FSR Shown on Map	Site is less than or equal to 800m ²	Site is greater than 800m ² but less than 1,600m ²	Site is equal to or greater than 1,600m ²
10:1	6:1	(6+4Y):1	10:1

Where $Y = (\text{the site area in square metres} - 800)/800$

Table 1: Extract from Parramatta CBD Planning Proposal, adopted at Council meeting 11 April 2016

7. Under the sliding scale provision an FSR of 6:1 or the second column in Table 1 would apply to sites that have a site area of less than 800m², the third column applies to sites with site areas between 800m² and 1,600m² and the fourth column applies to sites larger than 1,600m². As site areas become larger the FSR permitted increases.
8. Despite the sliding scale the CBD PP provides the opportunity for smaller sites to achieve an FSR of 10:1 provided design excellence, compliance with SEPP 65 and activated street frontages are all met.

PROPOSAL

1. The revised planning proposal as submitted by the applicant on 2 March 2016 sought a maximum building height of 120 metres/38 storeys and maximum FSR of 15:1. A residential tower has been presented as the reference design that demonstrates a potential development option for the site at the applicant's proposed 15:1 FSR, see Figure 3. The reference design provided in the Urban Design Report provided by the applicant demonstrate the following:
 - Above ground car parking contained within 8 storey podium
 - Residential tower containing approximately 120 dwellings
 - A podium with nil setbacks and tower above
 - A tower with nil front setback and 6m rear setback



Figure 3 Applicant's design option, viewed from north east

PLANNING CONTROLS

2. The land is currently zoned B4 Mixed Use under PLEP 2011. The applicant is not proposing any change to the zoning.
3. A maximum FSR of 4.2:1 applies to the site due to the existing sliding scale provisions that apply under Clause 4.4 of PLEP 2011.
4. A maximum building height of 36m applies to the site under Clause 4.3 of PLEP 2011.
5. The subject site does not contain a heritage item listed under PLEP 2011. However the site is located close to the following heritage items (see Figure 4);
 - Item number 649 located at 140 Church Street, a shop/former fire station of local significance.
 - Item number 00751 located at 39 Campbell Street, Lennox House of State significance and listed on State Heritage Registry.
 - Item number 648 located at 47 Campbell Street, Masonic Centre of State significance.

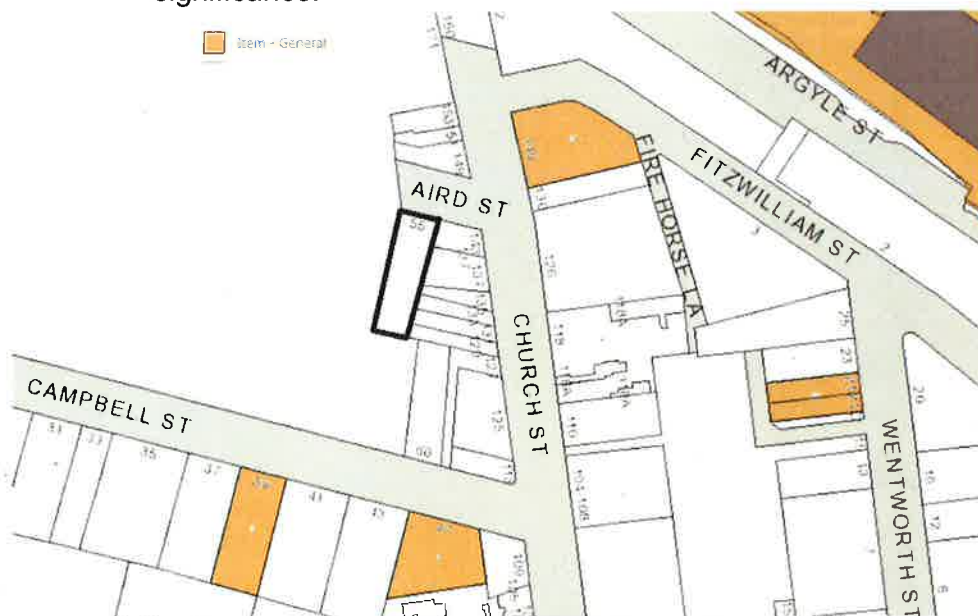


Figure 4 Heritage listing applying to the site and surrounds (Source: Council's GIS)

6. The site is not flood prone.

ISSUES

Heritage

7. Council's heritage officer has assessed the planning proposal and has made the following comments. The subject site is located close to a number of heritage items, the former Fire Station, Lennox House and the Masonic Centre. The former Fire Station is already developed and therefore any impacts from the proposed form are considered acceptable. The Masonic Centre is located to the south of the site and will be impacted by overshadowing. Lennox House is listed on the State Heritage Register, the item is located south of the subject site and will be impacted by overshadowing.

8. Council's heritage officer recommends controls be applied that are consistent with the immediate area and the proposed CBD PP. It is recommended that the planning proposal be amended to comply with the draft CBD Planning Proposal. Officers note the planning proposal at 6:1 is likely to result in acceptable impacts on the heritage items and advise the planning proposal should be referred to the NSW Heritage Office for comment as part of the public exhibition.

Traffic

9. The planning proposal has been reviewed by Council's traffic and transport section and it has been determined that the planning proposal has demonstrated that parking and traffic impacts are within acceptable limits.

Development Control Plan and Apartment Design Guide compliance

10. The Parramatta Development Control Plan (DCP) 2011 identifies front, side and rear building setbacks. Buildings above 54m, such as those proposed on the subject site are required to provide a 6m tower setback to the street, 6m side setback and 12m rear setback. Due to the site's size a tower form that complies with the setback controls cannot be developed. The objectives of the DCP setback controls are to provide privacy, ventilation and solar access for residents and help establish high quality streetscapes with human scale provided by the podium and tower setbacks.
11. The Applicant's Urban Design Report attached to the planning proposal demonstrates a tower form that does not comply with Council's DCP. Although the reference design presented in this Urban Design Report may not be the building ultimately erected it has been demonstrated a tower form that is compliant with Council's DCP cannot be accommodated on this site.
12. The Applicant's Urban Design Report does not provide clear floor plans, however the built form indicated demonstrates that compliance with the SEPP 65 Apartment Design Guidelines for building separation cannot be achieved. Light wells are relied upon (see Figure 5) as a means of achieving natural light and ventilation which is inconsistent with the objectives of the ADG. **To achieve a tower form zero lot side setbacks are required and 120m high blank walls are utilised in order to respond to building separation and privacy requirements. As a result, the onus is placed on neighbouring landowners to provide the required setbacks.**

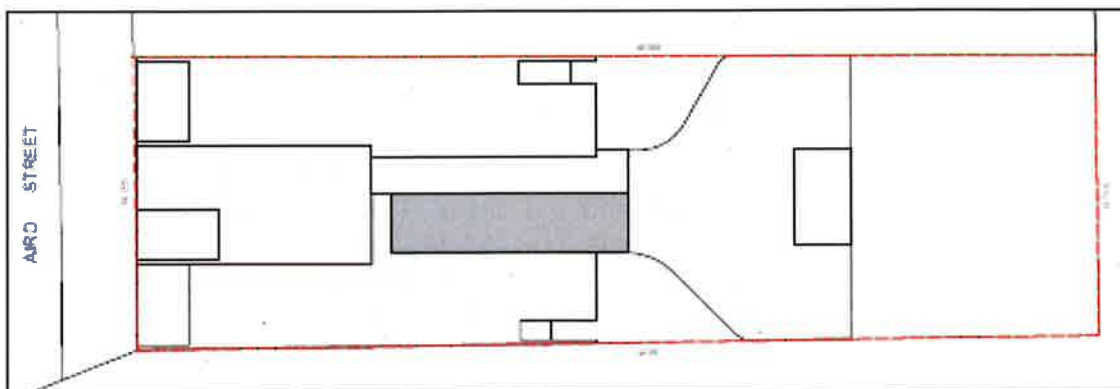


Figure 5 Typical floor plan (Source: Applicant's Urban Design Report)

Urban design – Amalgamation Issues

13. The planning proposal has been assessed by Council's urban design team and it is held that based on the reference design submitted by the applicant that the site is too small to provide an acceptable tower form at the density being sought (15:1).
14. The sites along the eastern boundary of the subject site fronting Church Street (see Figure 6, outlined in blue) are 1-3 storey retail tenancies that are separately owned. Although the sites are smaller than the subject site, Council officers do not discount the potential interest of the landowners to develop these sites into a denser form in future.

