



Gateway Determination

Planning proposal (Department Ref: PP-2021-6800): to enable a site-specific maximum car parking rate and associated sunset clause for Take Away Food and Drink premises on 355 and 375 Church Street, Parramatta.

I, the Acting Director, Central (GPOP) at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Parramatta Local Environmental Plan (LEP) 2011 to introduce a site-specific maximum car parking rate and associated sunset clause for Take Away Food and Drink premises should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be amended as follows:
 - (a) remove reference to any provisions seeking to prohibit/restrict a drive-through facility for Take Away Food and Drink premises on the subject site; and
 - (b) update the project timeline to reflect the requirements of the Gateway determination.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Transport for NSW; and
 - Transport for NSW (Parramatta Light Rail).

Each public authority/organisation 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 3.34(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 planning proposal must be exhibited **5 months** from the date of the Gateway determination.
6. The planning proposal must be reported to Council for a final recommendation **7 months** from the date of the Gateway determination.
7. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
8. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 14th day of December 2021.



Jazmin Van Veen
Acting Director, Central (GPOP)
Central River City and Western
Parkland City
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces



Planning,
Industry &
Environment

IRF21/4617

355 and 375 Church Street, Parramatta – PP-2021-6800

Site-specific local provision to enable a maximum car parking rate for Take Away Food and Drink Premises

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1 Introduction

1.1 Overview of planning proposal

Table 1 Planning proposal details

LGA	Parramatta
PPA	City of Parramatta Council
NAME	Parking rate for Take Away Food and Drink premises
NUMBER	PP-2021-6800
LEP TO BE AMENDED	Parramatta Local Environmental Plan 2011
ADDRESS	355 and 375 Church Street, Parramatta
DESCRIPTION	Lot 1 DP668821 Lot 1000 DP 791977
RECEIVED	5/11/2021
FILE NO.	IRF21/4617
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

1.2 Site description and surrounding area

The site is at 355 and 375 Church Street, Parramatta, known as Lot 1 DP668821 and Lot 1000 DP791977. The site has a total area of approximately 4,796 sqm and is occupied by a vacant low-rise retail building on the south-eastern corner, and a McDonald's restaurant with an associated car park of approximately 60 at-grade parking spaces and a dual drive-through facility. The site is shown in **Figures 3, 4, and 5** below.

The subject site is zoned B4 Mixed Use under the *Parramatta Local Environmental Plan 2011* (PLEP 2011) and is located on the north-western corner of the intersection of Victoria Road and Church Street, Parramatta. The site has frontages to Church Street, Ross Street, and Victoria Road, and is generally surrounded by medium to high density mixed-use development. The site is at the northern end of the Parramatta CBD Precinct, approximately 1km from Parramatta Railway Station and situated adjacent to the Parramatta Light Rail (Stage 1) corridor on Church Street. South of the site is Prince Alfred Square, a key piece of open space within Parramatta.

The site has proximity to several heritage items which are summarised in **Table 2** below.

Table 2 Planning proposal details

Item No.	Item	Address	Listing
1686	Prince Alfred Park	353D Church Street	State
1742	Single storey residence	14 Ross Street	Local
1743	Wine bar bistro	16 Ross Street	Local
1691	Royal Oak Hotel and stables (and potential archaeological site)	Victoria road (adjacent to 353a Church Street)	Local
1690	Anthony Malouf and Co	366 Church Street	Local
1687	St Peters Uniting Church and studio theatre (and potential archaeological site)	356 Church Street	Local

