

**REPORTS TO COUNCIL - FOR COUNCIL DECISION**

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<b>ITEM NUMBER</b>	13.6
<b>SUBJECT</b>	Planning Agreement Amendments: 20-22 Macquarie Street, Parramatta and 197-207 Church Street/89 Marsden Street, Parramatta
<b>REFERENCE</b>	F2024/00282 - D09351614
<b>REPORT OF</b>	Team Leader Infrastructure Planning
<b>CSP THEME:</b>	Fair

**WORKSHOP/BRIEFING DATE:** Nil

**PURPOSE:**

To seek Council's in-principle endorsement to amend two Planning Agreements relating to land at 20-22 Macquarie Street, Parramatta and 197-207 Church Street/89 Marsden Street, Parramatta, and to publicly exhibit draft Deeds of Variation to the Planning Agreements. (The variations relate to the removal of a 2 metre wide easement for public access along the boundary of the lands adjacent to their Marsden Street frontages).

**RECOMMENDATION**

- (a) That Council endorse in-principle amendments to existing Planning Agreements relating to land at 20-22 Macquarie Street and 197-207 Church Street and 89 Marsden Street, Parramatta to delete the obligations relating to *Public Access & Easements*, including any ancillary amendments.
- (b) That delegated authority be granted to the CEO to prepare the draft Deeds of Variation to the Planning Agreements for public exhibition purposes.
- (c) That the draft Deeds of Variation to the Planning Agreements be publicly exhibited for 28 days.
- (d) That, the outcomes of the public exhibition be detailed in a further report to Council.

**BACKGROUND*****Planning Agreement***

1. On 23 March and 15 June 2021 respectively, Council executed Planning Agreements with Praxis Capital Pty Ltd & M20 Pty Ltd relating to land at 20-22 Macquarie Street, Parramatta; and with Holdmark Properties Pty Ltd relating to land at 197-207 Church Street and 89 Marsden Street, Parramatta (see **Attachments 1 and 2**).
2. Both Planning Agreements required the provision of:
  - (a) a monetary contribution (toward Parramatta CBD public domain improvements for 197 Church Street and toward Parramatta CBD public

domain improvement, affordable housing, and Council’s Cultural Plan for 20-22 Macquarie Street) but only payable in the event of an approval including residential development on the site; and

- (b) a 2-metre-wide easement for public access along the boundary of the land adjacent to the Marsden Street frontages (refer Figure 1). Covenants prohibiting structures in this location were also required. The purpose of these public access easements was to enable a future bicycle path along the eastern side of Marsden Street and was required at the time in accordance with a DCP control.

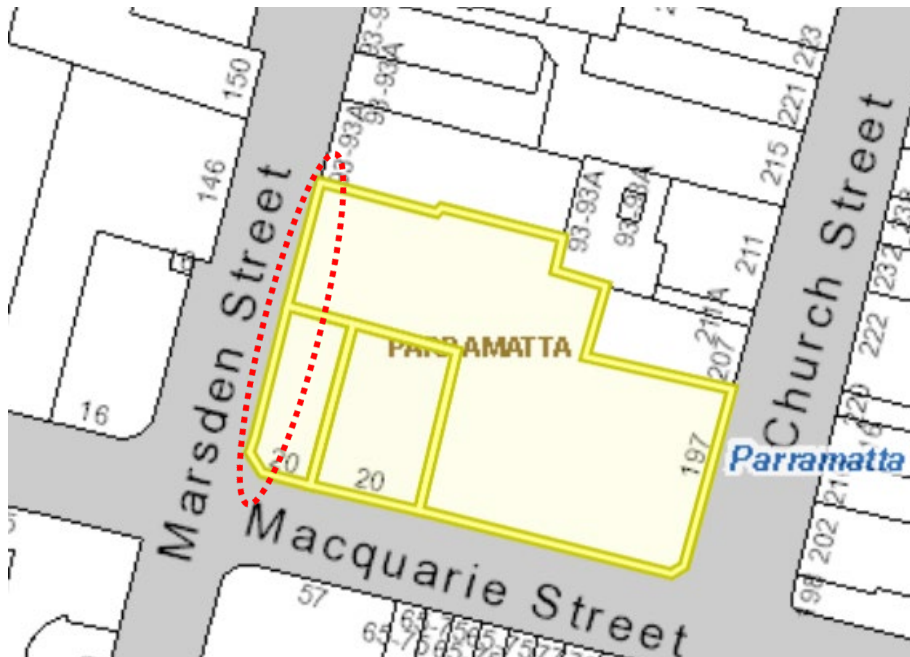


Figure 1 – Site location map

**Parramatta CBD Integrated Transport Plan**

- 3. At its meeting of 26 July 2021, Council considered the outcomes of the public exhibition of the revised *Parramatta CBD Integrated Transport Plan* (ITP).
- 4. The ITP included concept design plans for the Marsden Street Cycleway which relocated the cycleway to the western side of Marsden Street (opposite the sites) as shown in bright green on Figures 2 and 3 below.

