

**Item No:** IP0216 Item 4

**Subject:** PLANNING PROPOSAL FOR 73 MARY STREET, 67, 69 AND 71 MARY STREET, 50 & 52 EDITH STREET & 43 ROBERTS STREET, ST PETERS

**File Ref:** 14/5390/144029.15

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**Authorised By:** Tim Moore - Director, Planning and Environmental Services

## SUMMARY

On 30 September 2015, Council received a planning proposal request incorporating 67 & 73 Mary Street, 50 & 52 Edith Street & 43 Roberts Street, St Peters (the former Taubmans Paint Factory site). The planning proposal request seeks to amend the MLEP 2011 for the subject site to rezone the land from IN2 Light Industrial and R2 Low Density Residential to B4 Mixed Use (for commercial and residential uses) and RE1 Public Recreation to facilitate a creative industry precinct with residential uses, community facilities and car parking.

The proposal involves the amalgamation of 6 lots and the selective demolition and adaptive reuse of existing warehouse/industrial buildings on the site. Council's Architectural Excellence Panel considered the concept plans at the pre-Planning Proposal stage and internal comments have been provided regarding the submitted proposal.

The application proposes a graduated Height of Building control from 9.5 metres to 14 metres, 17 metres, 20 metres and 26 metres to apply across the site, and an increase in Floor Space Ratio from the current 0.95:1 to 2.2:1. Indicative plans propose 180 new residential apartments in buildings up to 8 storeys, commercial floor space, a neighbourhood centre and public domain enhancements. Car parking for 340 vehicles is proposed to be provided across two basement levels. Entry to the site for cars is proposed via Edith Street, with Mary Street to provide an exit point. Service vehicles will enter and exit via Mary Street.

The proponent has submitted a draft VPA which comprises an offer of publically accessible open space and an area within the ground level of one of the buildings for community space. There has been no agreement to this offer to date with the value of the public benefit still the subject of evaluation and negotiation with the proponent. The final terms of the offer can be finalised after any gateway determination and prior to any amendment to the LEP.

Overall, the planning proposal is considered suitable to progress to the Department of Planning & Environment for Gateway determination, subject to resolution of issues identified in this report. These concerns include the scope of the preliminary contamination investigation submitted with the planning proposal request, proposed level of solar access to the public open space lawn area, the proposed rezoning of residential properties at 67, 69 & 71 Mary Street, the proposed RE1 zoning of the Roberts Street 'pocket park', and the suitability of the proposed zoning to permit the proposed development on the site.

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## RECOMMENDATION

### THAT Council:

1. supports the planning proposal request for 73 Mary Street, 67, 69 & 71 Mary Street, 50 & 52 Edith Street & 43 Roberts Street, St Peters to rezone the land from IN2 Light Industrial and R2 Low Density Residential to B4 Mixed Use and RE1 Public Recreation, subject to:

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- a) inclusion of MLEP 2011 Schedule 1 additional permitted use of 'residential accommodation' as part of a mixed use development;
  - b) a limit on the quantum of residential development permitted to ensure that the precinct retains a mix of spaces for future and current industrial/commercial tenants and residents;
  - c) amending proposed land use zoning for part of 67, 69 & 71 Mary Street from B4 Mixed Use to R2 Low Density Residential to reflect the current and intended future use of these buildings;
  - d) determination of an appropriate zoning for the Roberts Street 'pocket park' depending upon the final Voluntary Planning Agreement (VPA) for the planning proposal;
  - e) design amendments to ensure that the public open space lawn area receives at least 2 hours of solar access between 9.00am and 3.00pm midwinter for 50% of its finished surface area;
  - f) inclusion of site specific controls within Precinct 31 (Unwins Bridge Road) in Part 9 of MDCP 2011 as attached to this report;
  - g) further contamination investigations being undertaken to address all identified deficiencies in the preliminary investigation report and this report in parallel with the submission of the planning proposal to the Department of Planning & Environment (DP&E) for Gateway determination; and

2. forward the planning proposal to the DP&E for Gateway determination.

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| <b>Our Place, Our Vision – Marrickville Community Strategic Plan 2023</b> |  |
|---|--|
| 3.9   | Marrickville's built environment demonstrates good urban design and the conservation of heritage, as well as social and environmental sustainability |

## BACKGROUND

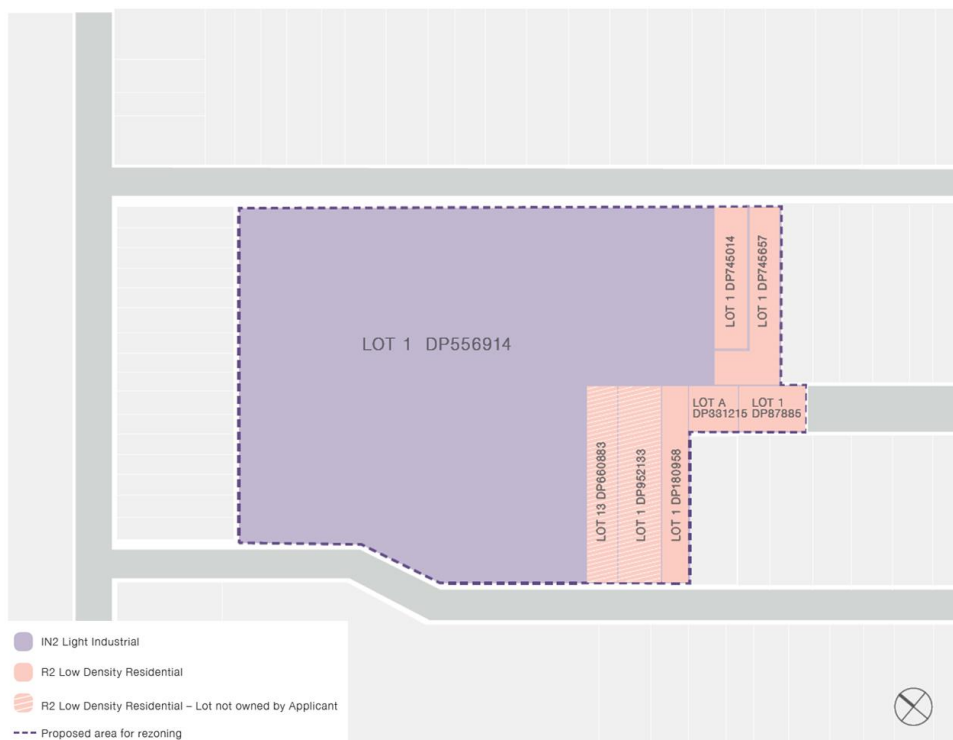
In April 2015 Council received a request for pre-planning proposal advice from Caliph Pty Ltd regarding the subject site. A formal discussion was held with Council officers on 13 June 2014. Council officers reviewed the documentation and provided written advice on the proposal, including comments from Council's Architectural Excellence Panel (AEP), in July 2014.

The planning proposal request was lodged with Council on 30 September 2015. A full copy of the planning proposal is available at: <http://www.marrickville.nsw.gov.au/en/development/planning-controls>.

## DISCUSSION

The subject site is currently zoned IN2 Light Industrial and R2 Low Density Residential under Marrickville Local Environmental Plan (MLEP) 2011 and has a site area of 16,629 m<sup>2</sup>. The subject site comprises eight lots (8) including two which are not owned by the applicant. The extent of the subject site is shown at Figure 1 below.

The site is bounded by Mary Street to the west, Edith Street to the east and Roberts Street to the south. The northern boundary of the site abuts residential properties addressing Unwins Bridge Road.



**Figure 1: The subject site**

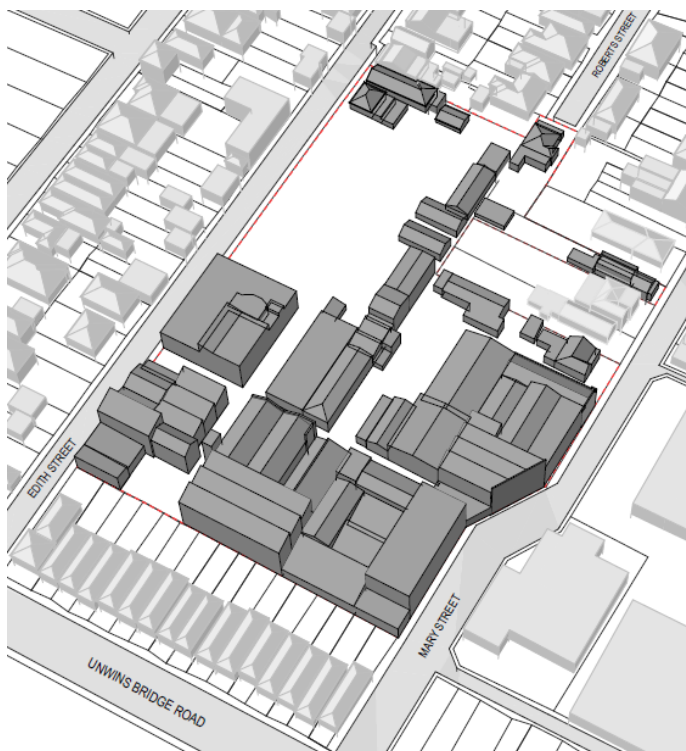
The subject site is currently known as 'Precinct 75' and contains a mix of light industries and commercial uses including design businesses, recording studios, coffee roaster and a microbrewery. Parking for approximately 80 vehicles is provided on site. The site currently accommodates approximately 13,780m<sup>2</sup> of leasable floor area.