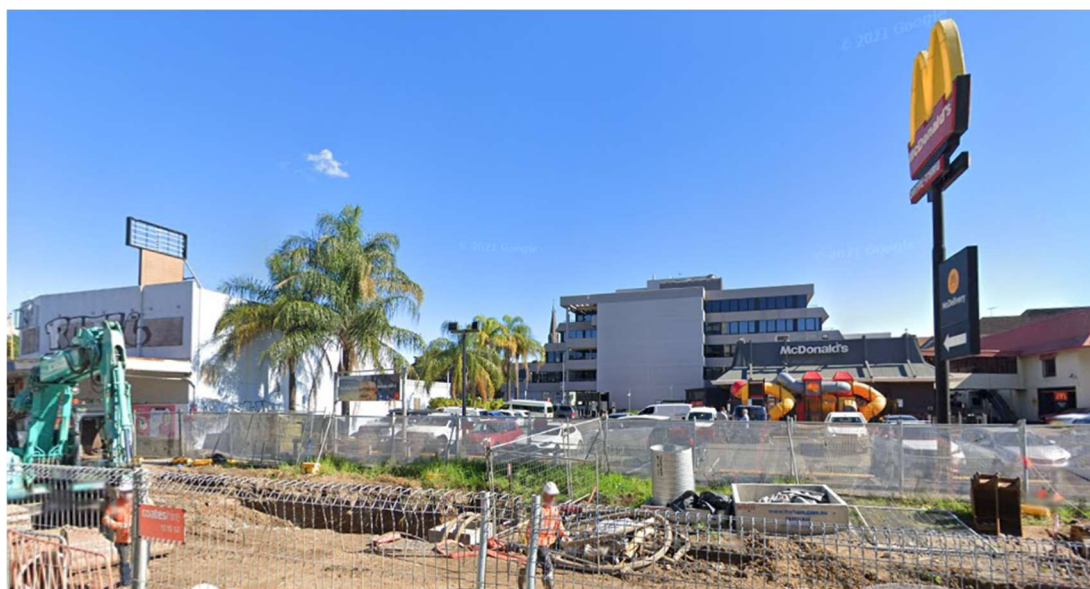
**Figure 3 Street view of the subject site from Church Street, Parramatta (source: Google 2021)**



Figure 4 Aerial photograph of the site context, site bound in red (source: Six Maps, edited by the Department)



Figure 5 Aerial photograph of the broader site context in relation Parramatta CBD, site bound in red (source: Six Maps, edited by the Department)

2 Proposal

2.1 Objectives or intended outcomes

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- enable retention of the existing historical Take Away Food and Drink Premises use of the site, but without provision for a drive-through facility;
- deliver a site-specific parking rate for Take Away Food and Drink Premises that halves the amount of car parking on site for this use compared to the existing situation;
- ensure any future parking provision for Take Away Food and Drink Premises does not result in an unacceptable traffic impact on the local road network.

The objectives of the planning proposal are supported with exception to a provision seeking to prohibit a drive-through facility for Take Away Food and Drink premises. This component of the proposal is not supported, and it is recommended amendments be made prior to exhibition to remove references to the prohibition of a drive-through. This recommendation is discussed in further detail in section 3 of this report.

2.2 Explanation of provisions

The planning proposal seeks to amend the Parramatta LEP 2011 (PLEP 2011) by introducing a:

- site-specific local provision clause in Part 7 relating to maximum car parking rates for Take Away Food and Drink premises that proposes 1 space per 30m² or 30 spaces, whichever is the lesser;
- ensuring that the above clause will expire 5 years from the date of the notification of the LEP amendment to ensure the parking rates do not last in perpetuity and will revert to the CBD parking controls; and
- prohibition on drive-through facilities in conjunction with the land use of Take Away Food and Drink premises.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. As noted previously, the Department is not supportive of the prohibition of drive-through facilities.

A site-specific DCP is also being prepared for the site.

2.3 Mapping

The planning proposal seeks only to make a mapping notation to give effect to the site-specific provisions sought by adding the subject site to the Key Sites, Special Provisions and Sun Access Protection Map (**Figure 6**).



Figure 6 Current and proposed Key Sites, Special Provisions and Sun Access Protection Map

2.4 Background

Concurrent to this site-specific planning proposal process, Council has been progressing the Parramatta CBD Planning Proposal which applies to the site (CBD PP, PP-2020-2616). The CBD PP identifies the subject site, and the Church Street corridor for increased density to support the future growth of the Parramatta CBD. The CBD PP is currently with the Department for finalisation.