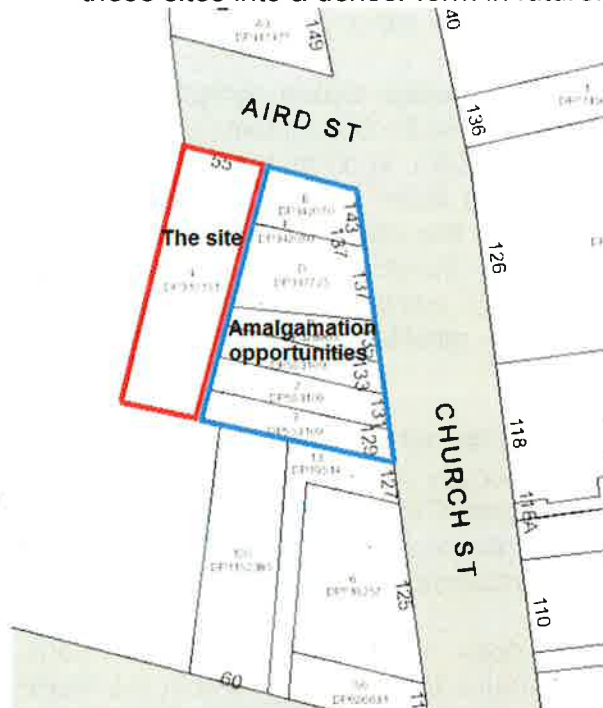


Figure 6 Amalgamation opportunities (Source: Council's GIS)

15. The CBD Planning Proposal envisages smaller sites such as 55 Aird Street and the developments fronting Church Street to amalgamate to improve development outcomes. If the sites are to progress separately seeking tower forms access to the sites will be compromised and blank walls will be utilised extensively. The applicant's Urban Design Report details a 38 storey building fronting Aird Street with a 120 metre blank wall facing Church Street. It will not be possible for all sites to achieve inter tower separation and setbacks in accordance with ADG requirements. There is opportunity to amalgamate the sites (outlined in red and blue in Figure 6).
16. Should 55 Aird Street and the sites along Church Street be amalgamated compliance with Council's DCP and the State Government's ADG could be more readily achieved. A single built form would cover all 7 sites and the site would be large enough to provide the necessary setbacks for compliance and a higher level of amenity can be achieved for future residents at a higher FSR. If the sites aren't amalgamated setbacks for each individual site will be required.
17. The Urban Design Report submitted by the applicant includes indicative building envelopes on the adjacent sites to the east along Church Street, see

Figure 7. The design has been prepared with the assumption that the other landowners along Church Street are able to amalgamate. Due to the zero lot setback of 55 Aird Street the Church Street building envelope is unable to develop a similar form. A minimal inter tower setback is provided requiring blank walls for both towers. The Church Street envelope is also required to provide a 6m setback to Church Street. Tower setbacks are essential to reduce wind tunnels and provide a comfortable human scale for pedestrians at street level. The indicative building envelopes presented at Figure 7 demonstrate the onus placed on the neighbouring sites to provide a setback between the two tower forms.

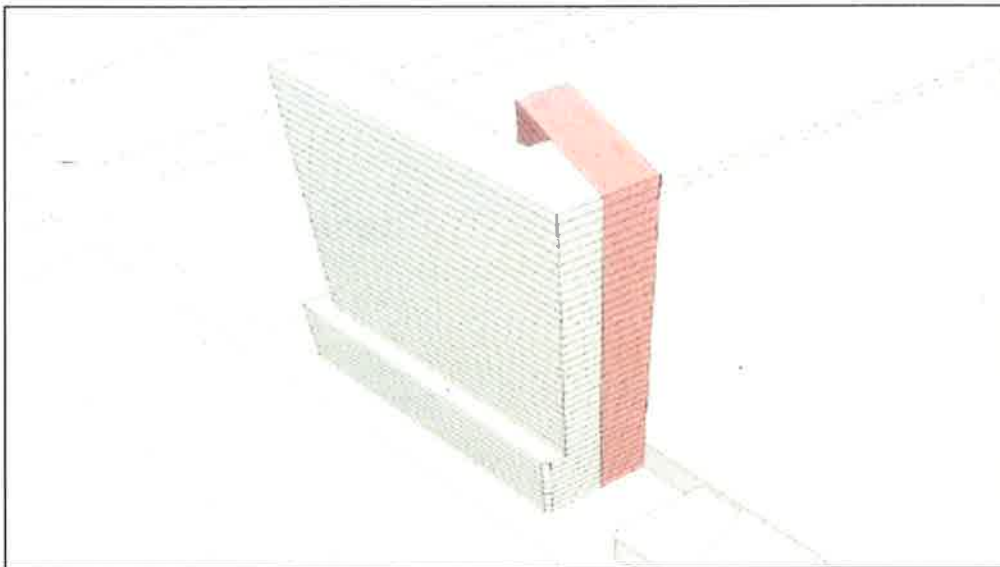
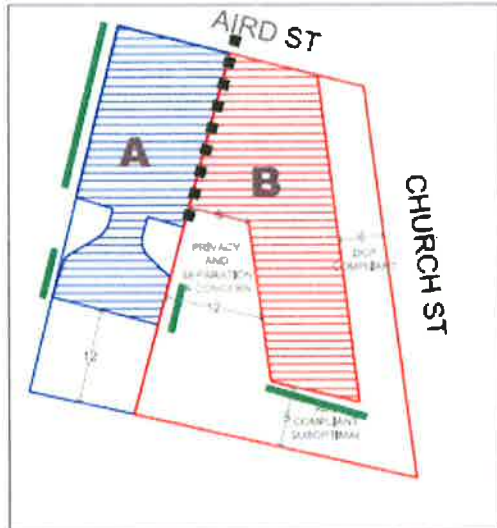


Figure 7 Development options for neighbouring sites (Source: Urban Design Report)