73 Mary Street currently contains 12 buildings used for light industrial and commercial purposes up to three storeys in height, and a large hardstand parking area. The bulkiest buildings on the site are concentrated in the northern section and along its Mary and Edith Street frontages. These buildings tend to be masonry with lightweight structures acting as add-on elements. A large, open hardstand parking area dominates the south eastern corner of the site facing Edith Street. The planning proposal also includes six adjoining low density residential properties, three addressing Mary Street, two addressing Edith Street and one at the end of Roberts Street. Two of these properties, 67 and 71 Mary Street, are not owned by the applicant but are included within the planning proposal.

73 Mary Street is devoid of any significant landscaping and contains no through links for pedestrians or cyclists in either a north-south or east-west direction. Roberts Street intersects with the site at its south eastern boundary although it is a cul-de-sac and does not provide access into 73 Mary Street.

The six residential properties are free standing, low density residential properties. Each dwelling is contained on one allotment of land, with the exception of 43 Roberts Street which comprises two allotments. These buildings generally have small front setbacks and associated landscaping. The buildings are typical of the type of low density residential development surrounding the site.

Figure 2 below shows the location of existing structures within the subject site.



**Figure 2: Existing structures on the subject site**

The land uses surrounding the subject site include low density residential uses along Mary, Edith and Roberts Street, and Unwins Bridge Road. Land to the south of the site along Mary Street contains a mix of light industrial and employment uses.

Mary Street operates as a one way (east to west) local road linking the Princes Highway and Unwins Bridge Road. Edith Street has a two way operation with generally unrestricted parking on both sides of the street. Both streets intersect with Unwins Bridge Road, however only Mary Street is signalised.

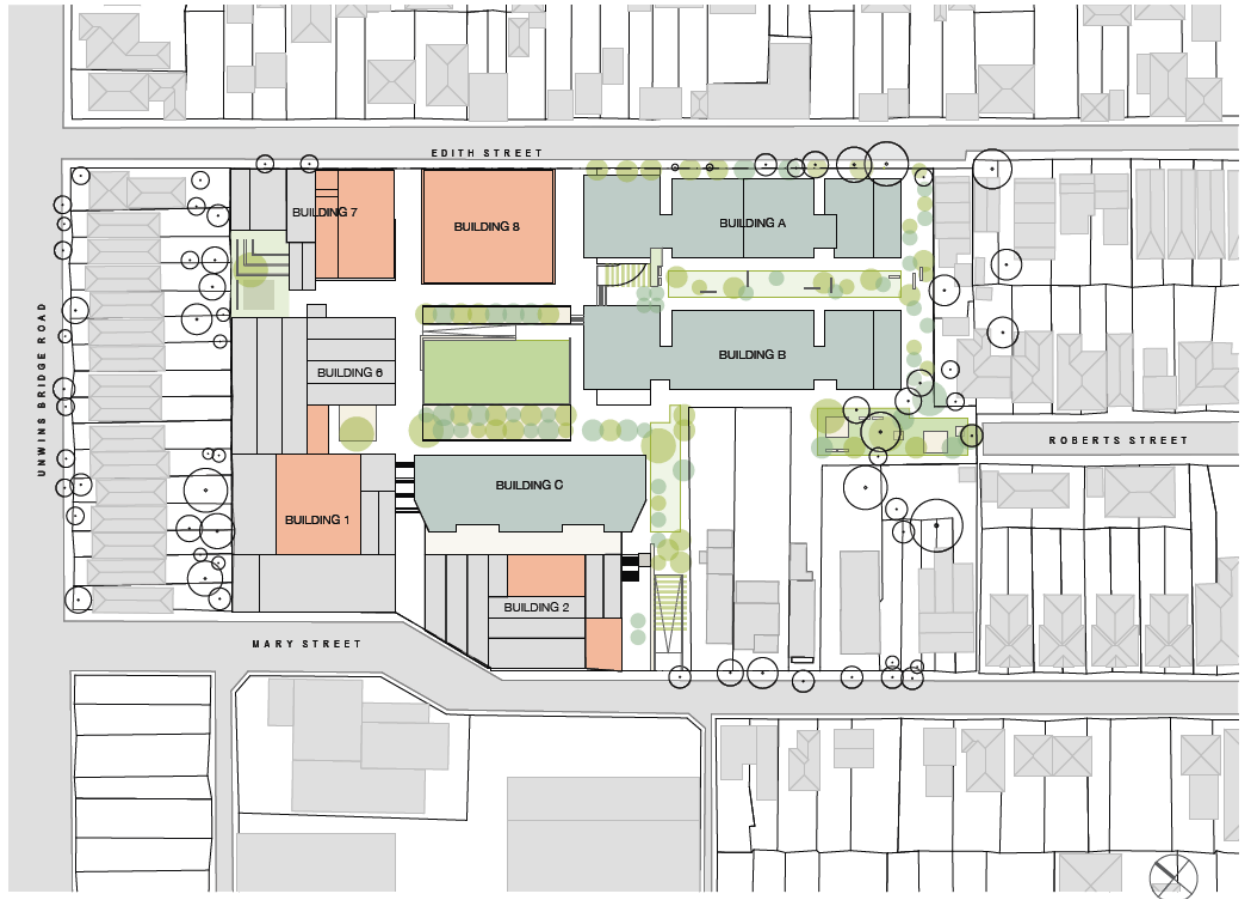
### **Proposed Development**

Indicative concept design plans were submitted with the application, including an Architectural Design Report and Landscape Report. The concept plans show:

- Retention and adaptive reuse of select existing structures;
- Demolition of select existing structures;
- Introduction of new structures across the site (maximum eight storeys);
- Additions to several retained structures across the site;
- Net total of approximately 15,628m<sup>2</sup> commercial gross floor area;
- Introduction of 230m<sup>2</sup> gross floor area for community uses;
- Inclusion of approximately 180 dwellings, with a net total of approximately 16,568 residential gross floor area;
- Provision of basement parking for 340 vehicles across two basement car parks;
- Pedestrian links to be included through the site via Roberts Street;
- Public domain improvements including provision of public art works;
- Introduction of landscaping onto the site, including a 600m<sup>2</sup> publicly accessible lawn area; and

- Inclusion of space for community uses.

The proposed location of buildings, open space, landscaping opportunities and site links is shown in Figure 3 below.



**Figure 3: Building identification map**

The subject site does not include listed heritage items, nor is it contained within a heritage conservation area. However, the site has an existing industrial character which is worthy of retention as part of redevelopment. The applicant has undertaken a heritage assessment to identify which structures should be retained as part of the proposal.





**Figure 4: Buildings to be retained and demolished on the subject site**

Figure 4 indicates which structures are to be retained and which are to be demolished on the subject site. The residential building at 67 Mary Street (along with the properties at 69 & 71 Mary Street not owned by the applicant) is proposed to be retained. The residential properties at 43 Roberts Street and 50 & 52 Edith Street are proposed to be demolished. Additions are proposed to some of the retained buildings.



**Figure 5: Long term vision for the subject site**

Figure 5 represents the long term design concept for the site. New buildings and additions to existing buildings are shown in white. Landscaping and open space opportunities are also represented, as is the pedestrian and cyclist access to be provided via Roberts Street.

### **Comment**

The overall aim to create a mixed-use precinct incorporating commercial, residential and community uses is supported. The redevelopment of the site as a mixed-use development ensures the site continues to provide employment opportunities for a range of commercial and light industrial uses. It also provides an opportunity to improve the environmental performance of the site through the introduction of landscaping, especially deep soil planting. The improved pedestrian connectivity through the site will benefit local residents seeking to access Unwins Bridge Road and surrounding streets.