Gateway determination was also issued on 13 November 2020 for a site specific planning proposal (PP-2020-3104). The proposal sought to introduce a suite of controls which are largely aligned to greater development capacity proposed under the CBD PP. The proposal also sought to introduce car parking rates for takeaway food and drink premises which are not consistent with the CBD PP.

The Department conditioned through the Gateway determination that amongst other matters, the car parking rates be removed. This was subject to a Gateway determination review on 23 April 2021 (GR-2021-4 – **Attachment A5**) which supported the rates being retained, and the Gateway was altered on 13 May 2021 to remove this condition.

Council resolved on 11 October 2021 (**Attachments A1 & A2**) to amend the planning proposal to remove provisions consistent with the CBD PP, while retaining the bespoke parking rate for takeaway food and drink premises at the site. In considering this refined proposal, Council also resolved for the takeaway food and drink premises drive-through facility to be removed from the current planning proposal.

Table 7 summarises the timeline and background of the planning proposal.

Table 7 Background of the planning proposal.

Date	Milestone
2015	McDonald's submitted a Development Application (DA96/2015A) for the staged development of the subject site including construction of a McDonald's restaurant and concept for future mixed-use development.
November 2015	The DA is reported to the then Sydney West Joint Regional Planning Panel (the Regional Planning Panel) who deferred its formal determination of the matter.
	McDonald's enters a joint venture with Stockland with a commitment to undertake a more comprehensive redevelopment of the site in response to the Panel recommendation. Retention of McDonald's operation on site as part of any future mixed-use scheme is a key requirement of this joint venture agreement.
21 August 2018	Stockland prepares and submits a site-specific planning proposal to facilitate changes to the LEP that would enable the site to be redeveloped in line with the planning controls proposed under Council's Parramatta CBD Planning Proposal, while retaining a McDonald's on site.
July 2020	The planning proposal is reported to and endorsed by Council. Council also resolves to prepare a draft Development Control Plan (DCP) and draft Planning Agreement for this site.
August 2020	<p>The planning proposal is forwarded by Council to the Department for Gateway Determination (PP-2020-3104). The planning proposal seeks to:</p> <ul style="list-style-type: none"> • introduce site-specific local provisions to the PLEP 2011, which contained an incentive height control and an incentive FSR control allowing for a maximum potential of 7.2:1 (including design excellence and high-performance building bonuses); and • introduce a site-specific parking provision for Take Away Food and Drink Premises and other parking rates consistent with the then-current Parramatta CBD Planning Proposal (CBD PP).
November 2020	Gateway determination is issued by the Department for the planning proposal (PP-2020-3104). The Gateway supported the amendments sought to the PLEP 2011, except for the site-specific parking provision for Take Away Food and Drink Premises and required inclusion of the neighbouring site at 385 Church Street in the proposal.
April 2021	<p>The Gateway determination is subject to a Gateway Review (GR-2021-4 – Attachment A5) by the Independent Planning Commission (IPC).</p> <p>The IPC recommended in their advice to:</p> <ul style="list-style-type: none"> • amend the Gateway determination to allow inclusion of the parking rate for Take Away Food and Drink Premises • remove the condition relating to the neighbouring site.
13 May 2021	An updated Gateway determination, which reflects the IPC's advice and key milestones for the proposal, was issued by the Department.

