

Item No: C0316 Item 3

Subject: POST COMMUNITY CONSULTATION REPORT ON PLANNING PROPOSAL
REQUEST FOR 67, 69, 71 & 73 MARY STREET, 50 & 52 EDITH STREET &
43 ROBERTS STREET, ST PETERS (PRECINCT 75)

File Ref: 14/5390/15800.16

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Services

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

SUMMARY

At its meeting on 3 February 2016 Council resolved to defer the planning proposal for the land to enable a Councillor briefing and community consultation to be undertaken with properties in the immediate vicinity of the proposal and that this be reported to the March 2016 Council meeting.

In accordance with Council's resolution, consultation has been undertaken with 123 submissions received. The main issues raised in the submissions are summarised and assessed within this report. Copies of all submissions are included in a table at **ATTACHMENT 2** and lengthier submissions are shown at **ATTACHMENT 3**.

The submissions received generally raise issues previously identified and assessed in the report considered by Council at its 3 February 2016 meeting. Additional comments on these matters are included within this report. The matter was also addressed at a Councillor Conference held on 23 February 2016.

The recommendation in this report is essentially the same as the original February report's with the exception that:

- recommendation b) has been refined to include a 50% limit on the quantum of residential development on the site; and
- the proposed B4 Mixed use zoning for the rear of 69 & 71 Mary Street has been deleted and those properties retain their existing R2 Low Density Residential zoning (new recommendation (1) (c)).

It is recommended that Council forward the planning proposal request to the Department of Planning & Environment for Gateway determination, subject to the amendments identified in this report. It is further recommended that Council adopt the draft site specific planning controls for public exhibition concurrent with the planning proposal, with these to be incorporated into Part 9.31 of the Marrickville Development Control Plan (MDCP) 2011.

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
 - 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 50% of the total gross floor area 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 Mary Street from B4 Mixed Use to R2 Low Density Residential to reflect the current and intended future use of this land;
 - d) removing 69 & 71 Mary Street from the planning proposal and updating the planning proposal documentation accordingly;
 - e) determination of an appropriate zoning for the Roberts Street 'pocket park' subject to the progression of any Voluntary Planning Agreement (VPA) for the planning proposal;
 - f) 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;
 - g) inclusion of site specific controls within Precinct 31 (Unwins Bridge Road) in Part 9 of MDCP 2011 as attached to this report; and
 - h) further contamination investigations being undertaken to address all identified deficiencies in the preliminary investigation report, in parallel with the submission of the planning proposal to the Department of Planning & Environment (DP&E) for Gateway determination.
 2. forward the planning proposal to the DP&E for Gateway determination.
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Our Place, Our Vision – Marrickville Community Strategic Plan 2023	
3.9	Marrickville's built environment demonstrates good urban design and the conservation of heritage, as well as social and environmental sustainability
3.10	The community is active in finding creative solutions to complex urban sustainability issues

BACKGROUND

At its meeting of 3 February 2016 Council considered a report on a planning proposal request to amend the planning controls for 73 Mary Street, 67, 69 & 71 Mary Street, 50 & 52 Edith Street & 43 Roberts Street, St Peters (Precinct 75) to facilitate a creative employment precinct with residential uses, commercial/industrial uses, community facilities and associated car parking.

A copy of the report is attached as **ATTACHMENT 1**.

Following consideration of the report it was resolved:

“THAT Council:

- 1. defer the determination of the planning proposal so that residents can be provided an opportunity to comment and that all relevant reports be provided to council;*
- 2. urgently notify local residents in the immediate vicinity of the proposal directly, including notification of the date at which the planning proposal will return to the elected Council for decision;*
- 3. make it clear to residents that, if the planning proposal is approved through the gateway process, there will be a community consultation process and opportunity to comment in relation to the required amendments to the LEP, and again in relation to any subsequent DA;*
- 4. receive a report at the March meeting of Council on the feedback from residents;*
- 5. receive a report on the likely impact of the proposed WestConnex on local traffic, when the planning proposal is returned to Council for decision; and*
- 6. the matter be included on the agenda for the Councillor Conference to be held on 23 February 2016.”*

A total of 282 letters were forwarded to property owners and residents within the immediate vicinity of the subject site on Monday 8 February 2016. The notification area exceeded that which would apply to an equivalent DA for the subject site in accordance with Council's policies. Supporting information was made available via the 'Your Say Marrickville' webpage and submissions were accepted until 23 February 2016. Following a request from a resident, the exhibition period was extended until Sunday 28 February 2016.