The site currently accommodates a range of light industrial uses, which contribute to the character of the Marrickville local government area. Redevelopment of the site should ensure that a considerable quantum of and light industrial uses are retained and/or introduced onto the site.

To ensure that an appropriate mix of uses is accommodated on the site, the proposed site specific planning controls will dictate a mix of gross floor area to be made available for each land use, including residential, commercial, light industrial and community uses. The aim of those controls is to ensure that the precinct retains a mix of use with spaces for future and current industrial/commercial tenants and residents. The concept design plans submitted with the planning proposal indicate approximately 50% of the total floor area is proposed to be residential. The extent of residential development proposed would ensure a balanced mix of land uses .

### **Current zoning**

The subject site is currently zoned IN2 Light Industrial and R2 Low Density Residential under MLEP 2011 and is used for a range of light industrial, commercial purposes and low density residential purposes. The current zoning of all lots contained within the planning proposal request is shown below in Figure 6.

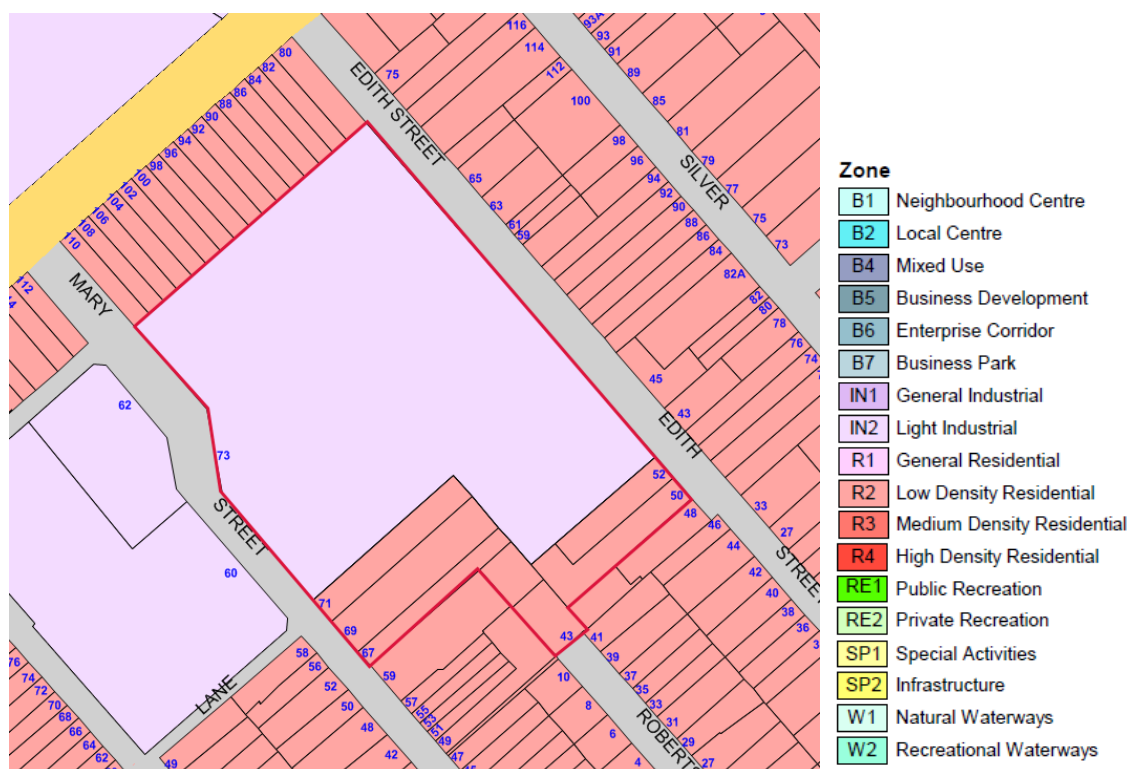


Figure 6: MLEP 2011 Current land zoning of subject site and environs (bounded by red line)

### Proposed zoning

The planning proposal request seeks to rezone the land to B4 Mixed Use with a small area of RE1 Public Recreation for the site. Figure 7 shows the proposed zoning for the site.

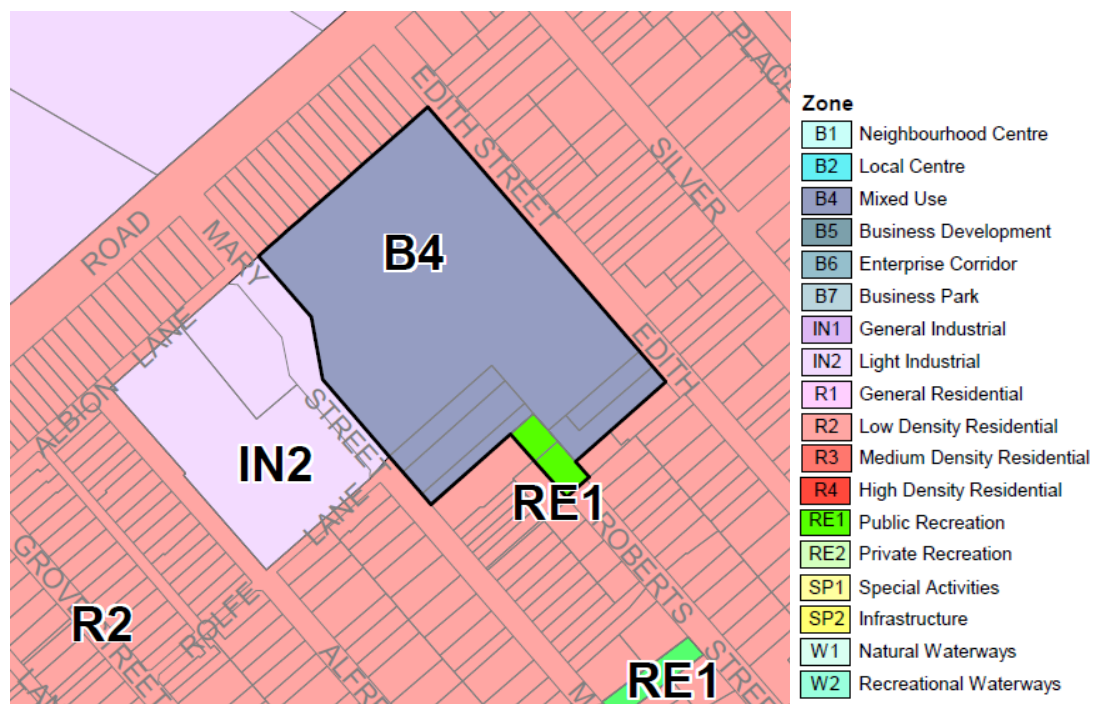


Figure 7: Proposed land use zoning for subject site



The MLEP 2011 objectives of the B4 Mixed Use and RE1 Public Recreation zones are as follows:

*B4 Mixed Use*

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support the renewal of specific areas by providing for a broad range of services and employment uses in development which display good design.
- To promote commercial uses by limiting housing.
- To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.
- To constrain parking and restrict car use.

*RE1 Public Recreation*

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To provide for a range of community facilities, services and compatible land uses.

**Comment**

The B4 Mixed Use zone generally permits the uses proposed within the planning proposal. However, the Zone B4 does not permit new residential accommodation in a form other than 'shop top housing'. For a development to be 'shop top housing', no residential accommodation is to be provided at ground floor level. Council notes that Buildings A and B are proposed to contain a mix of commercial and community uses at ground floor level for a portion of the building only, with residential accommodation proposed to be provided at ground floor level within these buildings. Consequently, those buildings would not fall under the definition of 'shop top housing' within the MLEP 2011. Those buildings would be considered 'mixed use' developments incorporating either 'commercial premises' and/or 'community facility' and a 'residential flat building'. As 'residential flat buildings' are prohibited in the B4 Mixed Use zone, a Schedule 1 inclusion to permit a residential flat building only as part of a mixed use development is required.

Consequently, it is recommended that the planning proposal be amended to request a Schedule 1 additional permitted use as follows:

*(2) Development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development.*

The RE1 Public Recreation zone is suitable for the site as it permits public open space, recreation areas and community facilities. However, the 'pocket park' proposed near Roberts Street should only be zoned RE1 Public Recreation if it is to be dedicated to Council. Should the park not be dedicated to Council as part of a VPA, it should be zoned B4 Mixed Use.