PROPONENT SCHEME

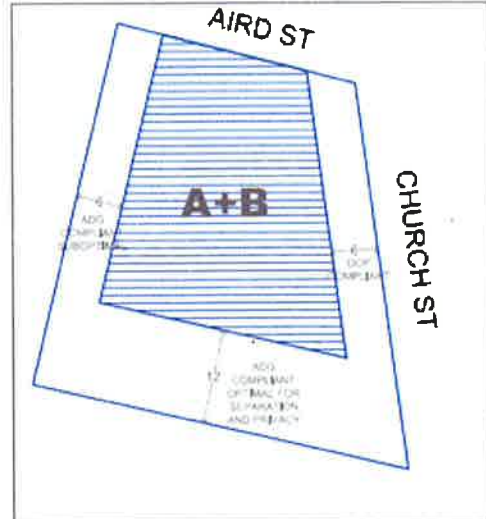
SITE A

FSR - 20:1

HEIGHT - 38st / 120m

SETBACKS
FRONT - 0m
REAR - 12m
SIDES - 0m, 0m

TOWER FLOORPLATE - ~450sqm



OPTION 2

CONSOLIDATED SITES

SITE A+B

FSR - 11.5:1

HEIGHT - 32 st / 102m

SETBACKS
FRONT - 6m
REAR - 6m
SIDE - 0m, 12m

TOWER FLOORPLATE - 900sqm

NO BLANK WALLS

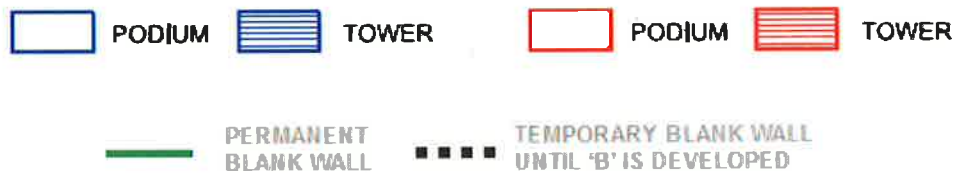


Figure 8 Development options (Source: Council modeling)

18. Figure 8 demonstrates how the sites along Church Street could be developed if Council adopts FSRs of 20:1 or 11.5:1. The Proponent's Scheme is informed by the Urban Design Report submitted with the original planning proposal. There is 12 metres provided between apartments in towers A and B creating privacy concerns, the units at the rear would receive limited sun access and ventilation. This scheme is non-compliant with the ADG, features 38 storey blank walls and provides minimal front, side and rear setbacks.
19. Option 1 demonstrates a built form that could be accomplished should the subject site amalgamate with the sites along Church Street, reaching an FSR of 11.5:1 including design excellence (in keeping with CBD PP). Site amalgamation could result in a development that includes no blank walls, appropriate setbacks in keeping with the DCP, a defined podium with tower

setback and improved development potential for all sites. The design at Figure 8 complies with the ADG providing ventilation, solar access and privacy.

20. Council officers have encouraged the applicant to explore amalgamation with the sites along Church Street however this has not come to fruition. Documentation has been supplied suggesting amalgamation has been attempted and has not been successful. The applicant in pursuing amalgamation has followed a protocol developed by the Land and Environment Court to assist with the assessment of applications that may be isolating adjoining sites. This protocol is most commonly used where a single or a small number of sites are isolated and as a result of the isolation will not be able to be developed in accordance with the existing planning controls.
21. In this case the circumstances are different. The applicant is seeking to use a isolation argument to allow them to develop in a way that will dictate what the future planning controls will be on the adjoining sites. Council's underlying principle in developing the CBD Planning Framework was to achieve tall wide spaced towers. This is the principle adopted as far back as the Architectus Study when Council formally initiated the CBD Planning Review. If Council accepts the isolation argument in this case the only outcome that can be achieved on this and adjoining sites is a taller perimeter style building which is not consistent with Council's vision. It is for this reason that minimal weight has been given to the applicant's isolation argument by Council staff when considering the FSR proposed by the applicant.
22. Council officers encourage the landowners to continue exhausting the opportunity of amalgamation to achieve the best possible design outcome. If amalgamation does not occur the development of the subject site in isolation will result in poorer urban design and amenity outcomes.

VOLUNTARY PLANNING AGREEMENT

23. No letter of offer for a VPA has been lodged by the applicant for this planning proposal. It is recommended that the applicant be invited to explore the opportunities for the provision of public benefits commensurate with the density uplift being sought.

PARRAMATTA CBD PLANNING PROPOSAL

24. In light of the analysis provided in this report and the recent adoption of the draft Parramatta CBD Planning Proposal on 11 April 2016 Council officers recommend adopting the following controls to ensure alignment with the CBD PP.

Height

25. The CBD PP proposes that no maximum height limit (incentive height) apply to the majority of land within the CBD subject to the delivery of community infrastructure. The height of buildings will be determined by the design response to the site area and FSR. It is recommended no height limit be applied to the subject site. However Clause 7.6 Airspace Operations is to be applied to this site to require consideration of Federal Government airspace provisions

Commercial floor space

26. A local clause is proposed in the CBD PP that requires a minimum 1:1 FSR of commercial floor space to be provided as part of a mixed use development on sites zoned B4 Mixed Use. The policy objective of this control is to contribute employment generating floor space consistent with Parramatta's role as a key employment centre in western Sydney. The current market conditions have seen the majority of B4 zoned sites obtain approvals for and be developed for almost entirely residential purposes with nominal ground floor retail uses.
27. A site specific clause is recommended to ensure a minimum 1:1 commercial floor space is realised (within the mapped FSR) in accordance with Council's latest position. The Urban Design Report submitted by the applicant demonstrates a design option that includes no commercial floor space.

FSR OPTIONS

28. Below is an assessment of the three FSR options.
29. **Option A:** Apply an FSR of 6:1.
An FSR of 6:1 is in keeping with the sliding scale outlined in the CBD PP adopted by Council on 11 April 2016. A possible outcome for a built form on the subject site with an FSR of 6.9:1 (FSR of 6:1 plus design excellence) is a height of approximately 80 metres or 25 storeys including above ground car parking. Such a design would require the use of blank walls however the height of the blank walls are significantly reduced. The opportunity to achieve ADG compliance and a more desirable design outcome is increased due to the reduced floor plate.
30. Even with an FSR of 6:1 the floor plan presented in the Urban Design Report, see Figure 5, if retained will result in compromised apartments that fail to comply with the objectives of the ADG. If the floor plate presented in the Urban Design Report was to be reduced as there would be more opportunity to comply with the ADG and it would provide for better built form outcomes.
31. **Option B:** Apply an FSR of 10:1.
As discussed previously when the CBD PP is gazetted the landowner will have the opportunity to seek an FSR of 10:1 (using the Sliding Scale out Clause) without any requirement for amalgamation. Internal modelling demonstrates a built form on the subject site with an FSR of 11.5:1 (including design excellence) could result in a height of 110 metres or 35 storeys. An FSR of 10:1 on the subject site will likely result in equity issues, poor amenity for future residents and built form and design outcomes inconsistent with Council's vision.
32. **Option C:** Apply an FSR of 15:1.
The applicant has not demonstrated a 15:1 FSR can be acceptably accommodated on the site. The Urban Design Report features higher blank walls dominating the streetscape, zero lot setbacks and non-compliance with the objectives of the ADG. The assessment undertaken by Council's urban design officers conclude that an FSR of 15:1 will result in overdevelopment of the site, poor amenity for future residents and reduce the development potential of neighbouring sites.

RECOMMENDED FSR OPTION

33. **Option A:** Apply an FSR of 6:1.
34. Option A is in keeping with Council's recent position demonstrated by the adoption of the CBD PP on 11 April 2016. The landowner will gain an increase in FSR from 4.2:1 to 6:1. If the site is developed, even at 6:1, the built form will result in the use of blank walls and challenged to comply with the ADG. The benefit of an FSR of 6:1 is the number of compromised units will be limited and the height of the built form will be reduced resulting in 25 storey blank walls as opposed to 38 storey blank walls that will dominate Church Street.