DISCUSSION

123 submissions were received during the consultation period.

90 submissions objected to the proposal

7 submissions supported in the proposal

26 submissions partially supported the proposal

The main areas of objection to the proposal relate to on-street parking and traffic generation; amenity impacts of the proposed development; suitability of the development for the area and construction impacts.

A building identification map is provided in Figure 1 below to assist with interpretation of this report.

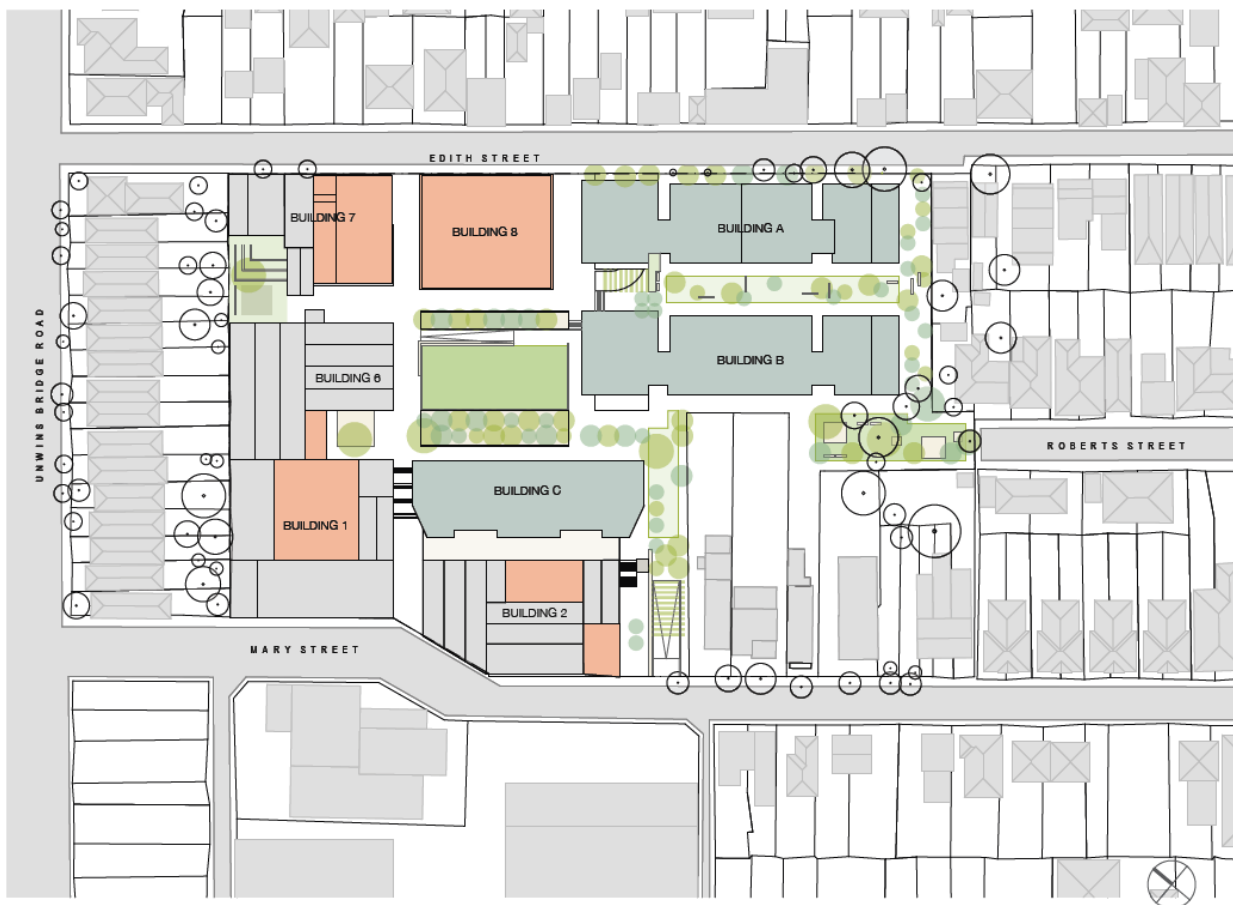


Figure 1: Building identification map

Response to Community Submission

The following discussion provides a summary of the main issues raised in the submissions with an officer's evaluation provided in respect to each:

- Lack of on street parking

The inability of on street parking to meet demand was raised in the majority of submissions, including those partially supporting the proposal. It is evident that demand for on street parking spaces from residents is high, and is at times exacerbated by the activities of surrounding business or activities such as local markets. Residents are concerned that the proposed development will further exacerbate this existing problem.

Comment

The proposed development provides 340 off street parking spaces across two basement car park levels. These spaces will be distributed between residential uses and commercial tenancies. The proponent's traffic report states this represents a shortfall of 11 spaces from Council's DCP requirements. Final parking requirements for the proposal will depend upon the final mix of land uses and apartment types, however the proposed rate is considered acceptable due to the operational efficiencies associated with a large car parking numbers. Specifically, the mix of uses within the precinct will assist in spreading peak demand times which will improve the availability of car spaces within the car park. Additionally, the proposal includes 7 car share vehicles spaces to further alleviate any shortfall with Council's DCP requirements. There will be further opportunities to evaluate the level of parking proposed during the public exhibition process and as part of any future DA.

The submissions received indicate there is an existing issue with the lack of on street parking in the surrounding streets. Resident parking schemes are designed to protect parking for local residents. It is recommended that should the proposal proceed that Council evaluate the case for the establishment of a resident parking scheme in the locality. Council's current policy regarding Resident Permit Parking Schemes requires that requests be received from at least 10 individual properties before consideration will be given to the introduction of new resident parking schemes. The introduction/extension of Resident Parking Schemes are evaluated by the Pedestrian, Cyclist and Traffic Calming Advisory Committee, which meets on a monthly basis.

It should be noted that, in accordance with Council policy, a condition would be imposed on any future development consent granted for the subject site excluding residents of new developments from eligibility for any current or future resident parking scheme. Therefore, residents of any future development of the site would not be able to participate in a future resident parking scheme.

- Traffic generation, including impacts of WestConnex

Comment

A traffic report, prepared by McLaren Traffic Engineering, was submitted as part of the supporting information for the planning proposal request. The report calculates an additional 156 peak hour vehicles trips as a result of the development. The report notes that *'the additional traffic within Mary Street will increase, however this is towards the northern end of Mary Street based on the development site's proposed exit driveway which will be away from dwellings further to the south on Mary Street.'*

Several intersections are critical to the performance of the road network, including the Mary Street and Unwins Bridge Road intersections. In relation to the performance of the Mary Street and Unwins Bridge Road intersection, the report states that *'the intersection of Unwins Bridge Road / Mary Street will maintain its performance of LoS (Level of Service) B under the additional traffic load.'* (Level of Service is a qualitative measure of performance describing operational conditions. There are six levels of service, designated from A to F, with A representing the best operational condition and level of service F the worst.)

The report concludes that the proposal is *'fully supportable in terms of its traffic and parking impacts'* subject to certain recommendations.

Regarding the potential impacts of WestConnex, in December 2015, Council commissioned TTM Traffic to assess traffic, transport and modelling aspects of the New M5 Environmental Impact Statement for Council's submission.

The TTM report concludes that *'the traffic forecasts do not indicate significant traffic impacts on streets within the Marrickville Local Government Area with the addition of the New M5 only. An allowance will need to be made for the increase in traffic on Edgeware Road which will in addition to that forecast for the expansion of the Marrickville Metro shopping centre. The longer term forecasts with the completion of the full WestConnex project and the Southern extension show a major increase in peak period traffic flows on Edgeware Road and King Street. The implications of this have not been addressed in the EIS.'*

The TTM report's main concern is with traffic increases on Edgeware Road and King Street. It has not raised concerns about other streets in the LGA, including Mary Street or Unwins Bridge Road. Therefore, based on the currently available information WestConnex Stage 2 would not result in significant increases in traffic on these two streets that would cause congestion and queuing of traffic entering and exiting the site from Mary Street. Changes to the phasing of traffic lights at the Mary Street / Unwins Bridge Road intersection to prioritise Unwins Bridge Road, potentially increasing queuing on Mary Street, are also not likely to be needed.