**Proposed Land Use Zoning of 67, 69 & 71 Mary Street**

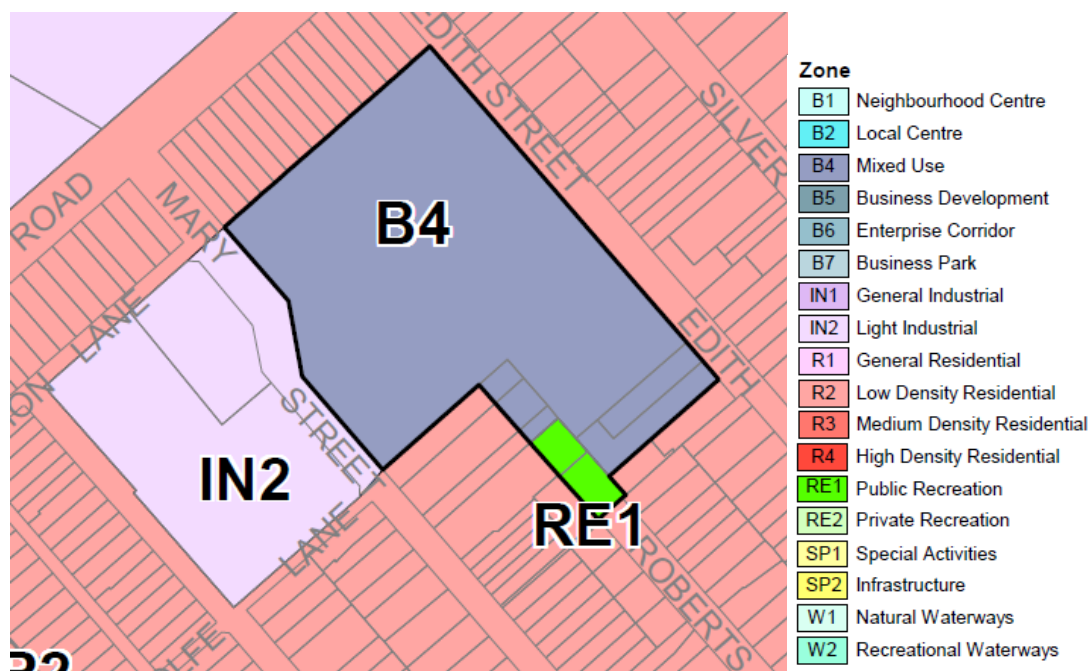
Council notes that two Mary Street properties, whilst not owned by the proponent, are included as part of the planning proposal request (69 & 71 Mary Street). Those sites are isolated due to the inclusion of 67 Mary Street within the development site. The planning proposal seeks to rezone all of these sites to B4 Mixed Use.

As noted in the planning proposal report, the land adjoining the subject site along Mary Street is characterised by low density residential dwellings. The Precinct 75 Design Report Part 3.18 (Long Term Vision) shows the retention of dwelling houses between 67 and 71 Mary Street rather than their incorporation into the development site.

The existing R2 Low Density Residential zoning for those residential sites is considered appropriate as it reflects their current and intended future use. The rezoning of those residential properties to a commercial zoning is not considered necessary to facilitate the development. The character of Mary Street is not proposed to change from its current low density residential function.

Rezoning those sites to B4 Mixed Use Development may further permit the redevelopment of the two isolated lots as a separate development which is not desirable.

It is recommended that the planning proposal be amended to retain the zoning of 67, 69 & 71 Mary Street as R2 Low Density Residential (to a point consistent with the alignment of Lot A DP 331215 and B4 Mixed Use Development for the remaining rear portion of the lot as shown in Figure 8 below.



**Figure 8: Proposed amendment to proposed zoning for 67, 69 & 71 Mary Street**

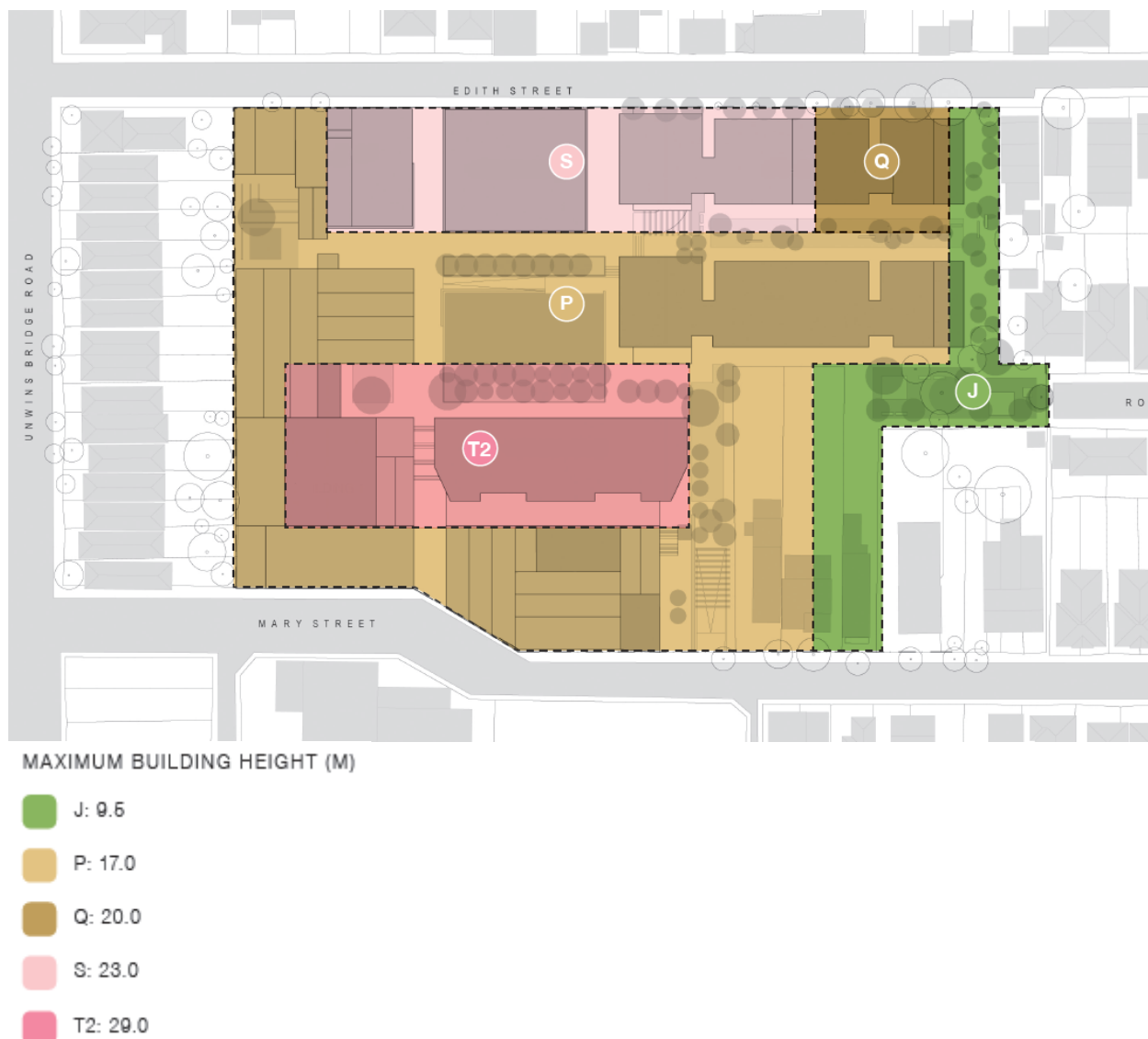
This proposed zoning allows for the future incorporation of the rear of 69 and 71 Mary Street into the subject site. This would further improve access via the Roberts Street pocket park by continuing the existing entry through to the southern end of Building C as one continuous path.

Consequently, the FSR maps applying to the planning proposal require amendment to reflect an F code. This change may result in a need to review the proposed FSR for the subject site and to update the planning proposal as necessary.

## Proposed Building Heights

Currently, there is no maximum height of building control for the subject site due to its industrial zoning.

The proposal incorporates a range of building heights ranging from 9.5 metres to 29 metres. Figure 9 shows the proposed building heights across the site. The building heights are reduced towards the site's boundary with Edith Street, Mary Street and Roberts Street to reduce impacts on adjoining properties.



**Figure 9: Proposed building heights**

The proposed building heights are considered reasonable, with the exception of Buildings 7 & 8 as discussed further in this report. The proposed building heights are stepped down towards their interface with low density residential areas. These matters are discussed in detail further in this report.

## Planning Controls

To establish the desired future outcome for the site, planning controls have been drafted to accompany the planning proposal. The controls include provisions relating to matters such as building heights, heritage, site design, open space and landscaping, traffic and parking, and waste management. Those controls will be included within Part 9.31 (Unwins Bridge Road) of MDCP 2011. The draft controls will be publicly exhibited concurrently with the planning proposal.

