

LEADING

ITEM NUMBER	13.9
SUBJECT	Planning Proposal for land at 33-43 Marion Street, Parramatta
REFERENCE	RZ/9/2017 - D05697387
REPORT OF	Project Officer Land Use

PURPOSE:

This report provides an update of the current status of the planning assessment for a Planning Proposal for land at 33-43 Marion Street, Parramatta. This report provides Councillors with a recommendation from Council Officers that will enable the assessment of a number of heritage issues to be further investigated, which will inform the final assessment and future recommendation on the matter to Council.

RECOMMENDATION

- (a) **That** Council note the issues identified in the current assessment of the Planning Proposal for land at 33-43 Marion Street, Parramatta.
- (b) **Further, that** Council immediately endorse the engagement of an independent heritage consultant to undertake a detailed investigation and assessment of:
 - All heritage items identified in Marion Street between Anderson Street and Station Street West.
 - Supporting heritage documentation provided by the applicant, including the heritage fabric analysis of items directly impacted by the Planning Proposal, being 37 Marion Street, and the adjoining properties of 29 Marion Street and 31 Marion Street.
 - Based on these findings, whether a Heritage Conservation Area for Marion Street be considered by Council at a future date.

THE SITE

1. The subject site is located at 33-43 Marion Street, Parramatta (refer to **Figure 1**). The legal description of the sites is Lots 10-13 of DP 976, Lot 14 of DP 182289, Lot A of DP 349279 and Lot 1 of DP 747666. The total site area is 2,367.5m² and currently contains a modern 3-storey commercial building, a 2-storey commercial shop with shop-top housing, a 2-storey commercial building, and three single storey detached residential dwellings. One of the residential dwellings, 37 Marion Street, is identified in Schedule 5 of the Parramatta Local Environmental Plan 2011 as Local Heritage Item I731.



Figure 1 Location map

2. The site is located on the corner of Station Street West and Marion Street, with a third frontage to Station Lane to the south that allows for vehicle and service access to the rear of the properties.
3. The site currently has an FSR of 2:1, however under the *Draft Parramatta CBD Planning Proposal* (CBD PP) Council, on 11 April 2016 when the CBD PP was endorsed, resolved to apply an FSR of 6:1 to the subject site. The site is currently zoned B4 Mixed Use. The Council subsequently on 10 July 2017, when considering a further Heritage Report related to the CBD Planning Proposal resolved to supersede the 11 April 2016 resolution with a further resolution which retains the existing FSR (2:1) and Height (12m) in the CBD PP.
4. On 11 May 2017 a Planning Proposal for the subject site was received by Council. The Proposal seeks to amend the PLEP 2011 to increase the height of building control from 12m to 102m and the maximum floor space ratio (FSR) from 2:1 to 10:1. The existing B4 Mixed Use zoning is not proposed to change. If the LEP is amended, the Proposal states that a mixed use development containing approximately 1330m² of commercial floor area and approximately 240 residential dwellings could be delivered on the site. The proposal provides material seeking to justify the demolition of a Heritage Item located on the subject site.

BACKGROUND

5. On 11 April 2016, Council adopted the draft Planning Proposal for the Parramatta CBD (CBD PP), which generally sought to increase the FSR of most sites within the Parramatta CBD to between 6:1 and 10:1, and to remove height limits subject to a number of conditions. The Heritage Report by Urbis, which was prepared to support the CBD PP, and the Council Officer report to Council, recommended that Marion Street retain an FSR of 2:1 due to the heritage sensitivity of the buildings in Marion Street to the west of the Western

Railway Line, and its proximity to the Harris Park West Heritage Conservation Area to the east of the railway line.

