

REPORT

PD/5.5/20.11



Subject: Planning Proposal - 99-117 Birrell Street, Waverley

TRIM No: SF20/5475

Author: Jaime Hogan, Senior Strategic Planner

Director: Peter Monks, Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council:

1. Notes the submission of a planning proposal prepared by Ethos Urban on behalf of Uniting Care on 18 August 2020 to increase the maximum height of buildings and the maximum floor space ratio of the sites 99–117 Birrell Street, Waverley, under the Waverley Local Environmental Plan 2012.
2. Notes that the proposed increase in height and FSR is consistent with the Gateway Determination received for the adjacent War Memorial Hospital Campus site, and will enable improved conservation of the significant heritage fabric of the site and increase the amount of usable, public open space available on the site.
3. Authorises officers to forward the planning proposal to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.
4. Places the planning proposal on public exhibition in accordance with any conditions of the Gateway Determination that may be issued by the DPIE.
5. Notes that a Site Specific DCP will be exhibited concurrently with the planning proposal and will include provisions for scale and interface with the surrounding land uses, heritage buildings and gardens within the site, pedestrian access and through-site links and provision of landscaped open space.
6. Requests the role of local plan-making authority from the DPIE to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* in relation to the making of the amendment.

1. Executive Summary

The subject planning proposal (the Proposal) has been prepared by Ethos Urban on behalf of Uniting Care (the Proponent). The Proposal is for the sites 99–117 Birrell Street, Waverley, identified as the 'Birrell Street Site' in Figure 1. The Proposal seeks to complement a separate planning proposal for the remainder of the block for the War Memorial Hospital site (The WMH Campus Proposal), as identified in Figure 1. The entire block bound by Birrell Street, Carrington Road, Church Street and Bronte Road is known as the Edina Estate, and is a significant heritage item for the locality.

The Proposal seeks to amend the Waverley Local Environmental Plan to:

- Increase the maximum height of building from 9.5 m and 12.5 m to 15 m and 21 m.

- Increase the maximum FSR from 0.6:1 to 1.2:1.

The Proposal is consistent in height and FSR with the WMH Campus Proposal, which was supported by Council and has received a conditional Gateway from the Department of Planning, Infrastructure and Environment (DPIE). The Proposal also seeks to provide 10% affordable housing on the site.

The holistic redevelopment of the Edina Estate is considered to have strategic merit in:

- Providing essential social infrastructure through the continuation and expansion of health-related uses on the site.
- Increasing the provision of seniors housing and providing a component of affordable housing.
- Retaining and enhancing the unique heritage and environmental significance of the site.
- Opening the site to the public within a dense urban area.



Figure 1. Map identifying sites and planning proposals.

2. Introduction/Background

Background

This Proposal in conjunction with the WMH Campus Proposal seeks to enable the holistic redevelopment of the Edina Estate. The overall redevelopment will seek to continue to provide essential social infrastructure through the provision of health related uses and seniors housing, retain and enhance the unique heritage and environmental significance of the site, and open the site up to the public to encourage a greater level of public engagement with the heritage fabric and open space on the site.

History of the planning proposal

The evolution of the two planning proposals has occurred over three years, with the history provided in Attachment 1 of this report. The Birrell Street sites were originally not included in the WMH Campus

Proposal; however, through discussions with staff, it became evident that there would be benefits to the inclusion of these sites in the WMH Campus Proposal to better address some key issues such as vehicle access to the site and the improved retention of the heritage fabric and spatial qualities of overall Edina Estate.

The Birrell Street sites were then proposed to be included, however at the time, no further justification or supporting information was provided relating to the inclusion of the sites. Accordingly, Council did not support the inclusion of the sites into the WMH Campus Proposal without additional supporting studies such as traffic and urban design modelling. The subject Proposal now provides the outstanding supporting materials to justify the inclusion of the Birrell Street lots into the overall vision for the Edina Estate redevelopment.

Introduction

The Proposal applies to the parcels as outlined in Table 1.

Table 1. Lot and DP of affected parcels.

Lot	DP	Address	Ownership
1	312247		Private
1	1115332	99 Birrell Street	Private
2	515904	101 Birrell Street	Private
1	515904	103 Birrell Street	Uniting
A	437866	105 Birrell Street	Uniting
B	437866	107 Birrell Street	Uniting
1	961790	109 Birrell Street	Uniting
11	667554	111 Birrell Street	Uniting
4	520982	113 Birrell Street	Uniting
3	520982	115 Birrell Street	Uniting
2	212655	117 Birrell Street	Uniting

This Proposal specifically seeks to amend the Waverley Local Environmental Plan 2012 as outlined in Table 2 below.