A copy of the draft planning controls is included at **ATTACHMENT 1** to this report.

### **Heritage and Urban Design**

There are no heritage items within the site, nor is it located within a heritage conservation area. However, following a pre-Planning Proposal meeting in June 2014, Council requested *“that a heritage assessment be undertaken for the entire site, in order to establish the heritage values and overall character of the site and the immediate surrounding residential context.”*

The heritage assessment report accompanying the planning proposal request states that *“while the site in itself does not meet the criterion for local heritage significance; the history of use, contribution to the local character and the community of tenants established through the variety of leases since 1965 contribute towards a recommendation that the site be adaptively reused as a sustainable outcome that retains a tangible link to the former industrial use.”* Consequently, certain structures are identified for retention and adaptive reuse as part of the concept design.

Council’s Heritage and Urban Design Advisor has reviewed the concept plans for the planning proposal request and has provided the following comments:

*“The proponents have demonstrated a thorough and thoughtful analysis of the site constraints and opportunities. They have clearly expressed their architectural and social vision for the site as a mixed use precinct which retains some of the raw industrial character buildings, expands the existing creative employment uses, creates a community centre with public facilities including open green space at ground level, incorporates residential development and improves on-site environmental qualities.*

*Many elements of the proposal are attractive and beneficial, with several positive features resulting from modifications after the pre-planning proposal advice. However, negative features resulting from modifications after the pre-planning proposal advice are as follows:*

- *Car parking has remained similar at approx. 400 spaces (approx. 200 per level), no strategy for reducing car use is evident.*
- *Green roof tops have been deleted.”*

The referral makes the following recommendations:

1. *Public Domain:*

*The commitment to increasing the public domain is very welcome, but it will need to be formalised as public rights of way or some equivalent arrangement.*

### **Comment**

This matter is being dealt with as part of the Voluntary Planning Agreement (VPA) for the site which will be the subject of a separate report to Council.

## 2. Height and Overshadowing

*The heights of proposed buildings are contextually acceptable generally creating minimal impact, however in the case of buildings A & B their height is generating significant overshadowing of 48 Edith Street, St Peters. Additionally shadow impacts on Building B by Building A require clarification by depicting shadows on elevations.*

### Comment

This matter is dealt with in detail later in the report.

## 3. Heritage

*Conditions requiring the guidance of the Heritage Architect throughout demolition and the development of strategies to enable retention of specific components within the site where they contribute to the character of the former industrial site.*

### Comment

This can be included as a condition of consent as part of any development application lodged for the subject site. This requirement will be included within site specific MDCP 2011 controls.

## 4. Documentation

*The 3D montages have not been updated and do not represent the new site planning. These will require amendment for the DA stage.*

### Comment

Noted.

## 5. Traffic and Car use

*A strategy for reducing personal car use at the site should be developed. Car share facilities should be provided to the public (suggest 10). Title of car spaces should be separated from apartments. The number of car spaces provided is not clarified but appears to be 400. This is a high volume on the current road network and needs further investigation as to suitability. Residential parking should be significantly reduced due to close proximity to Sydenham station and the scale of surrounding roads. Council should be considering timed/resident parking within 800m of all rail stations.*

### Comment

The proposed parking rates are less than those required under the MDCP 2011. The subject site is within MDCP 2011 Parking Area 3 and generates a parking requirement of 351 spaces. The proposal includes parking for 340 spaces and this rate is considered suitable for the proposed development. It is considered that the provision of car share facilities would benefit the development and this should be investigated by the applicant prior to the lodgement of a development application for the site.

Comments on traffic and parking provided by Council's Development Engineer are provided further in this report.

## 6. Context



*The articulation of Buildings A & B, so they appear as smaller, separate buildings will be required at the DA stage, in order to retain the grain of the precinct.*

#### **Comment**

Detailed plans have not been submitted as part of this planning proposal request. It is agreed that without sufficient articulation, Buildings A and B may appear bulky and overbearing when viewed from Edith Street. The design report states that *'the massings are subdivided into smaller blocks in order to integrate the buildings into the existing street pattern'*. It is considered this can be further refined as part of the DA process with the support of site-specific development controls to be included with an amendment to the MDCP 2011 controls.

#### **7. Sustainability**

*The green roofs have been deleted from the proposal. The opportunity exists for good outdoor amenity on roof tops. Ensure requirement for sustainable features is embedded in the proposal.*

#### **Comment**

It is agreed that the subject site provides an opportunity to introduce a range of greening techniques including open space, landscaping, deep soil plantings and green walls and/or roofs. The requirement to include additional greening can be included within site specific MDCP 2011 controls.

#### **8. Use**

*Ensure, through conditions or zoning, that the use retains light industrial / manufacturing and creative uses rather than retail.*

#### **Comment**

As noted previously, the B4 Mixed Use zone permits commercial premises (which include business premises, office premises and retail premises) and light industries amongst other uses. The desired outcome for the subject site would include a mix of employment uses operating from the site. The site specific DCP controls developed for the site will define the quantum of uses to occur on the site with the aim of maintaining diversity of uses.

#### **Solar Access to Open Space**

Council's Urban Design Planner has provided the following additional comments:

*"While MDCP 2011 currently does not contain specific controls for public open space, control C10 of Section 2.7.5.2 requires common open space to receive 2 hours solar access for 50% of the finished surface between 9.00am to 3.00pm in mid-winter. This would be the recommended requirement for public open space and Council would encourage great solar access wherever possible, so that public open space has good amenity to be used in winter. Based on the solar access diagrams from the Design Report, while the perimeter of the open space area is not shown, it appears that that the central landscaped open space area will only receive approximately 1 hour of solar access for 50% of the area around 1.00pm to 2.00pm. Lowering the southern side of building 8 would achieve more solar access earlier in the day. The 'pocket park' open space on Roberts Street would receive 2 hours from 1.00pm to 3.00pm to 50% of the area.*

*In terms of solar access to Building B it is difficult to assess but it appears some of the lower floor would be shadowed but most of the levels would receive solar access from 10.00am to 12.00 noon – so would easily be able to meet the solar controls.”*

(Refer to Figure 3: Building identification map for building locations)

**Comment**

The Precinct 75 Design Report, submitted with the planning proposal request, includes shadow diagrams for the proposed development. It is agreed that the public open space lawn area is significantly overshadowed during midwinter. As this is the predominant open space area within the development, this is not considered to be a suitable outcome. The proposed additions to Buildings 7 and 8 have exacerbated the overshadowing of the lawn area. Due to the proposed function of this space as a public congregation space, sufficient solar access needs to be provided.

Consequently, the draft planning controls for the subject site include a requirement that the central lawn area receive at least 2 hours of solar access across 50% of its finished surface between 9.00am and 3.00pm midwinter. This may require some relocation of massing from Buildings 7 and 8. Buildings 7 and 8 are both retained existing buildings but include proposed additional storeys for commercial and residential purposes.

The abovementioned solar access requirement has also been included for the Roberts Street pocket park. Compliance would not likely require massing changes, based on the submitted plans that indicate a level of solar access will be provided.

**Solar access to 48 Edith Street, St Peters**

The shadow diagrams also indicate that 48 Edith Street will suffer overshadowing to least 50% of its private open space after 12.00 noon midwinter from Building A. Section 2.7.5.1 of MDCP 2011 contains the following control:

**2.7.5.1 Attached dwellings, dwelling houses, semi-attached dwellings and secondary dwellings**

**C8** *Where site orientation permits, new buildings and additions must be sited and designed to maximise direct solar access to north-facing living areas and outdoor recreation areas such that:*

- i. At least one habitable room (other than a bedroom) must have a window having an area not less than 15% of the floor area of the room, positioned within 30 degrees east and 20 degrees west of true north and allow for direct sunlight for at least two hours over a minimum of 50% of the glazed surface between 9.00am and 3.00pm on 21 June.*
- ii. Private open space receives a minimum two hours of direct sunlight over 50% of its finished surface between 9.00am and 3.00pm on 21 June.*

48 Edith Street technically meets solar access requirements of 2.7.5.1 C8 ii. as it will receive solar access to the majority its open space between 10.00am and 12.00 noon. It is noted that 41 Roberts Street is also overshadowed by Building B, however this site appears to have more than one area of private open space which lessens the overall impact.

The internal layouts of 48 Edith Street and 41 Roberts Street are unknown, therefore an assessment against 2.7.5.1 C8 i. is not possible. It is considered that this matter will require further assessment at development application stage. The eastern edges of Buildings A and B have been stepped down in an attempt to alleviate impacts upon the aforementioned

properties. The amenity impact on these properties will need to be assessed in detail as part of the development application stage.