6. Since that time, a number of site-specific Planning Proposals have been lodged with Council that have, to varying degrees, while demonstrating compliance with the draft development standards proposed in the CBD PP, have led to heritage interface issues with local heritage items and heritage conservation areas within, or in proximity to land affected by the CBD PP being raised by both the NSW Heritage Council and the Department of Planning and Environment.
7. The Heritage Council concerns related to the site specific planning proposal for 142-154 Macquarie Street, Parramatta and included: negative impacts on historical archaeological resources, overshadowing, visual and streetscape impacts, and impacts on Harrisford House and Hambledon Cottage.
8. The DPE concerns related to two site specific planning proposals for 14-20 Parkes Street, Harris Park and 122 Wigram Street, Harris Park and were outlined in the Gateway determinations for these sites stating inter alia that, "The assessment of this Gateway review has highlighted the need for more detailed investigation of appropriate transitional controls specific to individual heritage conservation areas, to support the Parramatta CBD Planning Proposal. Such an investigation could clarify the purpose of the controls, provide a suitable evidence based methodology and consider the potential cumulative impacts of development on the heritage values of affected conservation areas".
9. To better understand these potential heritage issues, Council engaged Hector Abrahams Architects (HAA) in February 2017 to prepare a heritage study that assessed at a precinct scale the impact of the proposed draft controls in the CBD PP on heritage items and heritage conservation areas within and adjacent to the Interface Areas. The aims of the heritage interface study were to:
 - To identify potential heritage impacts resulting from the Parramatta CBD Planning Proposal as related to the Interface Areas.
 - To make recommendations to ameliorate adverse impact on heritage through modifications to the draft planning controls for the interface areas to ensure new growth and developments occur in a manner that protects and manages the city's heritage assets and demonstrates consistency with Section 117 Direction 2.3 Heritage Conservation (Section 117(2) of the Environmental Planning and Assessment Act 1979).
10. On 11 May 2017 a Planning Proposal for the subject site was received by Council. A key issue of consideration identified by Council Officers in the early stages of the preliminary assessment of the proposal was the quality of, and methodology used to assess the heritage value of the heritage item at 37 Marion Street, as well as the heritage listed items that adjoined the subject site to the western boundary. Specifically, there is contention as to whether the items should be listed. The heritage assessment provided by the proponent essentially holds the position that, quote, "37 Marion Street has been demonstratively altered and terribly conserved so that it is not of quality and does not merit being a Heritage Item".
11. On 10 July 2017 Council endorsed the *Parramatta CBD: Heritage Study of Interface Areas* report ("the Study") and the "Council Response to the Parramatta CBD Heritage Study of Interface Areas". These documents were

subsequently forwarded to the DPE as supporting documentation for the CBD PP. Refer to **Attachment 1**.

12. Of relevance to this Planning Proposal, the Council resolution of 10 July 2017 endorsed the following recommendations:
- That the incentive floor space ratio control be removed from the land on Marion Street between Anderson Street and Station Street West, and the existing floor space ratio controls as per PLEP 2011 (of 2:1) be reapplied to the affected land;
 - Remove incentive height provisions to the southern side of Marion Street and re-apply a 12m maximum height limit for the entire depth of the lots fronting Marion Street; and
 - That a separate defined heritage study be undertaken to investigate the potential listing of Marion Street as a Heritage Conservation Area (HCA). This study would assess the heritage significance of all existing buildings within the proposed HCA, including contributory significance and overall character, and would be undertaken as a separate piece of work of Council.
13. The formal position of Council at this point in time is 2:1 FSR for the subject site, which was resolved by the Administrator in endorsing the Heritage Interface Area Study and Council Officer Response at the 10 July 2017 Council meeting.

HERITAGE ASSESSMENT OF PROPOSAL

14. In the assessment of the heritage aspects of the Planning Proposal, it was identified by Council Officers that a mapping error exists on the current Parramatta Local Environmental Plan 2011 – Heritage Map (Sheet_HER_010). As identified in **Figure 2** below, Marion Street (“111”) and a section of Cowper Street (“94”) are notated on the map as heritage items, but are not identified in Schedule 5 of the PLEP 2011. This mapping error was also identified by the proponent’s heritage consultant in an email to Council on 24 August 2017, and confirmed by Council Officers to the proponent on 31 August 2017 (refer to **Attachment 3**). At the present time, these two mapping anomalies are listed to be removed in a future housekeeping amendment to the LEP.