CONCLUSION

35. The site is too small to provide the required front, side and rear setbacks, putting the onus on neighbouring sites to provide setbacks. With no definitive tower setback a 25 storey (predicted height at 6:1) wall will generate an uncomfortable scale for pedestrians at street level whilst additionally creating a 25 storey blank wall visible from Church Street, an important pedestrian thoroughfare in the heart of the City. Reducing the tower floor plate will result in opportunities to provide more appropriate setbacks. An FSR of 6:1 will significantly reduce the height of the blank wall. Given the site constraints an acceptable built form will require the following elements are considered:

- Maximum floor plate
- Minimum rear setback to the southern boundary
- Blank wall treatment

This can be considered as part of the design excellence brief and inform a site specific Development Control Plan.

36. Should Council endorse the planning proposal it will be forwarded to the Department of Planning and Environment for gateway determination.
37. The applicant will be required to prepare a reference design and Draft Site Specific in keeping with Council's adopted controls.

Kimberly Beencke
Project Officer Land Use

ATTACHMENTS:

- 1 Planning Proposal for 55 Aird Street, Parramatta 27 Pages

REFERENCE MATERIAL

Gateway Determination Review – 55 Aird Street, Parramatta

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5 February 2018

Ms Catherine Van Lauren
Director, Sydney Region West
NSW Department of Planning and Environment
10 Valentine Avenue
PARRAMATTA NSW 2150

Attention: Christine Gough, Specialist Planning Officer

Dear Catherine,

**Gateway Determination Review (PP_2017_COPAR_012_00)
55 Aird Street, Parramatta**

I write to you in relation to a Planning Proposal to amend the height of building and floor space ratio controls under the Parramatta Local Environmental Plan (LEP) 2011 for land at 55 Aird Street, Parramatta.

The Planning Proposal was issued a Gateway determination under Section 56(2) of the Environmental Planning and Assessment Act (The Act) on 28 November 2017. The Gateway determined that the matter should proceed subject to conditions. In accordance with the Department of Planning and Environment's *A Guide to Preparing Local Environmental Plans (August 2016)* a Gateway determination review is sought because the Gateway determination "imposes requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered".

Introduction

The Department of Planning and Environment as delegate of the Greater Sydney Commission issued a Gateway determination on 28 November 2017.

The Gateway included a number of conditions that significantly impact the proposed urban outcome for the site and its ability to develop. While it is clear it is the Gateway's intent that the conditions force the site to amalgamate, considerable effort has been undertaken to achieve a larger site. However, the land economics do not support this outcome at this time. Therefore, the conditions imposed are a restrictive approach to planning to apply a disincentive to the market to redevelop, rather than taking an opportunistic approach to redevelopment and consider the merits of the design outcome proposed. The Gateway in allowing a proposal to proceed at a much lesser density has in fact supported the design concept for the site, yet the Gateway has penalised the land owner for having a constrained site and the

Gateway Determination Review – 55 Aird Street, Parramatta

inability to amalgamate with adjoining land owners who occupy successful businesses and are not incentivised by amalgamation.

Further, the justification for the restrictive controls are not evident in the Gateway given the extensive urban design analysis, ADG compliance, apartment layout and building separation etc that has gone into the urban design analysis undertaken to inform the proposed controls. The Department's Planning Team Report even suggests that the density should be restricted and not *"lose the opportunity for site amalgamations to occur which would improve this outcome"*. The Planning Team Report also goes on to say that *"without site amalgamation, the subject site is unable to achieve a floorplate that would be consistent with this draft Policy"*. The Council has made its Policy position on this matter clear through its resolution.

Notwithstanding, the floorplate has been endorsed by the Gateway under an maximum potential FSR of 6.9:1 and a corresponding height. In fact, the Council report states that a 25 storey height is an acceptable urban design outcome, however anything greater is not acceptable due to blank walls, for example. However, the Gateway advises that there is justification to enable a higher FSR to apply if the site were amalgamated, yet the urban design work has demonstrated that all sites can redevelop, that building separation complies with the ADG and allows for a dominate tower to develop on the prominent corner of Church and Aird Streets. Therefore, there clearly appears to be an inconsistent and contradictory approach to minimise the density on the site using a restrictive Policy.

It is therefore requested that the Minister, Greater Sydney Commission or delegate review and alter the conditions of the Gateway determination to allow the sensible redevelopment of the site at this time which will also allow the remainder of the block to redevelop in its own time as land economics provide. In doing so, it is requested that the following conditions be altered:

- Condition 1(c) applies the sliding scale provisions of the existing Clause 7.2 of the Parramatta LEP 2011 to the subject site. As the site is less than 1000sq.m, future redevelopment will be unable to accommodate floorspace greater than 6:1, noting a design excellence process will allow for a final FSR of 6.9:1. An additional 340sqm would achieve a numerical standard for additional FSR but there is no evidence to suggest a different design outcome. Therefore, from an urban design outcome, there appears to be little evidence to support the application of the restrictive policy to the subject site when the Planning Proposal and urban design analysis has demonstrated an appropriate development solution for the site.
- It is recommended that the Gateway either include the draft Clause 7.2 under the draft CBD Planning Proposal or include the exempt provisions or "FSR out clause" under the draft Clause 7.2 of the draft CBD Planning Proposal to the subject site. This will ensure any additional FSR will have to be interrogated through the requirements identified by the Clause and ensure a high standard outcome. It was clearly not the Council's intent to apply the current Clause under the LEP 2011.
- Condition 1(d) and Condition 1(e) remove the incentive and bonus provisions related to commercial floorspace and high performing buildings. This ensures that the development outcome cannot achieve an FSR greater than 6.9:1. Having established the restrictive policy to minimise FSR on the site with little justification beyond forcing amalgamation, the removal of bonus provisions for better outcomes also seems ill informed.
- While the High Performing Building Bonus applies to mixed use developments containing 2,000sq.m commercial, the Planning Proposal originally provided a considerable amount of commercial floorspace in the centre of Parramatta. The Planning Team Report notes that *"this*

Gateway Determination Review – 55 Aird Street, Parramatta

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 1,800sqm". As previously stated, land economics does not support the amalgamation of fragmented land at this stage, and the Planning Proposal has demonstrated how significant commercial floorspace can be provided on a smaller floorplate. Yet, the Gateway enforces a minimum FSR of 1:1 commercial floorspace but prohibits any additional under the commercial floorspace incentives. The only impact greater commercial floorspace has is to create a taller building, to which the urban design report talks. It is unclear why a taller building that provides additional commercial floorspace and is required to undergo a design excellence process would not be supported. The urban design report already presents a quality outcome, and the development outcome would be required to go through a further design competition process to ensure the outcome is acceptable. To therefore support a building somewhere between 11 and 25 storeys as acceptable yet anything taller is not acceptable is contradictory and clearly simply a restrictive policy.

Subject Site

The land to which the Planning Proposal applies is located at 55 Aird Street, Parramatta (see Figure 1 below). The site is known legally as Lot 4 DP 310151 and has a site area of 660sqm. The site currently contains a 2 storey commercial premises with a vehicular right of way along the eastern boundary. It has a 14 metre frontage to Aird Street and a length of 47 metres.

The site adjoins Westfield Shopping Centre to the west and south. Immediately abutting the site is the Westfield loading dock. To the east the site adjoins the rear of retail tenancies that front Church Street. This land is heavily fragmented containing numerous lots of varying dimensions.