### **Traffic and Access**

Council's Development Engineer has reviewed the traffic and parking impact assessment and has provided the following comments:

#### *Access and Traffic*

- *The 340 car spaces proposed represent a shortfall of 11 car spaces. However, the applicant's inclusion of 7 'car share' vehicles within the development will negate this shortfall. With regard to servicing of the site, the Traffic Study recommends the inclusion of a loading bay for the residential component able to accommodate a 12.5m Heavy Rigid Vehicle (HRV). For the non-residential uses 2 loading bays able to accommodate Heavy Rigid Vehicles and 2 loading bays able to accommodate Small Rigid Vehicles are recommended.*
- *The development proposes entry only for cars from Edith Street, while Mary Street will accommodate entry and exit for service vehicles and exit only for cars. There will be no vehicle access from Roberts Street. The proposed vehicle access arrangements as proposed are satisfactory as they limit the amount of additional traffic on the residential section of Mary Street (Southern End). The additional car movements generated by the development will only access the northern part of Mary Street when they turn right out of the development.*
- *The applicant has submitted a Traffic Study in support of the proposal by McLaren Traffic Engineering. The Traffic Study found that the proposal will generate an additional 156 peak hour vehicle trips split between Mary and Edith Streets. During the Morning peak Edith Street will receive an additional 112 vtpd while Mary Street receives an additional 44 vtpd. In the afternoon peak Edith Street receives an additional 35vtpd while Mary Street receives an additional 121 vtpd. The Traffic study assessed the impact of the additional traffic generated using SIDRA and found that all intersections maintain their existing Level of Service including the critical intersections of Canal Road with the Princes Highway and Mary Street with Unwins Bridge Road.*
- *The Traffic Study also assessed the residential amenity of the increased traffic on both Edith and Mary Streets and found that Edith Street remains within the RMS Guidelines for residential amenity of 200-300 vpd for local streets. Mary Street is already operating above the 600-900 vpd amenity threshold for a collector road however the additional traffic will not impact on residential amenity further as a majority of additional car movements generated by the development are restricted to the northern end of Mary Street (i.e. right turn exit from the site) where there are a few residential properties.*

The following changes are recommended to the parking restrictions in Edith Street:

- Time Restrict kerb side parking in Edith Street within 20m of the Unwins Bridge Road intersection during the morning and afternoon peak periods (To assist with the efficiency of traffic movements at this intersection);
- Install "No Stopping" 5m either side of Edith Street driveway. (reduced from the 10m either side recommended in the Traffic Study); and
- Install "No Stopping" along the site frontage for approximately 20m near the existing speed hump in Edith Street to provide passing opportunities for vehicles (refer to Appendix G of the McLaren Traffic Study for clarity).

The above changes recommended would need to be referred to the Pedestrian, Cyclist and Traffic Calming and Advisory Committee for its consideration.

**Comment**

The recommended parking restrictions have been included within the site specific controls for inclusion within the MDCP 2011. These matters will be subject to further assessment as part of any future development applications lodged for the subject site.

*Pedestrian Safety*

*During the site inspection it was noted that the footpath in Mary Street is of varying width and ends abruptly adjacent to a loading dock. In order to provide a continuous, safe and accessible path of travel for pedestrians along the Mary Street frontage the footpath should be redesigned and reconstructed to be of a more consistent width for the full length of the Mary Street frontage.*

**Comment**

This matter has been included within the site specific planning controls applying to the site and will need to be addressed as part of any development application for the site.

*Flooding*

*The Alexandra Canal Flood Study by Lucas (1998) identified flooding at the trapped low point in Edith Street. The redevelopment of the site provides an opportunity to provide a formalised overland flow path through the site from Edith Street through to Mary Street. The overland flow path shall be allowed for the redevelopment of the site. The Flood Study may be made available to the developer.*

**Comment**

A copy of Alexandra Canal Flood Study will be made available to the developer to assist in their development of detailed engineering plans for the subject site.

**Contamination**

A site investigation report was prepared by Environmental Investigations Australia (EIA) and included with the planning proposal. The report was reviewed by Council's Environmental Services who provided the following comments and condition recommendations:

- *Based on previous history and the limited Detailed Site Investigation (DSI), the site contains significant contamination in soil samples, and in groundwater. The site has a history of industrial use, most notably paint manufacturing.*
- *In addition the site is known to have underground storage tanks, and it is unknown the amount or precise locations of the underground storage tanks, what they were used to store, or if these have been satisfactorily decommissioned.*
- *Due to existing industrial uses and site limitations from existing hardstand and buildings, a comprehensive DSI was not conducted, therefore the full extent and nature of contamination has not been determined. The DSI is clear that due to the contamination found, a Remediation Action Plan (RAP) is to be developed for the site.*

- *In many sampling locations, concentrations of contaminants including heavy metals, chlorinated solvents and petroleum have been found exceeding health-based criteria for these substances. In particular, hot-spots of contamination seem to be high in the western areas of the site. It is noted that at this location, several existing buildings are proposed to remain with the development.*
- *Due to the topographical nature of the site and groundwater movements, there is a high chance that contaminated groundwater may be impacting on neighbouring property. Given this, and the nature of pollutants present, the site should be reported to the NSW EPA as per Section 60 of the Contaminated Land Management Act.*
- *The site is currently unsuitable for the proposed change of use due to significant contamination of soil and groundwater. Disturbing soil and groundwater in their current state pose significant risks to the environment and people if incorrectly managed. Remediation is required to the site before any development is to be allowed.*
- *A comprehensive Remedial Action Plan (RAP) is to be prepared in accordance with the Guidelines for Consultants Reporting on Contaminated Sites (NSW OEH 2011). In addition, the RAP should address how issues addressed in the limited DSI and limitations and recommended further investigation of this assessment will be managed during remediation, and if relevant, during construction and use of the site after construction. The RAP should also assess contamination risks and associated management of the site as a whole, including any land and buildings to remain onsite.*
- *The proponent is to engage a suitably qualified contaminated site auditor to oversee the remediation process. The auditor must be able to certify that contamination is remediated or contained to a level suitable for the proposed use and surrounding site uses.*
- *It is suspected that contaminated groundwater may be impacting surrounding land. The proponent is to report this to the NSW EPA under Section 60(3) (a) of the Contaminated Land Management Act (1997).*
- *Upon the completion of any remediation works stated in the Remedial Action Plan, the person acting on this consent shall submit to Council a Validation and Monitoring Report. The report is to be conducted in accordance with the NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites.*
- *All soil to be removed from the site is to be classified as per the NSW EPA Waste Classification Guidelines: Part 1 – Classifying waste (EPA 2014) and disposed of to a licensed waste facility.*

### Comment

The historical use of the site for paint manufacturing has resulted in significant contamination across the site. As noted in the comments from Council's Environmental Services section, there is also the potential that the contaminants have migrated off the subject site to adjoining residential properties. Council officers have notified the applicants of their obligations in relation to reporting contaminants under Section 60(3) of the Contaminated Land Management Act (1997).

The EIA report concludes, inter alia, that:



*“The suitability of the site for the proposed development, however, could not be ascertained based on existing data. It is recommended further investigation remediation work be carried out to render the site suitable for the development.”*

The limitations of the report are related to the existing structures on site making these areas inaccessible for intrusive investigation. Additionally, 67 Mary Street, 43 Roberts Street and 50 & 52 Edith Street were not assessed as part of the investigations due to lack of access. The report does not mention 69 & 71 Roberts Street despite their inclusion (and proposed rezoning) within the planning proposal.

The report concludes that it cannot ascertain the suitability of the proposed development due to the limitations of the data. It does not preclude the site being redevelopment for a mixed use development, however cannot conclusively comment that the proposed development is suitable. The report specifically makes the recommendations for the development of a Remedial Action Plan (RAP) to ensure that the site is suitable for the proposed use.

Due to the proposed rezoning of the land to more sensitive land uses, including residential, it is essential that the site be thoroughly investigated to ensure it can be made safe for all users. It is recommended that the RAP be prepared (as per EIA’s recommendation and the recommendation from Council’s Environmental Services) and provided post Gateway Determination. The RAP should also ensure that investigations include all properties proposed for inclusion within the planning proposal, including Nos. 69 & 71 Mary Street.