It is also not expected that the Mary Street precinct will be directly affected by noise, air pollution or other impacts from WestConnex Stage 2. This is because there is sufficient distance between the Mary Street precinct and the proposed St Peters interchange and road widening at Campbell Street.

The McLaren report notes that referral to Roads & Maritime Service (RMS) is required under the SEPP (Infrastructure) 2007. Further, it is anticipated that the RMS will be included as an agency for consultation should Gateway approval be issued. Therefore, the RMS will have an opportunity to comment on the proposal.

- **Amenity issues, including overshadowing, lack of open space, privacy impacts**

Solar Access to Open Space

Council's Urban Design Planner has provided the following 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 the maximum possible 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 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 1**: 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. 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 space, sufficient solar access needs to be provided.

Consequently, the draft planning controls (included at **ATTACHMENT 4**) 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/reduction 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 an adequate 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 have overshadowing to at 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 the 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 a full assessment against 2.7.5.1 C8 i. is not possible at this time. This matter would be subject to further and detailed assessment as part of any future development application with building design and bulk to ensure adequate solar access. It is noted that the eastern edges of Buildings A and B have been stepped down as part of the current design to alleviate impacts upon the above properties.

- The appropriateness of the development within the area

Comment

The subject site is one of several large remnant light industrial sites generally surrounded by traditional detached housing. The site retains its industrial character through its current use and industrial buildings. The site currently accommodates a range of light industrial uses, which contribute to the character and employment opportunities within the Marrickville local government area. The proposal seeks to preserve much of this character through adaptively reusing many of the existing structures on the site. This is considered to be an appropriate response to ensure the continuation of the site's aesthetic and historic values and as discussed in the previous report is consistent with the strategic direction for such sites in the Marrickville Urban Strategy (refer to **ATTACHMENT 5**).

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 that approximately 50% of the total floor area is proposed to be residential. The extent of residential development proposed will ensure a balanced mix of land uses.

- Proposed scale of the development, including maximum building heights

Comment

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 2 below 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.