14 July 2021	<p>The Department writes to Council regarding a timelier and more efficient pathway forward for the planning proposal. This correspondence is in response to the IPC's advice following the Gateway determination review and Council's request for an extension of time to make the planning proposal.</p> <p>The Department suggested Council consider amending the site-specific planning proposal to only relate to matters which are not aligned to the CBD PP as it had been submitted for finalisation and this process will determine the built form controls.</p> <p>In response, the planning proposal has been updated to focus solely on site-specific car parking provisions for Take Away Food and Drink Premises.</p>
11 October 2021	<p>A site-specific planning proposal is reported to and endorsed by Council that is seeking a new Gateway Determination for a bespoke parking rate for a takeaway food and drink premises at the site (Attachments A1 & A2).</p> <p>Council resolve, a drive-through facility associated with a takeaway food and drink premises on the site is not supported as it would aggravate traffic conditions and is an inappropriate ground level use for a key corner site.</p>
5 November 2021	<p>The new planning proposal (PP-2021-6800) is submitted to the Department for Gateway determination.</p>

3 Need for the planning proposal

The planning proposal responds to recommendations made by the Independent Planning Commission (IPC) following the Gateway Review of the previous proposal for the site (**Attachment A5**). The proposal also notes the Department's correspondence to Council dated 14 July 2021 which proposed Council to consider amending the site-specific planning proposal to only relate to matters which are not aligned with the CBD PP, given that proposal is currently with the Department for finalisation and will assess the built form. The updated planning proposal (**Attachment A**) seeks to deliver site-specific parking rates for Take Away Food and Drink Premise without the provision of a drive-through facility.

The planning proposal is considered the best means of enabling the addition of site-specific parking provisions for Take Away Food and Drink premises within the PLEP 2011 on the subject site. As Parramatta LEP 2011 and the Parramatta CBD PP both include LEP parking rates, the LEP must be amended to vary these controls.

However, the proposal seeks to prohibit drive-through facilities for Take Away Food and Drink premises on site through a LEP amendment. Council resolved on 11 October 2021 (**Attachment A2**) that a "a drive-through facility associated with a Take Away Food and Drink premises on the site is not supported as it would aggravate traffic conditions and is an inappropriate ground level use for a key corner site."

This component of the proposal is not supported, and it is recommended amendments be made prior to exhibition to remove references to the prohibition of a drive-through. A "drive-through facility" is not classified as a land use under the PLEP 2011, rather is a component of uses already permitted in the zone. The management of a drive through on site would be best addressed and facilitated through an update to the DCP rather than an LEP amendment and considered through the Development Application process. Council's report (**Attachment A2**) also notes that a site-specific DCP which includes controls for the drive-through facility is being prepared by Council to support the planning proposal.

4 Strategic assessment

4.1 District Plan

The site is within the Central City District. The Greater Sydney Commission released the Central City District Plan on 18 March 2018, which contains planning priorities and actions to guide the growth of the district while improving its social, economic, and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied that the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

The planning proposal will provide a site-specific parking provision which will allow the existing McDonald's site to remain in-situ as a commercially viable operation near key opportunities for jobs, services, and public transport. Therefore, the planning proposal is consistent with the following priorities under the District Plan:

- C6: Creating and renewing great places and local centres, and respecting the District's heritage.
- C7: Growing a stronger and more competitive Greater Parramatta.
- C9: Delivering integrated land use and transport planning, and a 30-minute city

4.2 Local

The planning proposal (**Attachment A**) is consistent with the following local plans and endorsed strategies.

Table 4 Local strategic planning assessment

Local Strategies	Justification
Parramatta Local Strategic Planning Statement (LSPS)	<p>The planning proposal will provide a site-specific parking provision for a key site centrally located within the Parramatta CBD. The proposal will support the in-situ commercial and economic operation of the existing McDonald's, which is consistent with the relevant Planning Priorities within the LSPS, including:</p> <ul style="list-style-type: none"> • Planning Priority 1 Expand Parramatta's economic role as the Central City of Greater Sydney • Planning Priority 11 Build the capacity of the Parramatta CBD, Strategic Centres, Local Centres, and Employment Lands to be strong, competitive, and productive
Parramatta CBD Planning Proposal (CBD PP)	<p>The CBD PP has been submitted to the Department for finalisation in parallel to this planning proposal. Under the CBD PP, the proposed site-specific car parking rate is not consistent. However, the additional introduction of a "sunset" clause will ensure the site-specific parking rates are only instilled for 5 years from the date of the notification of the LEP amendment. As noted above, this matter has been subject to a Gateway Review.</p>