Figure 1: Subject site

Gateway Determination Review – 55 Aird Street, Parramatta

Following extensive attempts to amalgamate with the adjoining lots on Church Street, an urban design analysis was undertaken to consider the capacity of the site to redevelop and the ability for the remainder of the block to develop when the land economics support and allow for the adjoining sites to amalgamate. The urban design response for the subject site was therefore heavily informed by the potential building footprints for this land.

Aleksandar Design Group undertook an Urban Design Analysis that informed the controls proposed under the Planning Proposal.

Planning Proposal

Current Controls

The following controls currently apply to the subject site:

- Zoned B4 Mixed Use;
- A maximum FSR of 4.2:1; and
- A maximum building height of 36 metres. Nearby land to the east of Church Street allows for a maximum building height of up to 126 metres.

Lodged Planning Proposal

The Planning Proposal was lodged on 24 August 2015 seeking:

To increase the FSR from 4.2:1 to 20:1 and height from 36 metres (11 storeys) to 120 metres (38 storeys).

A revised planning proposal was lodged in March 2016 seeking an FSR of 15:1 (17.25:1 plus design excellence) and height of 120 metres.

Determined - 9 May 2016 and clarified on 13 June 2017

On 9 May 2016 Council resolved for the Planning Proposal to proceed as follows:

- To permit a maximum FSR of 10:1, with additional FSR achievable through design excellence (15% additional FSR) and high performance building provisions (0.5:1).
- Require 1:1 commercial FSR (included in base 10:1) with any commercial FSR above 1:1 excluded from the FSR calculation (allowing an additional 3:1 FSR).
- Apply no height limit but apply Clause 7.6 Airspace Operations to this site to require consideration of Federal Government airspace provisions.

On 13 June 2017, Council clarified its position on the subject Planning Proposal. The resolution is included below:

- (a) *That for the avoidance of doubt, and following consultation with the mover and seconder of the motion of 9 May 2016 (being Councillors J P Abood and P Esber), this Council confirms that in adopting the resolution made on 9 May 2016, its intent was to:*
- *Permit a base floor space ratio of 10:1, with access to additional FSR through demonstrating compliance with the design excellence (15% additional FSR) and high performance building provisions (0.5:1);*

Gateway Determination Review – 55 Aird Street, Parramatta

- Require 1:1 commercial floor space (included in the base 10:1), with any commercial floor space above 1:1 excluded from the FSR calculation (allowing an additional 3:1 FSR);
 - Apply no height limit but apply Clause 7.6 Airspace Operations to this site to require consideration of Federal Government airspace provisions.
- (b) That a revised reference design and Site Specific DCP reflecting a) above be prepared by the applicant and submitted to Council.
- (c) That the planning proposal as amended and revised reference design be forwarded to the Department of Planning and Environment for Gateway determination.
- (d) That Council advise the NSW Department of Planning and Environment that the CEO will be exercising the plan-making delegations for this planning proposal as authorised by Council on 26 November 2012.
- (e) That Council invite the applicant to submit a Voluntary Planning Agreement (VPA) consistent with the CBD Planning Proposal and Value Sharing Policy.
- (f) That the outcome of the VPA negotiations and the Draft DCP be reported to Council prior to exhibition of the draft VPA, draft DCP with both to be exhibited with the planning proposal.
- (g) Further, that Council authorise the CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal, Draft DCP and VPA documentation that may arise during the plan amendment process.

Gateway Determination

A Gateway determination was issued on 28 November 2017. Condition 1 is included below as it relates to this submission:

1. Prior to community consultation, 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 reference to commercial floorspace incentives over the 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.

The Planning Proposal will facilitate a 41 storey tower with 7 storeys above ground parking within the podium, 7 storeys of commercial floorspace and 26 storeys of residential. The floorspace equates to a FSR of 11:1 for residential and 4:1 of commercial land uses.

The floorplate, elevation and photomontage are included in the figures below and Table 1 below illustrates the background to how the controls have evolved since lodgement to Gateway.

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	EXISTING	LODGED	REVISED LODGEMENT	DETERMINED	CBD PLANNING STRATEGY	GATEWAY
FSR	4.2:1	20:1	15:1 Plus 15% design exc	10:1 Plus: <ul style="list-style-type: none"> 15% design exc 0.5:1 High perf building Commercial FSR: 1:1 included in base; and up to 3:1 commercial FSR bonus 	10:1 (6:1 when applying sliding scale) Plus: <ul style="list-style-type: none"> 15% design exc 0.5:1 High perf building 	10:1 (6:1 when applying sliding scale) Plus 15% design exc
HEIGHT	36 metres	120 metres	120 metres	NIL	36 metres	Apply a Height
TOTAL FSR	4.2:1	20:1	17:1	15.5:1	7.5:1	6.9:1