Table 2. Summary of Proposed Changes to the WLEP2012.

WLEP2012 Provision	Existing	Proposed
Zone	R3 – Medium Density Residential	R3 – Medium Density Residential
FSR	0.6:1	1.2:1
Height	9.5m and 12.5m	15m and 21m
Heritage	No	No
Affordable Housing Component	No	10%
Key Sites Map	No	Yes – to apply Clause 6.9 Design Excellence

Increase to height and FSR

The proposed increase to the permissible maximum height of building (to 15 m and 21 m) and floor space ratio (to 1.2:1) for the Birrell Street Proposal is consistent with the proposed increase on the War Memorial Campus site as identified in Figures 2 and 3 below.



Figure 2. Proposed maximum building height.

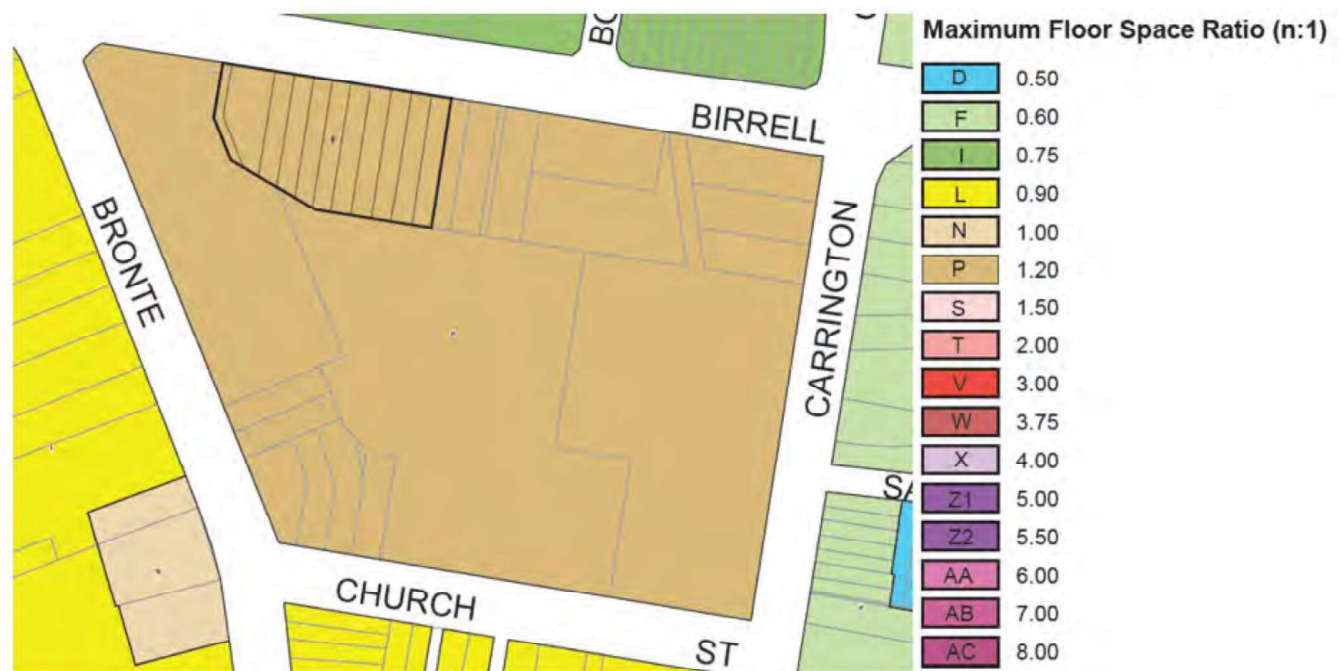


Figure 3. Proposed maximum floor space ratio.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Strategic Planning and Development Committee 7 May 2019	PD/5.3/19.05	That Council: 1. Notes the submission of a planning proposal to amend the Waverley Local Environmental Plan 2012 lodged by Ethos Urban on behalf of Uniting, as amended on 5 November 2018.