4.3 Local planning panel (LPP) recommendation

On 16 June 2020, the LPP considered a report on the original planning proposal (PP_2020_COPAR_008_00) which sought amendments to planning controls in addition to a site-specific parking provision for the subject site. The LPP resolved in support of the planning proposal and, given the proposal's consistency with the CBD PP, recommended through its advice that Council endorse the proposal and submit a request for Gateway determination (**Attachment LPP resolution**). Council resolved to adopt the advice of the LPP and submitted the planning proposal for Gateway determination in August 2020.

Following the outcomes of a Gateway Review (GR-2021-4 – Attachment A5) by the IPC in April 2021 and the Department's correspondence to Council on 14 July 2021, the planning proposal has been updated to focus solely on a site-specific car parking provision for Take Away Food and Drink premises. Council submitted the planning proposal in its current form for Gateway determination on 5 November 2021.

On 11 November 2021, Council advised the Department of a decision to not resubmit the proposal to the LPP (**Attachment A7**). Council reasoned that given the current planning proposal is a variation of the earlier proposal reviewed and endorsed by the LPP on 14 June 2020, there was no need to repeat this process and it is noted Council has been provided with the LPP's advice.

4.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 Business and Industrial Zones	Yes	<p>This Direction seeks to ensure that business and industrial uses occur in the right places, are not diminished, and do not impact the viability of existing centres.</p> <p>The proposal is consistent with this Direction as it does not seek to amend the B4 Mixed Use zoning. Rather, it will facilitate a site-specific parking provision for take away food and drink premises and retains a zoning that permits all types of commercial premises with consent.</p>
Direction 3.4 Integrating Land Use and Transport	Yes	<p>The Direction seeks to reduce travel demand, dependency on cars, and support public transport services and freight movement.</p> <p>The proposal is consistent with the Direction as it seeks to reduce the maximum car parking capacity by 50 per-cent at a proposed rate of 1 space per 30m² or 30 spaces, whichever is the lesser. This will encourage the site to be accessed via surrounding public transport services such as the future Parramatta Light Rail (Stage 1) corridor and local bus routes.</p>

Direction 4.1 Acid Sulfate Soils	Yes	<p>The objective of this Direction is to avoid adverse impacts of the use of land which may contain acid sulfate soils.</p> <p>The site is mapped as Class 5, being land with a lower probability of acid sulfate soils being present. The planning proposal does not seek to intensify the use of land but rather allow an additional site-specific parking provision.</p> <p>The proposal is consistent with this Direction.</p>
Direction 6.3 Site Specific Provision	Yes	<p>This Direction seeks to remove complexity in the planning system through restrictive site-specific provisions.</p> <p>While the proposal is inconsistent with the Direction, a site-specific LEP amendment is considered the most efficient means of achieving the proposal's outcome for a site-specific parking provision for Take Away Food and Drink Premises. The planning proposal will not result in overly restrictive provisions and the inconsistency is considered justified.</p>

4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Proposal	Complies
SEPP (Infrastructure) 2007	To improve regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services.	The site adjoins major roads within the Parramatta CBD (Victoria Road and Church Street) and development may require future consideration under the SEPP.	Yes

5 Site-specific assessment

5.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Traffic and transport	<p>The site is immediately adjacent to the corridor for the Parramatta Light Rail (Stage) (PLR) and light rail stop on Church Street. This will provide a connection to the Parramatta Railway Station and Bus-interchange.</p> <p>The proposal seeks to introduce a site-specific clause relating to maximum parking rates for Take Away Food and Drink premises. The proposed rate is 1 space per 30m² or 30 spaces, whichever is the lesser. In Council's report, the parking rates are proposed to be subject to a "sunset" clause that will expire 5 years from the date of the notification of the LEP amendment. This is proposed to ensure that the parking rates do not last in perpetuity and will revert to the CBD parking controls. Further, Transport for NSW commented on the previous version of the planning proposal (PP-2020-3204, Attachment A6) and raise no objection to the proposal. It is recommended that Transport for NSW is engaged in further consultation for technical advice as the current proposal continues through the plan-making process.</p>