### **Culture and Recreation**

Council’s Culture and Recreation section has advised that the proposal is supported from a cultural planning perspective as the precinct has the potential to become a focal point for creative industries and the local community. However, concerns are raised regarding the potential displacement of local creative workers, especially due to the site’s current IN2 Light Industrial zoning (currently in short supply across the inner west). The following comments on the proposal were made:

- *A percentage of art project commissions should be reserved for local artists.*

### **Comment**

The applicant has indicated the inclusion of public art works within the development. The DCP controls have included a control to state that local artists should be given preference for such works.

- *A free multi-purpose community room be included in the proposal which should be close to ground level where possible. The inclusion of play elements, passive recreation areas or community gardens is also recommended as there is currently limited open space in the St Peters area.*

### **Comment**

The proposal includes approximately 250 square metres of community space to be provided at ground level within Building B.

- *The location of the Roberts Street pocket park is questioned as overshadowing from surrounding buildings will result in limited solar access. To overcome this, it is recommended that green areas be increased in the central plaza or along street frontages such as Edith Street.*

### Comment

The Roberts Street pocket park has been examined by Council's Urban Design Planner who has advised that *the 'pocket park' open space on Roberts St would receive 2 hours from 1-3pm to 50% of the area.* This level of solar access is a minimum considered acceptable. This requirement applies to both the 'pocket park' and open space lawn area and has been included within the planning controls for the subject site.

- *Given the site is likely to result in intensification, a contribution to the upgrade / greening of relevant sections of Unwins Bridge Road, Edith and Mary Streets should be considered, as well as enhancing walkability / cyclability through the St Peters and Sydenham Station areas and Camdenville Park.*

### Comment

A Voluntary Planning Agreement (VPA) is being negotiated for the proposed development. The terms of the offer may take this into consideration. These matters are also able to be considered in further detail as part of any subsequent development applications.

- *As plans promote cross-site walkability, need to address safe pedestrian access to site, especially on the Mary St side, see pedestrians walking out onto the road – where there is a fairly constant stream of cars coming off Princes Hwy – as the road has a bendy bit, it can be hard to see.*

### Comment

Detailed engineering plans will be developed as part of any development application for the redevelopment of the site. Issues relating to access and pedestrian safety will be considered in detail at this stage. A planning control relating to the improvement of the existing footpath along part of the site's Mary Street frontage has been included.

- *Parking also an issue but note plans include underground parking... loading bay access for community uses and creative workers important, as well as parking of customers / patrons of the creative uses.*

### Comment

As noted above, detailed engineering plans will need to be developed for the site. Matters such as loading bays and customer parking will need to be examined in detail at this stage. The proposal currently indicates that all parking is to be provided below ground.

### Landscaping

- *Trees and planting to be flush with surrounding finish levels (no raised planters)*
- *Planting of trees is desirable in these spaces*
- *Trees to be planted in minimum 1m of soil plus mulch and drainage*

### Comment

These matters have been included within the draft planning controls for the subject site. They also refer to maximising deep soil planting areas to encourage the extensive greening of the currently barren site.

- *It is recommended that local native provenance plants be used within all the landscaping for optimum biodiversity outcomes and provide a unique showcase for local native plants within an urban development.*

**Comment**

Council's Street Tree Master Plan 2014 will be used to guide the detailed landscape design.

- *The proposal should also include opportunities for green walls and roofs using native local plants, which appear to be deleted from the original proposal.*

**Comment**

The green building elements included as part of an earlier iteration of the development have been deleted. A planning objective to increase greenery across the site, including green roofs and/or walls, has been included in the site specific controls.

- *It is also recommended that a local native grass meadow or lawn be included rather than a mowed lawn area to increase biodiversity values on site and provide a unique and interesting feature and possible educational component and resident involvement.*

**Comment**

This is a matter of detail for a landscape plan at and later development application stage.

- *One aspect of the proposal that is currently unclear is whether any of the areas are to be dedicated to Council for ongoing maintenance.*

**Comment**

A Voluntary Planning Agreement (VPA) is being negotiated for the proposed development and will be reported to Council as part of a separate report.

**Waste Management**

A waste management plan was included with the planning proposal. Officers from Council's Environmental Services have provided the following comments:

- *It is essential to ensure that residential and commercial waste are kept separate (i.e. cannot be accessed by one another) and there must be adequate storage space in bin rooms and at the collection point.*
- *In other large development, a bin storage room at street level adjacent to an on street layback works effectively to avoid blocking residential and commercial traffic flow into the development.*
- *Buildings with residential components greater than 4 storeys require access to residential garbage and recycling on each floor.*
- *Bin rooms and collection points must provide adequate storage space.*

**Comment**

The above matters relate to controls contained in Part 2.21 – Site Facilities and Waste Management of MDCP 2011. Compliance with those controls will be considered at development application stage.

### **Australian Noise Exposure Forecast (ANEF)**

An Acoustic report, prepared by Acoustic Logic, was submitted with the planning proposal request. The planning proposal report and the accompanying acoustic report state that the site is affected by ANEF contours 20-25 and makes recommendations accordingly. However, whilst the majority of the site is subject to ANEF 20-25, a small part in the north-western corner of the subject site is within the ANEF 25-30. Council requested that the acoustic report and recommendations prepared by Acoustic Logic be updated to reflect the site's ANEF affectation.

Further, Section 4.3.2(6) of Part 2 of the planning report states that section 117 Direction 3.5 (Development near licensed aerodromes) is not applicable to the planning proposal request., This is not correct due to the portion of the site being subject to the 25-30 ANEF. The applicant has been requested to update the planning proposal report to include an assessment against this Direction. This can occur as part of the Gateway review.

### **Consistency of Proposed LEP Amendment with Strategic Planning Policies**

To rezone industrially zoned land, Council needs to ensure that adequate strategic justification is provided for the proposed changes to its planning controls. The following discussion provides an assessment of the proposal against the State Government's and Council's strategic planning directions for the Marrickville LGA. .

#### *Marrickville Urban Strategy (2007)*

The Marrickville Urban Strategy (MUS) was adopted by Council in 2007. It establishes a vision and co-ordinated directions addressing a range of planning, community, and environmental issues, to guide short, medium and long term strategic planning policies for the Marrickville LGA. The MUS was developed in response to employment and housing targets established through the dSSS and its overriding strategy, Sydney Metropolitan Strategy *City of Cities, A Plan for Sydney's Future* (December 2005).

The MUS does not specifically discuss the subject site. However, the MUS does support the rezoning of industrial land located approximately 100 metres from the site in Grove Street, St Peters. This land has subsequently been developed for residential development.

The MUS adopted six urban renewal approaches to inform policy options for future residential development within the LGA. These are:

1. Focus on residential density in and around centres;
2. Focus on commercial zoned land in centres;
3. Rezone select industrial sites;
4. Develop new centres;
5. Rezone select special use sites; and
6. Increase density in infill areas.

It is considered that the subject site is consistent with Approach 3 – rezone select industrial sites. The following criterion was established for consideration in rezoning industrial sites and it is considered that the subject site meets the criteria as follows:

- *Is located close to a centre*

The subject site is located approximately 8 kilometres from the Sydney central business district. It is located approximately 300 metres from the Princes Highway which, despite not being a local centre, contains a mix of business types including service stations. The subject site is also within 1 kilometre of the Marrickville Metro shopping centre.

- *Is redundant from historical industry perspective*

The subject site is currently being used for a range of light industrial activities. The site will continue to accommodate these uses should it be rezoned to B4 Mixed Use. It no longer functions for its original purpose of paint manufacturing, which would no longer be permissible on the site due to its IN2 Light Industrial zoning.

- *Is well serviced by public transport*

The subject site is within 800 metres of Sydenham Station. Bus services operate along the Princes Highway into the city and into Rockdale to the south.

- *Is within walking distance of public open space*

The subject site is within 800 metres of public open space located at Sydenham Green, Simpson Park (Campbell Street, St Peters) and Camdensville Park (May Street, St Peters). The proposal also includes two new public open space areas.

- *Provide opportunities for improving public domain*

Currently the subject site is completely devoid of any landscaping other than that contained within the residential properties included in the proposal. The site is also closed to the general public and provides no through links. It is considered that the proposal will provide substantial improvement to the public domain through the provision of greening the site and also providing public thoroughfare through the site.

- *Is not located close to strategic assets (port, airport or freight lines); and*

The subject site is located in proximity to the Marrickville/Sydenham industrial lands, however it is fragmented from it by residential development. Consequently, it cannot be viewed as a component of the Marrickville/Sydenham industrial lands precinct.