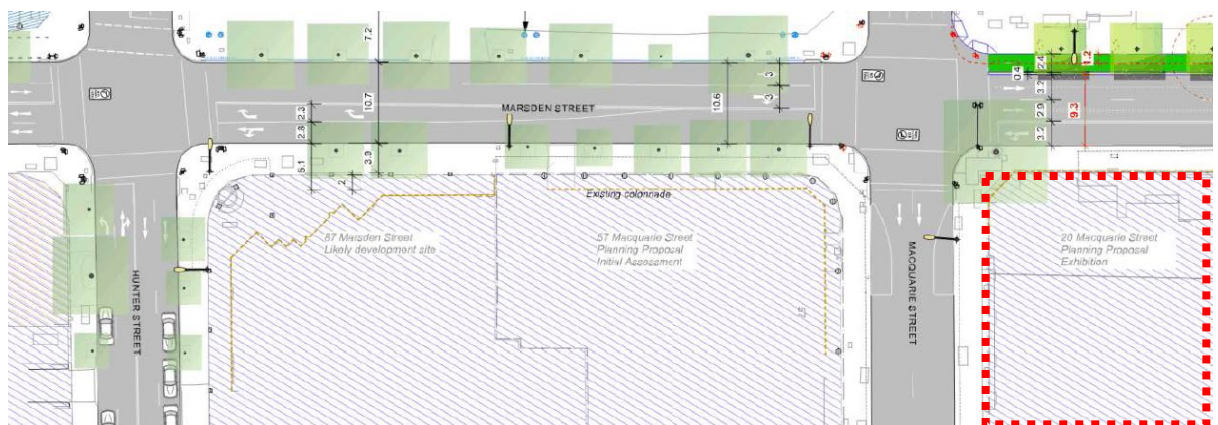


Figure 2: Marsden Street Cycleway Concept Design – opposite 20-22 Macquarie Street, Parramatta



Figure 3: Marsden Street Cycleway Concept Design – opposite 197-207 Church Street and 89 Marsden Street, Parramatta

5. At that meeting, Council resolved to endorse the revised ITP and forward it to the State Government to support finalisation of the CBD Planning Proposal.
6. Council also resolved at the same meeting to approve further investigation into a number of amendments to the land reservation acquisition (LRA) maps, including removal of the LRA along Marsden Street between George Street and Campbell Street (part (b)(6) below) which adjoins the subject sites, viz:

(b) That Council approve further investigation of the following changes to the CBD Planning Proposal recommended by the Integrated Transport Plan:

- 1 Remove LRA on O'Connell St / Victoria Rd
- 2 Remove LRA on Smith St between George St and Macquarie St (east)
- 3 Remove LRA on Smith St north of Phillip St (west side)
- 4 Remove LRA on Wilde Ave / Victoria Rd
- 5 Remove LRA southern side George Street
- 6 Remove LRA on Marsden Street between George St and Campbell St east side**
- 7 Change residential parking rates to 'B' rates for locations over 800 m from Parramatta Train Station, planned Parramatta Metro Station and over 400 m from the Harris Park Train Station,

and that these be added to list of items in the Changes that have merit for further investigation (via Decision Pathway 3 - Orange) in Group 1, as resolved by Council on 15 June 2021 (Item 17.1) for the CBD Planning Proposal and noting that further consultation with Transport for NSW will occur as part of any statutory requirement associated with the LEP amendment process.

7. Parramatta Local Environmental Plan 2023 (including the CBD Planning Proposal amendments that came into effect October 2022) have removed the LRA from the eastern side of Marsden Street as outlined in Figure 4 below.



Figure 4: Land Reservation Acquisition Map – Marsden Street, Parramatta (between Macquarie Street and George Street)

### **Planning Application History**

8. In respect of 20-22 Macquarie Street, Parramatta, there are no current development applications lodged, however a previous Design Competition exists for a hotel at this location (DC/10/2021). The reference design does include a two (2) metre setback at ground level.
9. In respect of 197-207 Church Street & 89 Macquarie Street, Development Application (DA) No. DA/16/2022 was lodged with Council in 2022 for the construction of a two (2) tower mixed use development comprising a two (2) storey retail podium and 25-storey commercial office tower; and a 32-storey hotel accommodation tower over basement parking. Remaining unresolved issues relating to this DA/16/2022 include landowner consent and concurrence from Sydney Metro in respect of stratum space below the site.
10. Given the decision to relocate the cycleway to the opposite side of Marsden Street, the buildings (on both sites) must align to all street frontages, including Marsden Street. For 197-207 & 89 Marsden Street, this is reflected in the current DA Plans in DA/16/2022. For 20-22 Macquarie Street, any future development application would also need to align to all street frontages.

### **ISSUES**

11. While Council no longer requires the public access areas and easements adjacent to the Marsden Street frontages of each site, the obligation is still required under each Planning Agreement.
12. Legal advice received suggests that the removal of the obligation can only be achieved via an amendment to the Planning Agreements to delete the obligation.