5.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Social impact	<p>The subject site currently delivers approximately 60 parking spaces and is at the intersection of two major roads, Church Street and Victoria Road. The proposed site-specific parking provision plans to decrease on-site parking by 50 percent to provide a maximum of 30 car parking spaces to reduce vehicle traffic during peak periods. With the addition of the Parramatta Light Rail (Stage 1) corridor and future Light Rail stop at the junction of Church Street and Victoria Road, access to the site will be increasingly serviced by public and pedestrian transit.</p>
Economic impact	<p>The planning proposal's site-specific parking provision for Take Away Food and Drink Premises will enable the McDonald's site to maintain a commercially viable operation on site as part of a new mixed-use development, generating local employment opportunities within an area of high public and transport amenity.</p>

5.3 Infrastructure

The site is in an established urban area and has access to a range of existing services and any future development application on the site will include further investigations to determine whether any upgrade of existing facilities will be required.

6 Consultation

6.1 Community

Council proposes a community consultation period of 28 days. The exhibition period proposed is considered appropriate and is conditioned in the Gateway determination.

6.2 Agencies

Council has not nominated specific public agencies to be consulted. Transport for NSW commented on the previous version of the planning proposal (PP-2020-3204, **Attachment A6**) and notes “it is agreed that the site-specific implications of the proposal will not likely have any significant material consequences for the surrounding transport network operations.”

The Department recommends that given the proposal has been updated to only concern site-specific car parking provisions, TfNSW are kept involved and informed throughout the consultation process for the proposal. It is also recommended that Council consults with Transport for NSW Parramatta Light Rail team given the site’s proximity to the Parramatta Light Rail (Stage 1) corridor to be delivered on Church Street. Government agencies are to be given at least 21 days to comment on the proposal.

7 Timeframe

Council proposes a 7-month timeframe to complete the LEP.

The Department recommends a timeframe of 9 months to allow for sufficient time to finalise. Additional milestone dates have also been recommended to ensure timely progression of this matter. It is recommended that the project timeline is to be updated prior to exhibition to respond to this timeframe, reflect the date of Gateway determination, and include conditions requiring Council to exhibit and report on the planning proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

8 Local plan-making authority

Council has not advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal primarily concerns the local issue of parking rates, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

9 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal does not have any significant or adverse environmental, economic, social, or infrastructure impacts.
- A LEP amendment to introduce a site-specific parking provision is considered the most appropriate mechanism to achieve the outcomes of the proposal.

10 Recommendation

It is recommended that the delegate of the Secretary agree that any inconsistency with Direction 6.3 Site Specific Provision is minor and justified in accordance with the Direction.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to exhibition, the planning proposal is to be amended as follows:
 - (a) Remove references to prohibiting/restricting a drive-through facility for Take Away Food and Drink premises on the site; and
 - (b) Update the project timeline to reflect the requirements of the Gateway determination.
2. Consultation is required with the following public authorities under section 3.34(2) of the Act and to comply with the requirements of relevant section 9.1 Directions:
 - (a) Transport for NSW; and
 - (b) Transport for NSW (Parramatta Light Rail team).
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The planning proposal must be exhibited **5 months** from the date of the Gateway determination.
5. The planning proposal must be reported to Council for a final recommendation **7 months** from the date of the Gateway determination.
6. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



Angela Hynes

Acting Manager, Central (GPOP)



14/12/2021

Jazmin Van Veen

Acting Director, Central (GPOP)

Assessment officer

Natalie Thai

Student Planner, Central (GPOP)

8289 6952