Figure 2 Extract of PLEP 2011 – Heritage Map (Sheet_HER_010)

15. In its lodgment of the Planning Proposal, the proponent also provided two heritage reports, being a Statement of Heritage Impact and a Heritage Fabric Analysis and Photographic Record. Both of these reports provide an assessment of 37 Marion Street (Local Item I731) – which is proposed to be delisted and demolished to accommodate future redevelopment on the subject site – and adjoining heritage items located on the western boundary of the subject site, being 29 Marion Street (Local Item I729) and 31 Marion Street (Local Item I730). The Fabric Analysis Report also provides a fabric analysis study on properties within the subject site that are not listed as heritage items, being 33 and 35 Marion Street. Refer to **Figure 3** below, with heritage items identified in blue boxes.

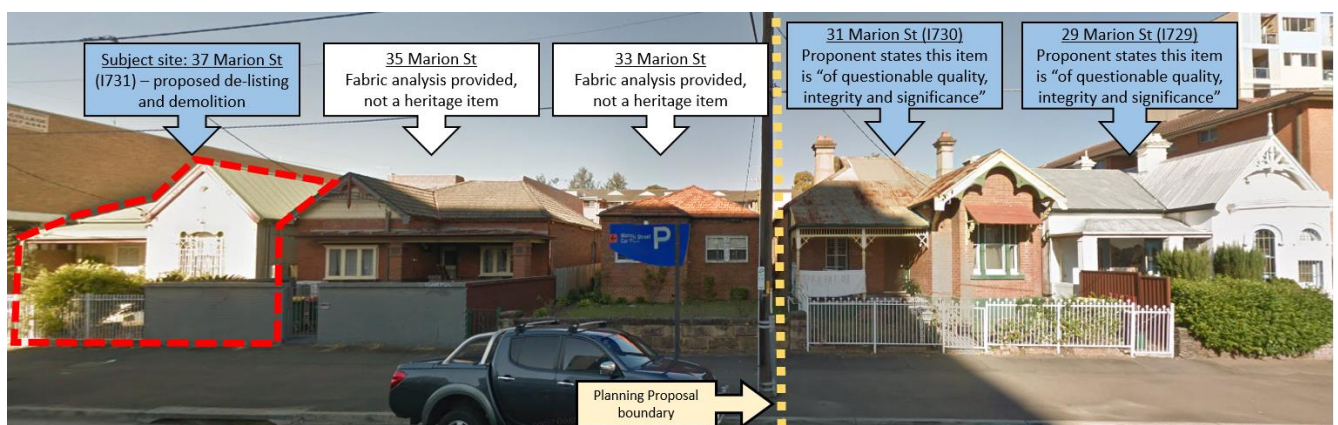


Figure 3 Street view of properties investigated in Heritage Fabric Analysis and Photographic Record (Source: Google Maps)