13. Councils in principle endorsement is sought to delete the relevant components of each Planning Agreement that relate to the public access and easement obligations, including:
  - Clause 6.2 (*Public Access & Easements*)
  - Schedule 1 (Public Access & Easement Terms);
  - Annexure A (Setback Area), and
  - any other associated changes such as *Definitions* and *Schedule 2* Summary of Obligations, and the like.
14. Section 208 of the Environmental Planning and Assessment Regulation requires that where a planning authority proposes to enter into, amend or revoke a planning agreement, in connection with a development application or a change to a local environmental plan, notice of the planning authority's proposal must be given. It is recommended that the draft Deed of Variation to amend the Planning Agreement be publicly exhibited for 28 days before reporting back to Council.
15. Following exhibition, the matter will be reported to Council seeking endorsement to adopt the Deeds of Variation to the Planning Agreements which will then be required to be registered on the land title by each Developer.
16. The proposed amendments to the Planning Agreements do not affect the public value attributed by the VPAs as there is no longer a need for this land or access. Had Council still had LRAs in place on the eastern side of Marsden Street, any public access or land acquisition cost would have created a financial liability for Council. However, as this has now been removed the requirement is voided. Furthermore, at the time of negotiating the Planning Agreements, the easements would have been given a negligible value as the FSR entitlement for the entire site would not have been reduced as a result of the easement for access.

## **CONSULTATION & TIMING**

### Stakeholder Consultation

17. Council previously publicly exhibited the ITP in 2021 including the Marsden Street bicycle path and recommended deletion of LRAs on the eastern side of Marsden Street. Furthermore, the CBD Planning Proposal which included the deletion of the LRAs on the eastern side of Marsden Street was also publicly exhibited as a requirement of Gateway Determination.
18. Should Council endorse the amendment to the Planning Agreements to delete the obligations relating to public easements along this part of Marsden Street, the draft Deeds of Variation to each Planning Agreement will be publicly exhibited for 28 days.
19. The following stakeholder consultation has been undertaken in relation to this report.

<b>Date</b>	<b>Stakeholder</b>	<b>Stakeholder Comment</b>	<b>Council Officer Response</b>	<b>Responsibility</b>
14 March 2024	VPA Parties of each agreement have been advised of the proposed amendment	VPA parties raise no objection to the amendment	Following in-principle endorsement by Council to amend the Planning Agreements, Council officers will work with each VPA Party to agree on a Deed of Variation to the Planning Agreement before public exhibition occurs.	Group Manager Infrastructure Planning & Design

### Councillor Consultation

20. Councillors were previously consulted on the changes to the Marsden Street bicycle path and removal of the LRA on the eastern side of Marsden Street, as part of consultation on the ITP and CBD Planning Proposal, including outcomes of related public exhibition matters (between 2020 and 2021).
21. The following Councillor consultation will be undertaken in relation to this report.

<b>Date</b>	<b>Councillor</b>	<b>Councillor Comment</b>	<b>Council Officer Response</b>	<b>Responsibility</b>
TBA	All Councillors invited	Report finalised prior to briefing session	Report finalised prior to briefing session	Group Manager Infrastructure Planning and Design

### **LEGAL IMPLICATIONS FOR COUNCIL**

22. As the Planning Agreements are legal documents, any variation to the Agreements must be formally made through a Deed of Variation prepared and reviewed by both Council's and the other party's solicitors.
23. The Deed of Variation will then be required to be registered on the land title of the relevant property once executed by Council and the Developer.

### **FINANCIAL IMPLICATIONS FOR COUNCIL**

24. There are no financial implications for Council as it no longer requires the easements for public access in these locations. Council has removed the land reservation acquisition from this site and as such there is no future burden on Council to acquire this land.

	FY 22/23	FY 23/24	FY 24/25	FY 25/26
<b>Revenue</b>				
Internal Revenue				
External Revenue				
<b>Total Revenue</b>	N/A	N/A	N/A	N/A
<b>Funding Source</b>	N/A	N/A	N/A	N/A
<b>Operating Result</b>				
External Costs				
Internal Costs				
Depreciation				
Other				
<b>Total Operating Result</b>	N/A	N/A	N/A	N/A
<b>Funding Source</b>				
<b>CAPEX</b>				
CAPEX				
External				
Internal				
Other				
<b>Total CAPEX</b>	N/A	N/A	N/A	N/A

Diane Galea  
**Team Leader Infrastructure Planning**

Anthony Newland  
**Group Manager Infrastructure Planning & Design**

Jennifer Concato  
**Executive Director City Planning and Design**

John Angilley  
**Executive Director Finance & Information**

Gail Connolly  
**Chief Executive Officer**

**ATTACHMENTS:**

- |   |   |             |
|---|---|-------------|
| 1 | Existing Planning Agreement 197-207 Church Street & 89 Marsden Street, Parramatta | 30<br>Pages |
| 2 | Existing Planning Agreement 20-22 Macquarie Street, Parramatta                    | 29<br>Pages |

**REFERENCE MATERIAL**