		<ol style="list-style-type: none"> 2. Notes the advice given by the Waverley Local Planning Panel on 24 January 2019. 3. Forwards the planning proposal to the Department of Planning and Environment for a Gateway Determination to proceed to formal public exhibition, subject to the following amendments: <ol style="list-style-type: none"> (a) That the planning proposal only apply to the lots as identified in the original planning proposal submitted July 2017. (b) No alteration to the Land Zoning Map. (c) No site-specific zone boundary flexibility clause. (d) The following Additional Permitted Uses only to apply across the site as follows: <ol style="list-style-type: none"> (i) Seniors housing. (ii) Community facilities. (iii) Centre-based child care facility. (e) The following Additional Permitted Uses to apply in the R3 zone: <ol style="list-style-type: none"> (i) Health service facility and any development which is ordinarily incidental or ancillary to health service facility. (f) Increase the maximum permissible height from 9.5 m and 12.5 m, to 15 m and 21 m only. (g) Increase the maximum permissible floor space ratio (FSR) from 0.6:1 and 0.9:1, to 1.2:1. (h) New site-specific provisions to include: <ol style="list-style-type: none"> (i) Maximum site coverage to ensure open space provision. (ii) Minimum deep soil and landscaped area to ensure significant trees, biodiversity corridors and heritage landscaped areas are protected. (iii) Include the site on the Key Sites Map and apply clause 6.9 Design Excellence. 4. Places the planning proposal on public exhibition in accordance with any conditions of the Gateway
--	--	---

		<p>Determination, should that be approved by the Department of Planning and Environment.</p> <p>5. Accepts the role as the Plan-Making Authority from the Department of Planning and Environment, if offered, to exercise the delegations issued by the Minister under section 3.36 of the <i>Environmental Planning and Assessment Act 1979</i> in relation to the making of the amendment.</p>
Strategic Planning and Development Committee 5 March 2019	PD/5.4/19.03	That Council defers the matter for at least one month subject to Council officer consideration.

4. Discussion

The Proposal is considered to have site specific merit when considered holistically with the WMH Campus Proposal, to better enable development within the site that respects the significance of the original Edina Estate layout, increasing housing diversity and achieves the strategic aims of the redevelopment.

The Proposal is considered a beneficial amendment to the WMH Campus Proposal, as the additional density and development potential on the Birrell Street sites will help to achieve the overall vision of the site as follows:

- Address key concerns regarding encroachment on significant heritage fabric of the campus by providing greater opportunity to locate the built form to the periphery of the site and reinstate a number of key open spaces on the site considered significant to the heritage item.
- Provide additional options for vehicle access to the site to assist with servicing and visitation.
- Provide a greater quantity of open space on the site to be utilised by the public, through the location of new buildings closer to the periphery of the site, thus providing additional open space for the residents and patients of the site, as well as visitors and locals.
- Address concerns regarding the retention of the existing habitat corridor which runs through the centre of the site, through the location of buildings to the periphery of the site and through the retention of key mature and significant trees.
- The inclusion of the subject sites in the WMH Campus Proposal will help to protect key environmental characteristics of the site by providing for greater open space within the centre of the site and water sensitive urban design to aid with water retention and reabsorption through the site.

Given the opportunities afforded through the inclusion of the Birrell Street lots into the Edina Estate redevelopment to better achieve the aim of a holistic redevelopment of the site to create a precinct with a range of health and housing uses to address the projected demographic needs of the community, the proposal is recommended to proceed to a Gateway assessment, to form an amendment to the WMH Campus Proposal.

Waverley Local Planning Panel Advice

On 8 October 2020, the Proposal was presented to the Waverley Local Planning Panel (WLPP) for its review and advice. The Panel undertook their own site visit. Following presentations from both Council and the Proponent, the WLPP made the following recommendation:

The Panel advises Council that:

1. For the reasons in the Council's Summary Report and Recommendations the subject planning proposal is considered to have strategic and site-specific merit only when considered as part of the War Memorial Hospital Campus site. The subject planning proposal is not considered to have strategic and site-specific merit if it were able to be developed in isolation.
2. To achieve the integrated development of the whole site, the planning proposal should be amended prior to being forwarded to DPIE for a Gateway determination to include an Additional Local Provision and Key Sites Map (or other relevant mapping) which provides for additional Floor Space Ratio (up to 1.2:1) and Height (15 m and 21 m) only if:
 - (a) All Birrell Street lots are amalgamated with the War Memorial Hospital Campus.
 - (b) The deep soil zone and high-performance building provisions are consistent with those proposed for the War Memorial Hospital Campus.
 - (c) A site specific DCP has been prepared for the Birrell Street site and the War Memorial Hospital Campus in accordance with the Gateway determination for the War Memorial Hospital Campus.
3. It is preferable that a consolidated planning proposal for the Birrell Street sites and War Memorial Hospital Campus be prepared and exhibited following Gateway Determination. The consolidated Site Specific DCP should be prepared as a matter of urgency.
4. By way of comment, the Panel notes that the Proponent's Letter of Intent currently relates to affordable housing only, but other matters such as publicly accessible open space could also be considered.