16. In short, the position of the proponent's heritage analysis is that "the listed items are disintegrated with items of questionable quality, integrity and significance amongst the tail of urban development and are in themselves of altered poor condition", and that "the predominant characteristic of the area is to have heritage items interspersed with high density new developments which surpass their scale and typology ... [and] the proposal will not have any significant adverse effect on the conservation and heritage significance of the area".
17. Council Officers have undertaken a preliminary review of the proponent's heritage reports. Council's assessment concluded that the findings relied upon by the proponent to recommend the delisting and demolition of heritage listed 37 Marion Street, the fabric analysis of adjoining heritage items, and the contention that the development would not result in a significant adverse impact on adjoining heritage items, are based on a methodology that should not be relied upon. Based on the photographic evidence provided by the proponent, Council Officers are of the strong view that the missing or damaged elements of building fabric can be restored or reconstructed and, on balance, continue to meet the applicable criteria for heritage listing.
18. Further, it is Council's position that one of the outcomes of allowing additional development to heritage items is that some of the profits generated through new development be invested in the restoration of the heritage item. This Planning Proposal is inconsistent with Council's approach to heritage management in that it would instead seek the de-listing, and demolition of the item rather than the retention and enhancement of the item to improve its value and significance.
19. A letter summarising this position was subsequently sent to the proponent on 11 October 2017, advising that following a preliminary assessment, and in the context of the Council resolution of 10 July 2017, Council Officers were not in a position to support the Proposal in its current form. It was requested that the proponent either withdraw the proposal, or provide a modified proposal that responded to the issues identified. A copy of this letter can be found at **Attachment 2**.
20. On 18 October Council received a response from the applicant, which disputed a number of points raised by Council Officers, particularly as they related to the heritage assessment. Refer to **Attachment 4**.

ISSUES/OPTIONS

21. Given that Council's current formal position is the site retain the existing 2:1 FSR, the assessment of the planning proposal has reached a point where for the matter to progress, a more detailed investigation of both the site specific, and precinct level heritage issues is required. Council has already resolved on 10 July 2017 to undertake the study of a proposed heritage conservation area along Marion Street. To that end, Council Officers have recommended to Council that an independent heritage consultant be engaged to investigate, assess, and provide recommendations on a number of issues that directly impact upon Council Officer's ability to finalise its assessment of the Planning Proposal for 33-43 Marion Street as a matter of urgency. These issues, which would form the basis of a future project brief, would likely include:

- Assessment of the current heritage listed items and their inventory sheets, to determine – in conjunction with a fabric analysis – whether these items are correctly listed.
 - Investigation of the relationship of the heritage items in Marion Street, to determine whether there are grounds for Marion Street to be recommended to a future Council meeting as a new heritage conservation area.
22. However, should Council wish to proceed with the Planning Proposal without undertaking the further study Council resolved to prepare on 10 July 2017 then the formal assessment should be finalized and forwarded to the Independent Hearing and Assessment Panel (IHAP). The recommendation of the IHAP would then be reported to Council to allow Council to determine whether the Planning Proposal should proceed and whether a Gateway Determination should be requested for this Planning Proposal. When considering whether to proceed with a Planning Proposal Council would normally consider all relevant matters including State Government Policies and Section 117 Directions issued by the Minister in an assessment report. This update report does not provide a complete assessment of this Planning Proposal and Council Officers recommend that Council not proceed with the Planning Proposal until the they have had the opportunity to consider a complete assessment of the Planning Proposal at a future Council Meeting.
23. Another issue that Council may wish to consider/clarify is the basis for the assessment. Based on the Council resolution of 10 July 2017 the formal position of Council in relation to the proposed controls for this under the CBD Planning Proposal is that the existing FSR (2:1) be retained as well as the existing height. Unless Council provides a further resolution in relation to this matter the Planning Proposal will be assessed against the resolved position of 10 July 2017.

FINANCIAL IMPLICATION FOR COUNCIL

24. It was envisaged that the funding for this study would be considered as part of the 2018-19 Budget preparation process. Should Council endorse the Council Officer recommendation, Officers will seek to fund the Study out of current budget allocations. The expected cost is to be in the order of \$20,000.

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ATTACHMENTS:

1 <u>↓</u>	Parramatta CBD Heritage Interface Study - Report to Council and attachments	216 Pages
2 <u>↓</u>	Letter to Proponent - Preliminary Assessment	3 Pages
3 <u>↓</u>	Proponent Letter to Councillors	27 Pages

REFERENCE MATERIAL

P Bradley, L Wearne and Dr P Prociv

ABSENT: Councillor D Davis