Table 1: Background to controls

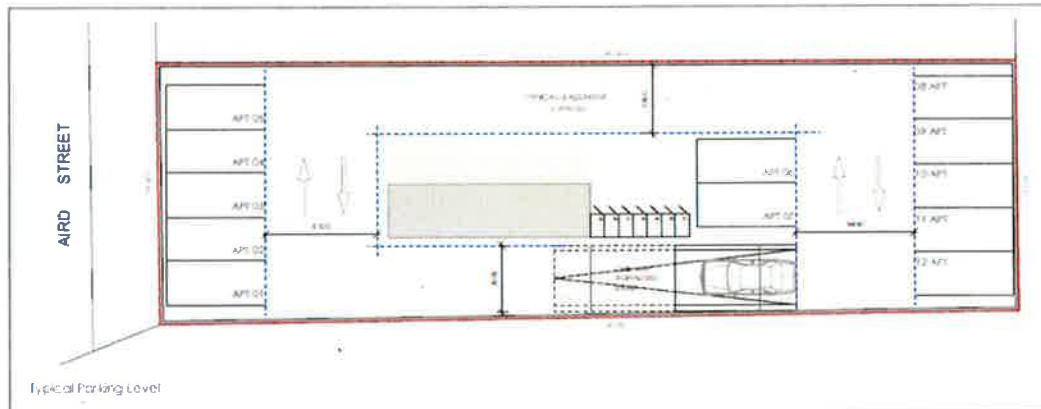


Figure 2: Typical Parking Level

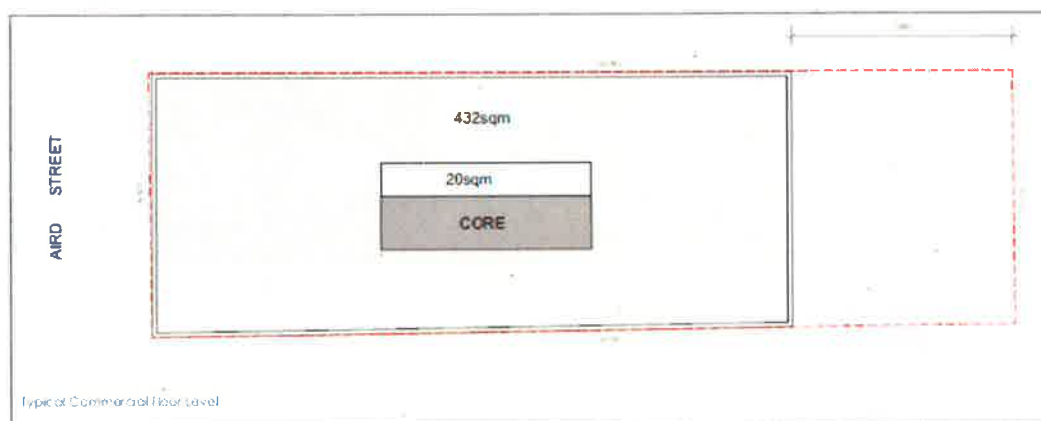


Figure 3: Typical Commercial Level

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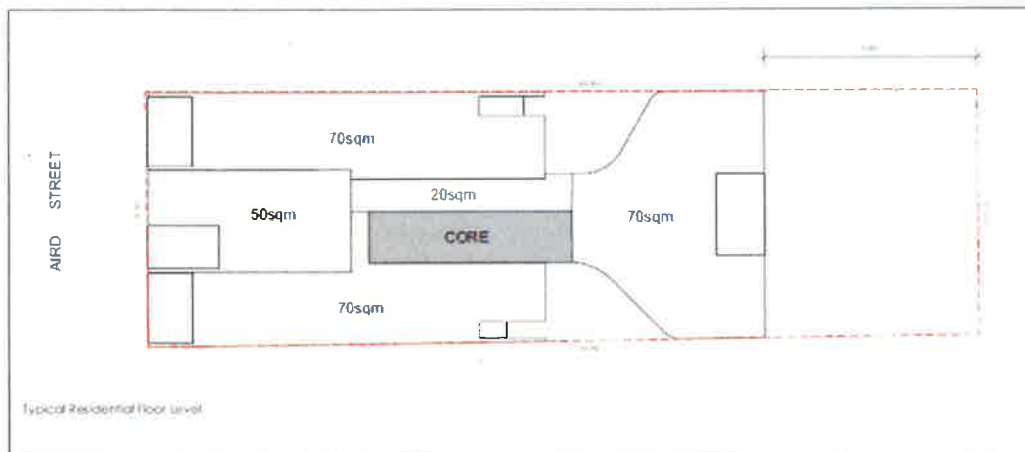


Figure 4: Typical Residential Level

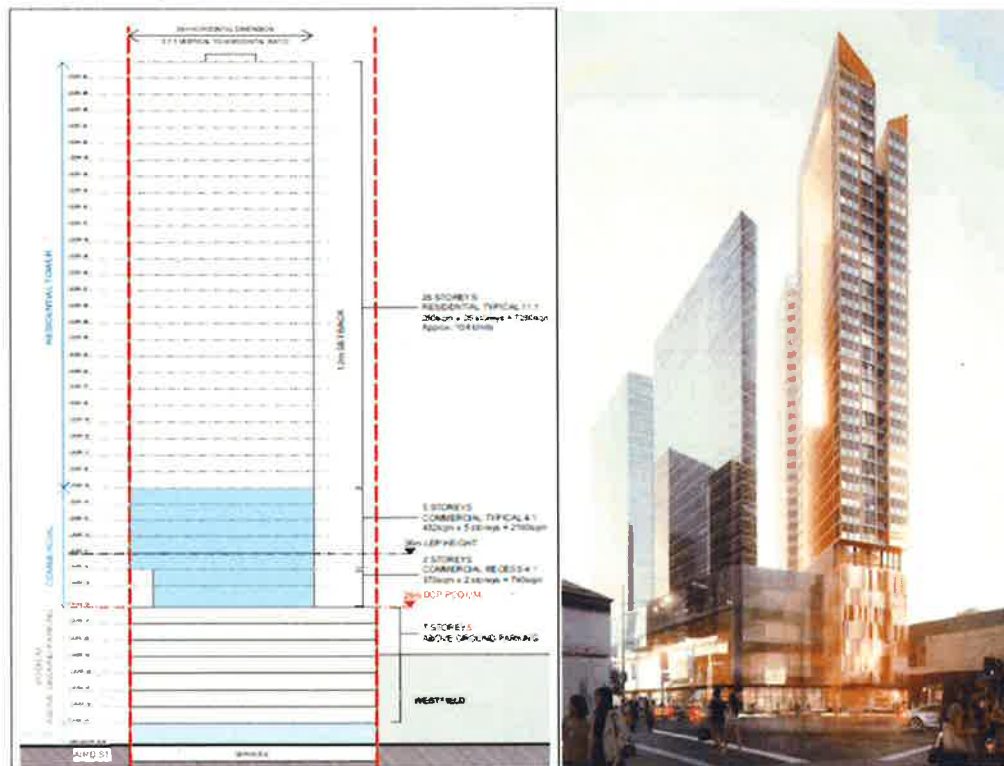


Figure 5: Proposed Form

Figure 6: Photomontage

Gateway Determination Review – 55 Aird Street, Parramatta

Gateway Review Request

The Gateway determination in supporting the progression of the Planning Proposal has conditioned the Planning Proposal to restrict the site potential maximum FSR to 6.9:1, based on its ability or lack thereof to amalgamate with adjoining properties. The rationale is that an additional 340sqm would allow extra floorspace because it achieves a numerical standard (i.e. 1000sq.m) under the sliding scale provisions of the Parramatta LEP 2011. The draft CBD Planning Proposal sliding scale provisions however, allows flexibility for isolated sites where amalgamation has been unable to occur.

The reality is in the case of the subject Planning Proposal, land economics have been unable to support an amalgamation and the creation of a larger site area. Yet, the conditions of the Gateway have ensured that no flexibility in the planning system will allow a merit-based process, where further study and assessment could occur if necessary. The landowner has been penalised for adjoining fragmented land, occupied by successful businesses.

The extensive urban analysis and detailed design work has been undertaken to address many of the Policy issues associated with the intent of the sliding scale provisions and floorspace incentives. The outcome, when combined with design excellence provisions, is a building that responds to its context (being the broader block) and of architectural significance. It is not unusual for a building to have a small floorplate, and where it does, unique design responses are required as is the case here.

Economic Impact

This submission is accompanied by an Economic Viability Statement prepared by PPM Consulting. While the economic advice does not include viability modelling, it is suggested that this should be a logical exercise during the Part 3 process to understand the ability of the site to redevelop and the impact of forcing (not encouraging) amalgamation.

The advice, however, does make the following observations:

- At best, at an FSR of 6.9:1, economies of scale are lost, so in order to make redevelopment viable, the proponent would need to build smaller, lower quality apartments in a lower quality and less appealingly designed building.
- small sites do not automatically suggest a market failure, particularly if it can be demonstrated that development is viable on these sites just as much as it is on larger sites.
- While Council's hope is that FSR controls will encourage site amalgamations, it is possible that it will have the opposite outcome, and even a perverse one. By allowing high quality, sympathetic, redevelopment of small sites, Council is likely to encourage development on adjoining sites.
- It is possible that the owners of the adjoining sites may never want to sell, thus leaving the site small and unamalgamated. A decision not to sell may be a rational response on the neighbours' part. However, this creates a perverse outcome in the housing market.
- The Planning Proposal could potentially support an additional 100 apartments in a prime part of the CBD. This is not an insignificant amount of new supply that will be lost if the development does not go ahead. In the current climate of limited housing supply and high population growth creating an affordability crisis, it would be negligent to hold out for the site to be amalgamated, when there is a viable proposal to create new housing.

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- There is also no guarantee that, by simply waiting, the adjoining sites will eventually acquiesce. Therefore, the site, and its neighbours, may end up deteriorating further into the future.

Integration with the broader block

As previously mentioned, it is clear that the Gateway is seeking to force the site to amalgamate through a restrictive approach that actually acts as a disincentive to the market. The argument that it will provide a better outcome is a matter of opinion, although there are less constraints in the urban design process where larger sites are available.

Given the inability of the site to amalgamate, it was important to understand how the site could develop in the context of the future redevelopment of the fragmented land fronting Church Street.