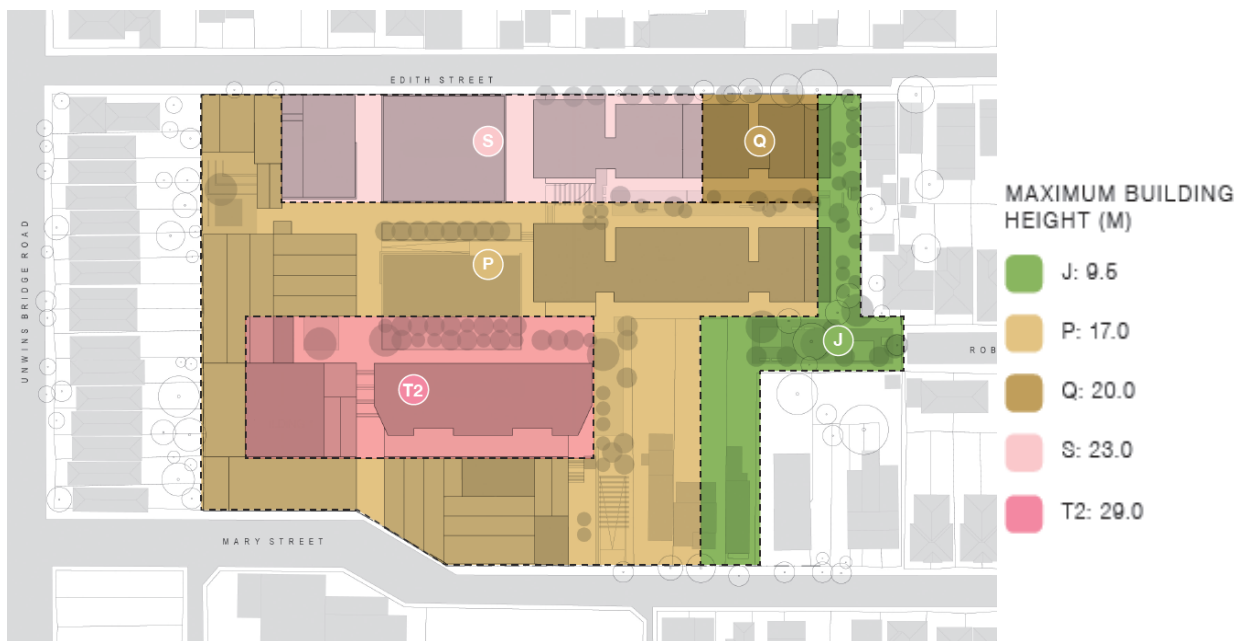


Figure 2: Proposed building heights

The indicative plans submitted with the planning proposal request indicate the following number of storeys for buildings (see Figure 1: Building Identification Map) as follows:

Building A: 6 storeys (HOB code S, Q and J)

Building B: 4 storeys (HOB code P and J)

Building C: 8 storeys (HOB code T2)

Building 1: 7 storeys (HOB code P and T2)

Building 2: 5 storeys (HOB code P)

Building 6: 4 storeys (HOB code P)

Building 7: 6 storeys (HOB code S)

Building 8: 5 storeys (HOB code S)

The proposed building heights are satisfactory, with changed to Building A and Buildings 7 and 8 as discussed further in this report. The proposed building heights are stepped down towards their interface with low density residential areas.

The tallest buildings will be located as additions to the retained Building 1 and new Building C located in the south eastern section of the site. The additions to Building 1 are proposed for commercial uses. Building C proposed to be a new residential building. The additional massing to Building 1 will be located approximately 15 metres from the building alignment of properties on Unwins Bridge Road. The building is also proposed to be used for commercial purposes. Building C is located internally on the site adjacent to the retained Building 2. It is considered a suitable height due to its siting on the land and the existing height and bulk of Building 2.

The buildings facing Edith Street (A, 7 & 8) are proposed to range from 9.5 metres (at the south eastern interface with 48 Edith Street) to 23 metres (submitted as a predominantly six storey built form). Pre planning proposal advice in June 2015 from the Architectural Excellence Panel and internal urban design advice did not raise any in-principle concerns to this six storey built form, but raised overshadowing concerns resulting from the proposed buildings fronting Edith Street. Based on that advice this report and the previous February 2016 report requires built form changes to reduce overshadowing impacts (Recommendation 1(f)).

With the community concern regarding a six storey height along Edith Street, Council may wish to consider amending the planning proposal at this stage to limit the building heights of Building A, 7 & 8 fronting Edith Street to a lower height. It should be noted that if the proposal were to proceed beyond the Gateway, this height would be the subject of further review and potential restrictions to the maximum permitted height, based on the current and future responses to community consultation.

- ***Impacts from construction including noise, dust and access concerns***

Comment

Redevelopment of the subject site will involve extensive building works, commencing with necessary remediation works. These impacts are routinely managed via conditions of development approval and do not constitute grounds for refusal of the proposal.

- ***Future of employment lands and creative industries***

Comment

An assessment of the proposal against relevant strategic policies and guidelines is included at **ATTACHMENT 5** to this report. Assessments against relevant Section 117 directions and State Environmental Planning Policies are included at **ATTACHMENT 6** and **ATTACHMENT 7** respectively. The proposed development is predominantly consistent with these provisions.

- ***Pedestrian amenity including lack of footpaths along Mary Street***

Comment

Council's Development Engineer reviewed the traffic and parking impact assessment and provided the following comments in relation to footpaths along Mary Street:

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.

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 lodged for the site.

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

Comment

Two Mary Street properties, whilst not owned by the proponent, are included as part of the planning proposal request (69 & 71 Mary Street). These sites are isolated due to the inclusion of 67 Mary Street (owned by the proponent) within the development site. The planning proposal seeks to rezone all of these sites to B4 Mixed Use. The proposed zoning is shown in Figure 3 below.