- *Rezoning would not result in conflict between residential uses and industrial uses that impact upon residential amenity, and hinder business competitiveness.*

The subject site is in close proximity to residential uses. It is not considered that the development would exacerbate any existing conflicts between land uses. It is anticipated that the proposal will improve the relationship between the land uses through the provision of open space areas, community facilities and improved permeability of the site.

#### *Draft South Subregional Strategy (2007)*

The site and surrounding light industrially zoned sites were designated as Category 1, or land to be retained for industrial purposes, within the draft South Subregional Strategy (dSSS). The dSSS was drafted in 2005 and never adopted as a final document. Since that time, land to the south of the subject site in Grove Street, St Peters, has been rezoned for low density residential development. Council has also been in receipt of a number of proposals seeking the rezoning of industrial land for other and/or additional uses. The Department of Planning & Environment have generally been supportive of those proposals, even when they have been



inconsistent with its own policies. It is considered that the planning proposal request has strategic merit and should proceed for Gateway determination.

*Marrickville Employment Lands (MELS) Review (2015)*

The MELS Review was undertaken to update the original study completed in 2008. The study area for the review included all IN1 General Industrial and IN2 Light Industrial zoned land within the Marrickville LGA. The MELS Review concluded that there is sufficient capacity in Marrickville's industrial lands to accommodate projected growth in demand for industrial land. Consequently, the report advises that some rezoning of land from industrial to other land uses 'is possible and will likely produce better social and economic outcomes'.

The MELS Review sets actions for the future management of the LGA's industrial land including *Action 1.1 – Designate the Marrickville-Sydenham precinct as a subregionally significant industrial precinct and zone accordingly*. As has been discussed above, the subject site is not considered to form part of the Sydenham/Marrickville industrial lands. Therefore, the proposed rezoning of the subject site is not inconsistent with this action.

The report also includes *Action 4.3 – Consider rezoning of select residential interface sites to B4 Mixed Use*. This relates to industrial land peripheral to the main industrial precincts which have good public transport accessibility. A B4 Mixed Use zone is recommended for these sites as this would not compromise their existing industrial activity or their future role as industrial precincts. This approach is consistent with the planning proposal for the subject site. The light industrial activities currently operating on the subject site can continue under the proposed B4 Mixed Use zone. The planning proposal request is considered to be consistent with the objectives of the MELS review to protect strategic industrial land whilst allowing for peripheral or fragmented industrial land to accommodate additional uses.

*A Plan for Growing Sydney (2014)*

A Plan for Growing Sydney (the Plan) was released in late 2014 and sets the direction for planning in Sydney over the next 20 years. Subregional planning strategies, to support the aims of the Plan, are currently being developed. The Plan includes *Action 1.9.2: Support key industrial precincts with appropriate planning controls*. The Plan states that the *Industrial Lands Strategic Assessment Checklist* will guide the assessment of proposed rezonings of industrial lands. The checklist poses questions about whether the site is near or within direct access to key economic infrastructure, how it contributes to a significant industry cluster, and how the proposed rezoning would impact on industrial land stocks and employment objectives in each subregion.

As this planning proposal request involves the rezoning of IN2 Light Industrial land, an assessment against the checklist has been undertaken as follows:

- *Is the proposed rezoning consistent with State and/or council strategies on the future role of industrial lands?*

The subject site is zoned IN2 Light Industrial in MLEP 2011 (and includes several residential zoned properties). As previously noted, the draft South Subregional Strategy (dSSS), which was prepared in 2005 but never formalised, designated the land as Category 1 (land to be retained for industrial purposes). Although the dSSS was prepared in 2005 it was never finalised. Since this time, land to the south of the subject site (Grove Street) has been rezoned for residential purposes and redeveloped as a low density residential area.

Council commissioned a review of the Marrickville Employment Lands 2008. The MELS Review supports the rezoning of peripheral or fragmented industrial land to B4 Mixed Use. The rezoning does not compromise the Sydenham/Marrickville strategic industrial lands.

- *Is the site:*
  - o *near or within direct access to key economic infrastructure?*
  - o *contributing to a significant industry cluster?*

The subject site and environs are peripheral to other large areas of industrially zoned land. It is located adjacent to low density residential development, with only one other IN2 Light Industrial site located to the west of the subject site. A site on Grove Street, St Peters, was rezoned from light industrial to residential now contains low density residential development. It is not considered to be contributing to a significant industry cluster.

The uses operating from the subject site vary. The proposed B4 Mixed Use zone will permit the light industrial uses currently operating on the site. These uses will be complemented by other commercial uses and residential uses to create a precinct with a range of land uses operating. The site is currently underutilised and has the ability to accommodate a more intensive type of development.

- *How would the proposed rezoning impact the industrial land stocks in the subregion or region and the ability to meet future demand for industrial land activity?*

The draft South Subregional Strategy identifies 187.5 hectares of industrially zoned land within the local government area. The subject site incorporates approximately 1.66 hectares of this land, or less than 1% of the total land available for industrial uses. It is not considered that the planning proposal would significantly undermine industrial land stocks within the subregion.

- *How would the proposed rezoning impact on the achievement of the subregion/region and LGA employment capacity targets and employment objectives?*

The planning proposal request seeks a zoning of B4 Mixed Use to accommodate a range of light industrial, commercial, community and residential land uses. Therefore, employment will be retained on the site and will increase under the proposal.

- *Is there a compelling argument that the industrial land cannot be used for an industrial purpose now or in the foreseeable future and what opportunities may exist to redevelop the land to support new forms of industrial land uses such as high-tech or creative industries?*

The proposal is to keep utilising the site for light industrial purposes whilst introducing a range of additional land uses including commercial and residential. The B4 Mixed Use zoning proposed for the subject site is aimed at creating a precinct which accommodates a range of land uses, including industrial uses.

- *Is the site critical to meeting the need for land for an alternative purpose identified in other NSW Government or endorsed council planning strategies?*

The land is not considered critical to meeting an identified alternative purpose in either a NSW Government or endorsed council planning strategy.

### **State Environmental Planning Policies (SEPPs)**

SEPPs are environmental planning instruments which address planning issues within the State. An assessment has been made against all relevant SEPPs and is included at **ATTACHMENT 2** to this report. The assessment does not raise any major concerns or inconsistencies with the relevant SEPPs.

### **Section 117 Directions**

These are directions issued by the Minister under section 117(2) of the EP&A Act identifying particular matters for consideration relating to planning proposals and environmental planning instruments. The following s.117 Directions are relevant to this planning proposal request:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulphate Soils
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

A full assessment against those s.117 Directions is provided at **ATTACHMENT 3**. The planning proposal request is considered to be inconsistent with Directions 1.1 (Business and Industrial Zones) and 6.3 (Site Specific Provisions). However, these inconsistencies are considered to be of minor significance as outlined in **ATTACHMENT 3**.

### **FINANCIAL IMPLICATIONS**

Nil.

### **PUBLIC PARTICIPATION**

Public participation in the form of community consultation would occur should Council resolve to support the planning proposal request and the Department of Planning & Environment issue a Gateway Determination to allow for the public exhibition of the planning proposal.

### **CONCLUSION**

This report assesses a planning proposal request the rezone land at 67 & 73 Mary Street, 50 & 52 Edith Street & 43 Roberts Street, St Peters, to allow its redevelopment as a mixed use precinct. On balance, the planning proposal request is considered acceptable for submission to the DP&E for Gateway determination, subject to amendments identified in this report.

The proposal is considered to have strategic merit as it involves rezoning light industrial land which is not part of a wider industrial precinct, such as the Sydenham/Marrickville employment lands. The site's redevelopment has the potential to provide community benefit through the provision of new public open space area, community facilities and improved pedestrian and cyclist linkages. To ensure the site's redevelopment meets the objectives of the planning proposal request, draft planning controls have been developed to accompany the planning proposal which establish the desired future outcome for the site.

It is recommended that Council resolve to forward the planning proposal to the DP&E for Gateway determination, subject to amendments :

- To limit the proposed B4 Mixed Use zoning for the properties 67, 69 and 71 Mary Street to the rear of those properties and retain the existing R2 Low Density Residential zone for the remainder of those properties to reflect the current and intended future use of those properties;
- To limit on the quantum of residential development permitted to ensure that the precinct retains a mix of spaces for future and current industrial/ commercial tenants and residents; and
- To ensure that the public open space lawn area receives at least 2 hours of solar access between 9.00am and 3.00pm midwinter for 50% of its finished surface area.

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#### **ATTACHMENTS**

1. Draft Site Specific DCP Planning Controls - 73 Mary Street, St Peters
2. Assessment Against Relevant State Environmental Planning Policies
3. Assessment Against Relevant Section 117 Directions