The Urban Design Report included a building envelope study that explored the potential development outcomes that result from the development of 55 Aird Street on adjoining sites. As part of the study an analysis of the ideal building heights for each of the potential development sites was completed. The study also tested the impacts of different upper level setbacks to Church Street in order to determine which would produce the best urban design outcome and development potential.

The heights of adjoining sites were designed to strengthen the Church Street and Aird Street corner with an urban marker. This also created equitable development potential across all sites and created an attractive and distinctive city skyline defined by tall slender towers.

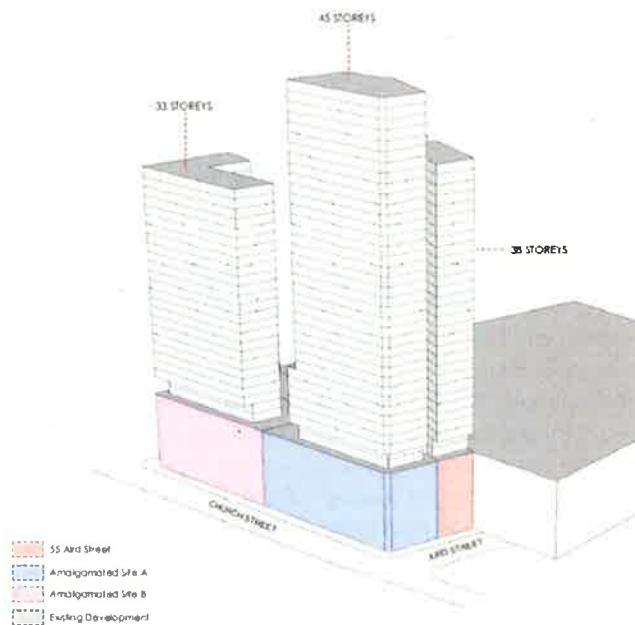


Figure 7: Building envelope study across the block

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The building envelop study achieved the following outcomes and compliance with design requirements as follows:

- Building envelopes maximise outlook and privacy with the majority of apartments facing the street.
- Majority of living areas orientated north and north-east.
- Where apartments face another building, privacy has been achieved through ensuring that habitable areas don't directly overlook each other unless ADG separation has been achieved.
- Building separations have been designed with reference to the ADG, with a 12 metres average building separation for non-habitable to non-habitable, 12 metres-18 metre ADG building separation for habitable to non-habitable, and 12 metres ADG separation between future habitable and non-habitable and existing 8 storey development.
- The building envelopes achieve solar access to the majority of units.

While an amalgamated site makes development proposals easier to assess, the block has been unable to amalgamate and there appears to be little incentive to achieve this under the proposed controls. The extensive work that has gone into envelope testing has demonstrated that a small site in this location and context has the ability to achieve greater density than allowed by the Gateway conditions and still achieve a good planning outcome.

For example, it is suggested that a height of 25 storeys associated with an FSR of 6.9:1 is acceptable however anything greater will not be acceptable. The basis for such an assessment is not founded on the evidence and analysis undertaken in the envelope study. The impact of a taller building associated with a greater density will be no more significant than that of a shorter building associated with the Gateway conditions. The certainty of a design excellence process also ensures that any development will have to meet a number of requirements to provide an acceptable design outcome, including the treatment of facades, natural light, ventilation and ADG compliance.

To therefore prevent further assessment of design issues associated with the proposed form in the applicant's submission and endorsed by Council is not in the spirit of the Part 3 process or the planning system, The Gateway conditions are supporting a restrictive policy that will not end with an outcome.

Sliding Scale

In April 2016 the Council endorsed the CBD planning framework which included a new FSR sliding scale provision for sites under 1000m². This included new provisions under the existing Parramatta LEP 2011 Clause 7.2 to enable sites to achieve the maximum FSR if various requirements pertaining to design excellence, SEPP 65 compliance and street activation were achieved. This policy has been maintained by the Council to date and is contained in the draft CBD LEP provisions currently awaiting Gateway determination. This policy direction was in recognition that there may be circumstances where sites cannot viably and economically be amalgamated. To allow flexibility in the planning system, the Council resolved to include a 'Alternate FSR Clause' that *"allows any site to achieve the maximum FSR permitted by the maps subject to meeting the following criteria:*

- (a) *the development has been subject to a competitive design process and exhibits design excellence as provided in clause 7.10; and*
- (b) *if the development includes residential accommodation, that:*
 - (i) *the development includes community infrastructure; and*

Gateway Determination Review – 55 Aird Street, Parramatta

- (ii) *the development complies with State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide published by the NSW Department of Planning and Environment in July 2015; and*
- (b) *the ground floor of all sides of the building facing the street and any other publicly accessible areas will be used for the purposes of business premises or retail premises.*

Subsequently, in May 2016, the Council (following a meeting of Council) endorsed the Airds Street planning proposal with draft land use controls similar to that considered in the City Centre LEP.

The democratic policy direction of the Council is therefore clear in its intent, by providing similar policy directions in a draft LEP provision and then similar on a site specific proposal. It is noted that the recommendation of the elected Council in May 2016 could have been more refined and clear by directly stating the difference between the draft Clause 7.2 under the CBD Planning Proposal and the existing Clause 7.2 provisions under the Parramatta LEP 2011. It stands to reason however, that Council was following a set policy direction as described in its Aird Street Planning Proposal decision with the same intent as that of the CBD Planning Proposal. Our detailed discussions with Councillors confirm this assessment. Unfortunately, that theme is not represented in the gateway conditions.

Conditions 1 (a), (b), (d) and (e) of the Gateway determination related directly to the proposed controls in the Draft CBD Planning Proposal. Point 1(c) of the Gateway determination however, refers back to the current Parramatta LEP 2011 Clause 7.2. In doing so the Gateway seems to be intentionally discounting the policy direction of the Council and the intent of the considered provision of the draft CBD Planning Proposal 7.2 Clause to incentivise development to achieve higher design objectives to stimulate investment, housing supply and better building outcomes on smaller sites.

If the Gateway is amended, as requested by this submission, to enable further study of the draft Clause 7.2 provisions rather than reference the existing LEP 7.2 Clause, it will provide an excellent opportunity supported by the high quality design resources of the private sector to provide merit based study of the draft Clause and its impacts on an actual application and provide the Council and the Department empirical evidence on its application as the gateway conditions are considered for the broader draft CBD strategy.

Conclusion

This submission has focussed on the impact the Gateway conditions will have on the viability, urban design, amalgamation and sliding scale provisions.

As discussed, tremendous effort has gone in to amalgamating the site. Council has recognised that amalgamation may not always be viable or feasible depending on land economics. This doesn't mean that the outcome will be a bad planning outcome, it simply means it needs to be assessed on its merits and/or further assessment and study undertaken.

Unfortunately, Council's ability to recognise this has not been reciprocated by the Gateway which has adopted a restrictive approach rather than an opportunistic approach to stimulate the market and support redevelopment.

Gateway Determination Review – 55 Aird Street, Parramatta

A number of urban design matters are also raised in the Department's Planning Team Report, however in allowing progression of the proposal the concept design has been supported. The height is simply a product of the density and design. The development outcome sought would deliver significant residential apartments and commercial floorspace in the immediate vicinity of central Parramatta including the Parramatta train station.

The Council's resolution that endorsed the subject Planning Proposal recognised the need to provide flexibility in certain circumstances, consistent with the provisions under the CBD Planning Proposal. The Gateway conditions however, in ensuring the sliding scale provisions of Clause 7.2 of the Parramatta LEP apply and the removal of incentives and certain bonus provisions limits the maximum FSR the site is capable of accommodating to 6.9:1.