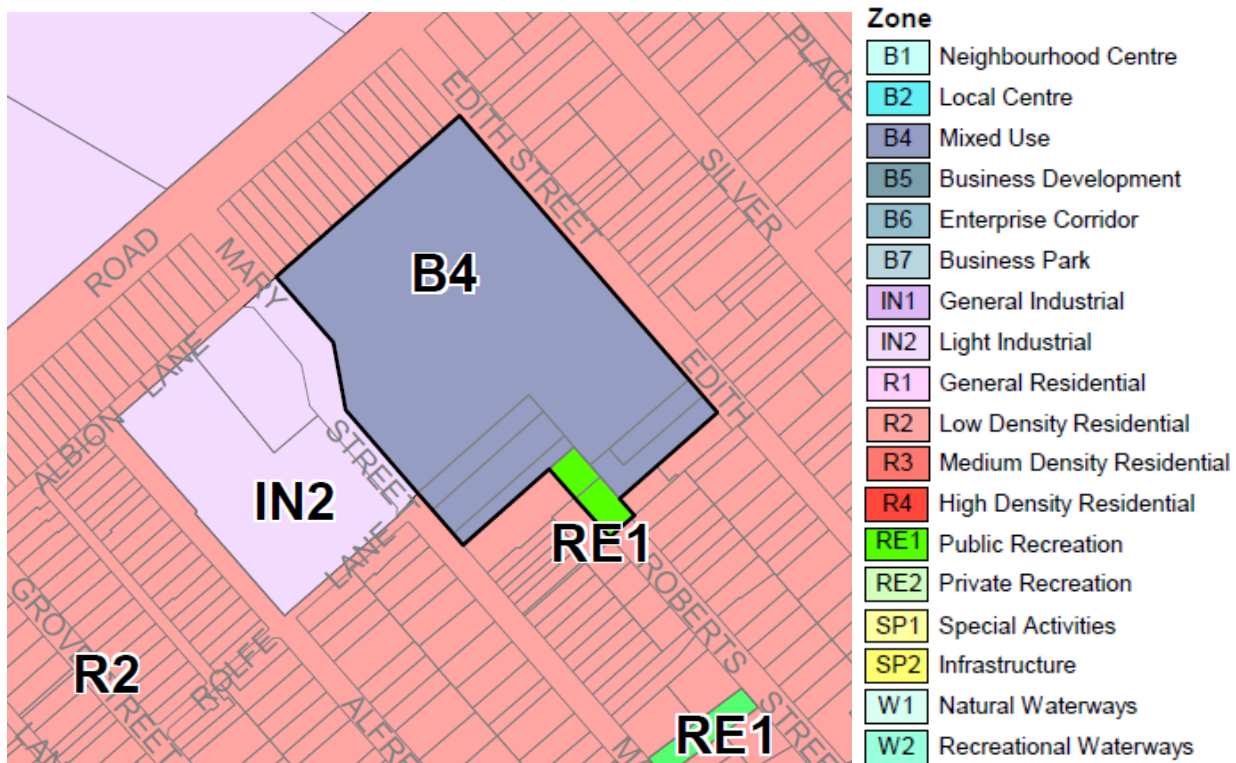


Figure 3: Proposed land use zoning for subject site as included in the planning proposal documentation

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.

A submission has been made by the owners of 71 Mary Street requesting that their property be removed from the proposal in its entirety.

The rezoning of those residential properties to a commercial zoning was initially proposed to avoid isolating these properties. However these zonings are not necessary to facilitate the development and as noted the character of Mary Street is not proposed to change from its current low density residential function.

It is recommended that these sites retain their current R2 Low Density Residential zoning and they be removed from the planning proposal request. This zone is considered appropriate as it reflects their current and intended future use.

Whilst 67 Mary Street is owned by the proponent, this site should also retain its current zoning, to be consistent with 69 and 71 Mary Street. To facilitate the broader objectives of the planning proposal, a small portion at the rear of this site (beyond the southern alignment of Roberts Street) is appropriate for a B4 Mixed Use zoning, as shown in Figure 4 below.