Council officers' response to WLPP

Isolated development

To avoid the isolated development of the Birrell Street lots without the rest of the campus, or the development of only some Birrell Street lots, it is proposed that any increase in the height or FSR on the site is provided as an incentive via an Additional Local Provision that applies to the subject lots. The additional height and FSR would only be available if the sites provide 10% affordable housing (as indicated in the Letter of Offer) and comply with the Site Specific DCP which will include a provision regarding isolated development of lots. These provisions are deemed to provide a sufficient barrier to the isolated development of any of the lots and achieve the same outcome as the outcome intended by the Panel as stated '*2(a) All Birrell Street lots are amalgamated with the War Memorial Hospital Campus*'.

Minimum deep soil and high-performance buildings

If the subject planning proposal is seen as being an amendment to the Gateway Determination for the WMH Campus proposal, the Birrell Street sites will be subject to the Minimum Deep Soil and High-Performance Buildings Provisions as outlined in Gateway Determination.

Should the DPIE determine that the WMH Campus Proposal and the Birrell Street Proposal be maintained as separate proposals, the Minimum Deep Soil and High-Performance Buildings Provisions are also recommended to apply to the Birrell Street sites.

Site Specific DCP

Council Officers are currently preparing the Site Specific DCP in accordance with the WMH Campus Gateway Determination and will integrate feedback from the Proponent and the LPP advice. The Draft Site Specific DCP will be reported to Council so that it can be placed on public exhibition concurrently with the planning proposals.

Consolidated exhibition

It is intended to exhibit both planning proposals concurrently to avoid duplication and any confusion by the local community. If possible and in consultation with DPIE, the potential of integrating the two planning proposals into one consolidated PP via an amendment to the Gateway Determination for the purposes of exhibition and ultimate gazettal will be discussed.

Local plan-making authority

The role of local plan-making authority relates to who has the final say in determining a PP. Council needs to state whether it wants to be the local plan-making authority as part of the submission of planning proposals to the Department. Local plan-making functions are now largely carried out by councils. Councils are routinely authorised to be the plan-making authority for PPs including:

- Mapping corrections.
- LEPs that will result in a relaxation of a development standard on a site to promote development including potential increases to FSR and height of building and reduced minimum lot sizes.
- Amending references to documents/agencies, minor errors and anomalies.
- Reclassification proposals where the Governor's approval is not required in relation to the removal of covenants, trusts etc. relating to the land.
- Heritage LEPs related to specific items (whether adding or removing an item from a Heritage Schedule) supported by an Office of Environment and Heritage or endorsed local strategy.
- Spot rezonings that give effect to regional or a local strategy endorsed by the Planning Secretary.
- Spot rezonings that will result in an upzoning of land in existing areas zoned for residential, business and industrial purposes.
- Any other matter that the Gateway determines is a matter of local planning significance

Council generally won't receive local plan-making authority for PPs that are contentious, such as new Conservation Areas or items that don't have support from the Office of Environment and Heritage or are subject to a Rezoning Review.

It is significant for Council to be the plan-making authority since under section 3.36(2) of the *Environmental Planning and Assessment Act 1979*, the local plan-making authority may, following completion of community consultation:

- Make a local environmental plan (with or without variation of the proposals submitted) in the terms the local plan-making authority considers appropriate.
- Decide not to make the proposed local environmental plan.

It is recommended that Council request to be the local plan-making authority as part of any resolution to submit the planning proposal to the Department to provide Council with the ability to amend the PP and make a final decision following the community consultation period.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

There have been no upfront or recurrent costs associated with this planning proposal other than staff costs associated with the administration and assessment.

Time frame

The estimated time frame for completing of the LEP amendment is set out below:

Gateway Determination	November–December 2020
Public Exhibition of both planning proposals and Site Specific DCP	February–March 2021
Report to Council	April 2021
Finalisation of LEP amendment	February–April 2021

Consultation

If given a Gateway Determination by the DPIE to proceed to exhibition, the Proposal will be placed on exhibition for a minimum of 28 days in accordance with any provisions outlined in the Gateway Determination. It is intended to exhibit both planning proposals concurrently to avoid duplication and any confusion in the local community. Council officers will discuss the potential of integrating the two planning proposals into one consolidated planning proposal with Department for the purposes of exhibition and ultimate gazettal.

6. Conclusion

The inclusion of the Birrell Street lots into the Edina Estate redevelopment will better achieve the aim of a holistic redevelopment of the site to create a precinct with a range of health and housing to address the projected demographic needs of the community. It is therefore recommended that the proposal proceeds to a Gateway assessment.

7. Attachments

Nil.