It is therefore considered that Condition 1(c) of the Gateway should be encouraging the redevelopment of the site. This could occur under the draft sliding scale provisions that also allow for exceptions, or by removing the sliding scale provisions that apply to the subject site. The better outcome is for the exemption requirements discussed above to apply as this will allow any exemption to be informed and assessed against certain criteria that ensures a high standard outcome.

Further, the Council recognised the benefits of the bonus associated with a high performing building, and that this site should not be exempt. For the Gateway to remove this implies that the State Government does not support the Policy itself. It does not seem sensible to remove this requirement. The bonus provision is also minor in the context of the proposal. Further, the provision of commercial floorspace incentives (up to 3:1 additional) was considered desirable by the Council given the sites location and its ability to provide floorspace with the concept design. Notwithstanding the smaller footprint, smaller commercial spaces are still desirable and support choice and variety within this growing market in Parramatta. The arguments to minimise these incentives is clearly related to the impacts to the height of the tower, which has been supported by the urban design analysis. It is therefore requested that the bonus and incentive provisions of Conditions 1(d) and 1(e) be removed.

Thank you for your consideration of the subject request to review the Gateway conditions related to the Planning Proposal (PP_2017_COPAR_012_00) for land at 55 Aird Street. I look forward to further consideration of the issues raised and the impact such conditions have on the viability and development outcome of the subject site.

If you have any questions in relation to this matter, please do not hesitate to contact me on 0437 521 110.

Yours sincerely



James Mathews
Planning Director
Pacific Planning

Attachment:

1. Economic viability advice prepared by PPM Consulting dated 5 February 2018

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5 February 2018

Mr Matthew Daniel
Pacific Planning
PO BOX 8
CARINGBAH NSW 1495

Dear Mr Daniel

Re: 55 Aird Street, Parramatta

I write to provide economic advice regarding the site and planning controls at 55 Aird Street, Parramatta. It is our opinion that the planning controls affect the viability of redevelopment and lead to poor outcomes.

The Site and Current Controls

We are advised that the site is 658m² and is adjoined by Westfield Parramatta to the west, older two-storey retail to the east and five storey mixed use development to the south.

Existing controls allow for a floor space ratio (FSR) of 4.2:1 with a height limit of 36 metres (around 11 storeys).

According to the Gateway determination, the site would have a maximum FSR of 10:1.

Parramatta Council's Sliding Scale for FSR for Small Sites

Under the Parramatta Local Environmental Plan 2011 (LEP), there is a sliding scale of density allowable for small sites – ostensibly to encourage site amalgamation. The sliding scale FSR include the following thresholds:

- FSRs up to 6:1 – less than or equal 1,000m²
- FSRs of approximately 7:1 – 1,000m² up to 1,800m²
- FSR of 10:1 – over 1,800m²

In its CBD planning proposal to amend the LEP, Council states that, "The purpose of a sliding scale for FSR is to control density on small sites and encourage amalgamation. Parramatta LEP 2011 currently contains this control and following detailed urban design testing in response to the Strategy, retention of the sliding scale in the new CBD Planning Proposal with amendments was recommended." Note that economic viability testing is not mentioned.

55 Aird Street, therefore, will not reach the FSR of 10:1 determined by the Gateway because of the sliding scale. Even if the proponent were to acquire 340m² from a neighbour, taking their site area to 1,000m², the sliding scale of approximately 7:1 would still apply, affording



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them no advantage. Furthermore, the proponent would need to acquire 1,140m² from adjoining properties just to make it to the Gateway-determined FSR, leaving the development outcome unchanged. Applying the policy in this way would be inflexible and illogical and would only satisfy those who believe that planning should be a box-ticking exercise.

Proposal

The proponent seeks an FSR of 15:1, with a height of 120 metres. However, as the site is deemed "small", it can only achieve a maximum FSR of 6.9:1 (including a 15 per cent design excellence bonus). This is only 2.7:1 over current controls.

Our understanding is that the proponent has approached neighbouring sites with the intention of purchasing, but the neighbours are unwilling to sell as their retail businesses are currently successful and they are unwilling to accept a price that would make redevelopment across the amalgamated site viable at this time. Our understanding is that the proponent has designed their building in such a way as to be sympathetic to the future redevelopment of adjoining sites, if not amalgamation, in the future.

Analysis

1. Viability

While we have not undertaken any economic or viability modelling of the proposal, the proponent is confident that it is viable at a density of 15:1 with a height limit of 120 metres. However, applying the sliding scale to the site would make its viability unlikely.

At best, at an FSR of 6.9:1, economies of scale are lost, so in order to make redevelopment viable, the proponent would need to build smaller, lower quality apartments in a lower quality and less appealingly designed building.

At worst, redevelopment of the site would be unviable, leaving the site as low-quality two-storey retail into the foreseeable future, and likely discouraging neighbouring sites from redeveloping as well.

2. Perverse Outcome of the Sliding Scale

It is our opinion that the sliding scale is misguided and suggests a misunderstanding of the dynamics of economics. The market failure that Council's sliding scale is hoping to correct for is unlikely to work – particularly in situations the proponent of 55 Aird Street finds themselves. Moreover, small sites do not automatically suggest a market failure, particularly if it can be demonstrated that development is viable on these sites just as much as it is on larger sites. The sliding scale would only be a worthwhile policy if there was some evidence that smaller sites were unviable in and of themselves, and therefore needed amalgamation to make them viable. However, the proponents of 55 Aird Street have demonstrated that they do not need the protection that such a policy provides and can redevelop viably and sympathetically without it.



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While Council's hope is that FSR controls will encourage site amalgamations, it is possible that it will have the opposite outcome, and even a perverse one. By allowing high quality, sympathetic, redevelopment of small sites, Council is likely to encourage development on adjoining sites. This is because the redeveloped site will go from a low-quality, low-value site to a high-quality, high-value site, and demonstrate to current owners what can be achieved.

All sites are unique, and the market will respond to the specific attributes of the site and the controls that are in place. In the case of 55 Aird Street, the blanket controls that are in place lead the market to say that, as of now and into the foreseeable future, redevelopment of it and all adjoining sites is unviable.

Council should be encouraging redevelopment of sites such as 55 Aird Street, rather than discouraging them through the use of the sliding scale.

3. Macro Effect

It is possible that the owners of the adjoining sites may never want to sell, thus leaving the site small and unamalgamated. A decision not to sell may be a rational response on the neighbours' part. However, this creates a perverse outcome in the housing market. 55 Aird Street is a prime redevelopment site, close to shops, jobs and public transport. It could potentially provide in excess of 100 new apartments in a prime part of the CBD. This is not an insignificant amount of new supply that will be lost if the development does not go ahead. In the current climate of limited housing supply and high population growth creating an affordability crisis, it would be negligent to hold out for the site to be amalgamated, when there is a viable proposal to create new housing. This potential new housing supply would be lost until the sites can be amalgamated (which may never happen). Without the redevelopment of 55 Aird Street, the site is likely to remain as low-quality retail, and not contribute to alleviating the housing affordability crisis.

There is also no guarantee that, by simply waiting, the adjoining sites will eventually acquiesce. Therefore, the site, and its neighbours, may end up deteriorating further into the future.

Viability and Economic Modelling

As mentioned above, no specific viability or economic modelling has been undertaken for the development at 55 Aird Street, Parramatta. The detailed work could be done in the future to demonstrate the specifics contained in this general advice.

Yours sincerely

Martin Musgrave
Director