Consequently, the HOB, FSR and zoning maps applying to the planning proposal will require amendment to remove 69 and 71 Mary Street from the proposal. This change may result in minor adjustments to the overall FSR for the entire site and to update the planning proposal prior to any amendment to the LEP.

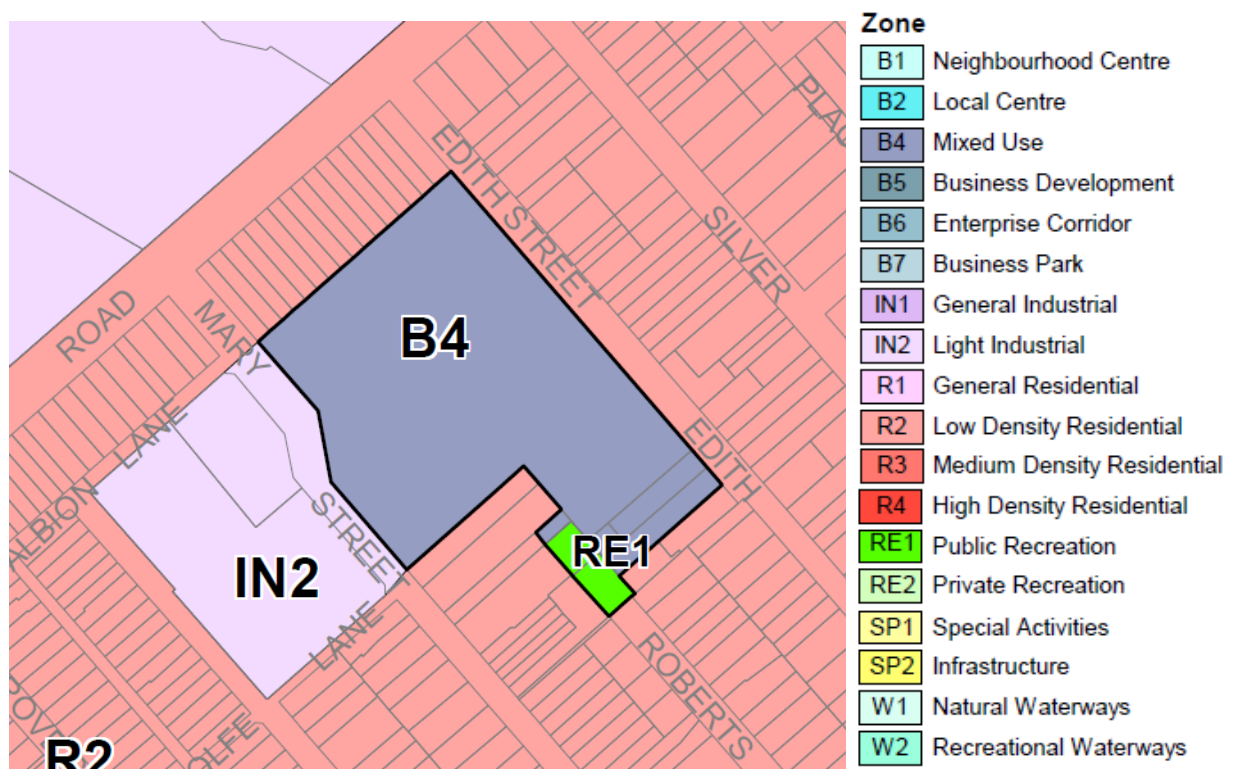


Figure 4: Proposed amended zoning for subject site

- **Request for inclusion in rezoning: 49 Mary Street**

The landowners of 49 Mary Street have requested that the rear area of their property (20m x 12m) be included in the proposed re-zoning as they are concerned their land could potentially become landlocked due to the rezoning of 43 Roberts Street. The owners also note a right of way operates over 43 Roberts Street benefitting their site and their desire to seek better access to Roberts Street.

Comment

The rear of 49 Roberts Street is located adjacent to 43 Roberts Street, which is included within the land subject to the Planning Proposal and is owned by the proponent. The proposed future for 43 Roberts Street is for the existing dwelling house to be demolished and the space made into a pocket park and pedestrian access point. It is not considered that the proposal isolates 49 Mary Street or compromises its future use as a dwelling house. The right of way will continue to operate despite any change in ownership at 43 Roberts Street. Improvement to the access to Roberts Street via the right of way is a matter to be negotiated directly with the developer.

- **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 Section 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 applicant of their obligations in relation to reporting contaminants under Section 60(3) of the Contaminated Land Management Act (1997). Additionally, Council officers have forwarded all relevant information to the NSW EPA. On 15 January 2016, the EPA issued a Notice to the landowner requiring records to be provided under Section 77 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 and 52 Edith Street were not assessed as part of the investigations due to lack of access. The report does not mention 69 and 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 redeveloped for a mixed use development, however cannot be conclusive that the proposed development is suitable. The report specifically makes the recommendation 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 will be necessary for the site to be thoroughly investigated to ensure it is able to be safely accommodated for future 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. It should be noted that the risk associated with the ability of the land to be remediated to an acceptable standard is borne by the proponent. Specifically, should the site not be able to be remediated to a satisfactory level or be cost prohibitive then the LEP amendments outlined in the Planning Proposal, and/or future redevelopment of the land would not proceed.

- ***Aircraft noise and Australian Noise Exposure Forecast (ANEF)***

Comment

An acoustic report, prepared by Acoustic Logic, was submitted with the planning proposal. The report states 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. This updated was made accordingly.

An assessment has been undertaken against section 117 Direction No. 3.5 *Development Near Licensed Aerodromes* which notes that no residential accommodation is proposed within the ANEF 25-30 contours. The direction further states that a planning proposal that rezones land for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25 must include a provision to ensure that development meets AS 2021 regarding interior noise levels. This is consistent with MLEP 2011 Clause 6.5 (Development in areas subject to aircraft noise) which addresses noise attenuation criteria for certain properties in AS 2021. This can be further assessed as part of any future development and conditioned accordingly.

Additional Matter: Proposed zoning

During the assessment of the planning proposal an issue was identified with the permissibility of the development within the proposed B4 Mixed Use zone. 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 3** shows the proposed zoning for the 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.*

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. These 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.

As detailed in the original report, 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 proposed for the 'pocket park' proposed near Roberts Street is suitable dependent upon its future ownership and if it is to be dedicated to Council. Should the park not be dedicated to Council as part of a VPA it could still be used as a park but to avoid any acquisition liability for Council should be zoned B4 Mixed Use.

FINANCIAL IMPLICATIONS

Nil.

PUBLIC PARTICIPATION

It is a legal requirement that further public participation in the form of community consultation will be undertaken should Council resolve to support the planning proposal request and the Department of Planning & Environment issue a Gateway Determination.

CONCLUSION

This further report assesses a planning proposal request the rezone land at 67, 69, 71 & 73 Mary Street, 50 & 52 Edith Street & 43 Roberts Street, St Peters, to allow its redevelopment as a mixed use precinct, following a period of community consultation and Councillor briefing. A total of 123 submissions were received during the consultation period. Concerns raised

include parking and traffic generation, proposed building heights, land contamination and the suitability of the development within its context.

The proposal has strategic merit as it involves rezoning industrial land that is not part of a wider industrial precinct, while retaining 50% of floor area on the site for non-residential/employment based uses.

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.

Subject to the changes discussed in this report, the planning proposal request is considered acceptable for submission to the DP&E for Gateway determination, subject to recommendations of this report.

It is further recommended that Council endorse the site specific planning controls for their public exhibition concurrent with the planning proposal, dependent upon the outcome of the Gateway determination.

ATTACHMENTS

1. Report to February 2016 Infrastructure, Planning and Environmental Services Committee Meeting IP0216 Item 4
2. Table of Submissions Received during Public Consultation Period
3. Copy of Longer Submissions Received during Public Consultation Period
4. Draft Site Specific Planning Controls
5. Strategic Assessment of Planning Proposal
6. Assessment of Planning Proposal Against Section 117 Directions
7. Assessment of Planning Proposal Against Relevant State Environmental Planning Policies