



Planning Proposal

55 – 63 Smith Street, Summer Hill

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Overview

This planning proposal is for the addition of permissible land uses at 55 – 63 Smith Street, Summer Hill. The current Ashfield Local Environmental Plan 2013 will be amended to include the following land uses at 55 – 63 Smith Street, Summer Hill only;

Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units

No other development is proposed within this document, and no other site is to be affected by this proposal.

The site contains four (4) separate buildings. Three (3) of the buildings are used as warehousing. The building number 61 – 63 is used as a gym with a one bedroom unit above. There is car parking on the site, which is accessible from Smith Street.

However, the current uses are operating under a previous Local Environmental Plan which permitted Commercial Land use at the site. As such, the proposal wishes to amend the Ashfield Local Environmental Plan 2013 to both reflect the current uses and allow for future success of the site. Refer to Part 4- Explanation of Provisions for the parts of the LEP proposed to be amended.

Summary

This Planning Proposal (Proposal) seeks to initiate the preparation of an amendment to the *Ashfield Local Environmental Plan 2013 (Ashfield LEP 2013)* to enable the use of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* at 55 – 63 Smith Street, Summer Hill.

Four separate buildings are currently located on the site. All are used for warehousing and manufacturing purposes, with the exception of the building at the front of 61-63 Smith Street which operates as commercial premises on the ground floor and shop top housing on the first floor. The commercial premises are an approved use in the form of a personal training studio. The shop top housing is approved, with an additional one bedroom unit approved within the existing built form.

There is also a car parking area that separates both buildings located along the western boundary of the site. These are permitted uses on the subject site due to existing use rights. Entrance to the site is from Smith Street.

The site is zoned R3 Medium Density Residential, which permits a range of uses including *Multi dwelling housing, Attached dwellings and Community facilities*, however it prohibits *Commercial Premises, Recreation Facilities (Indoor) and Self-storage Units permitted with development consent* that are not ancillary to a permissible use.

There have been a number of applications made over the last 5 years on the site relying on existing use rights provisions. The existing uses on the site have been investigated in detail and as such business opportunities are highly constrained under the current zoning.

The sites which have been vacant for in excess of 12 months have been advertised on the open market via registered agents in the local area with interest from a wide range of businesses including:

- Prestige second hand car storage
- Cafés
- Personal training studio
- 3D printing
- Telecommunications
- Warehousing – for the purposes of local trades, sole traders or small business and includes ancillary offices
- Sciences
- Music recording studios
- Office premises
- Self-storage units
- Assembly and sale of second hand motorbikes and bicycles
- High-technology industries
- Information technology
- Creative Studio
- Industrial design studios

Unfortunately many of these uses are either not permitted in the R3 zone or cannot be achieved under the existing use rights provisions.

Therefore, the Proposal seeks to permit the additional uses of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage units permitted with development consent* through an amendment to Schedule 1 Additional Uses in the Ashfield LEP 2013.

It is therefore recommended that this Proposal be favourably considered by Council and resolve to forward it to the Department of Planning and Environment (DP&E) for LEP Gateway determination in accordance with the *Environmental Planning and Assessment Act 1979* to prepare the necessary LEP amendment.

1.0 Introduction

RPS acts on behalf of Appwam Pty Ltd (Appwam) in preparing this Planning Proposal (Proposal) for 55 – 63 Smith Street, Summer Hill (the site).

The principal planning instrument applying to the site is the *Ashfield Local Environmental Plan 2013* (Ashfield LEP 2013). The site is zoned R3 - Medium Density Residential. It therefore permits a range of uses including *Multi dwelling housing, Attached dwellings and Community facilities*. The site however prohibits *Premises, Recreation Facilities (Indoor) and Self-storage units*.

The site comprises a number of buildings which have historically and presently been used for a combination of storage, manufacturing, warehousing or commercial premises. All of these uses are currently prohibited on the site under the Ashfield LEP 2013 and therefore the continuation of these uses can only occur under the provisions of existing use rights. The uses of each of these buildings and lease areas have been defined and have now been determined to be highly restrictive in the current market.

The sites have each been subject to new leases over the past 5 years and some remain vacant due to the restrictive nature of the R3 zone under the Ashfield LEP 2013 and the limitations of existing use rights. As a result of advertising these properties for lease continuously over the last few years it is evident that employment generating uses that have low or negligible amenity impacts and/or uses that supply a service directly to the community are in high demand in the locality of Summer Hill. This trend is anticipated to strengthen as the surrounding land is gradually developed for higher density residential uses.

In order to provide the stated uses on the subject site, the Proposal seeks to amend Schedule 1 Additional Permitted Uses of the Ashfield LEP 2013 to permit site specific additional uses of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units*.

The additional use of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* at the site is justified for the following reasons:

- The site is currently used for purposes that are not permitted under the current zoning including warehouse, and car parks.
- The proposal will have no adverse impacts on the surrounding area.
- The proposal will not result in any land use conflicts both internal and external to the site.
- It will provide additional job opportunities in the area.
- The proposal will improve the visual amenity of the area with improved design of the site.
- It will encourage a range of development that accommodates the needs of residents and workers in the surrounding area. The proposal therefore aligns itself with the aims of the Ashfield LEP 2013.
- The additional use will create a net community benefit.

This Proposal has been prepared in accordance with the Department of Planning and Environment's (DP&E) *A Guide to Preparing Proposals* and provides strong justification - based on the strategic planning, location and environmental considerations - for the amendment of the Ashfield LEP 2013.

I.1 Background

A number of applications have been made over the site in the past five years relating to the land use. Due to the current zoning of the site, a number of current uses on the site are operating under existing use rights.

The two buildings at the rear of the site and the building on the eastern boundary are operating as separate warehouses and storage premises. Buildings fronting Smith Street are two storeys in height.

The building at the east was previously used for storage and manufacture of leather goods, however is currently used for storage of electrical products and accessories. The building located at the west was previously used as a laundromat, however has recently gained approval for use as a business premises. On the second storey, two residential units are provided and are defined as shop-top housing.

Summer Hill is currently undergoing significant change. As the immediate locality is zoned R3, given the proximity to Summer Hill train station, significant uplift in residential density is emerging.

While residential accommodation in the locality is the current evolving trend, the increased population will require services and employment opportunities in the locality to support a vibrant community feel. Appropriate supporting services, such as those proposed support the objectives of the zone to provide facilities or services to meet the day to day needs of residents.

2.0 The Site

The site is located at 55 – 63 Smith Street, Summer Hill and is within the Ashfield local government area (LGA). The subject site comprises 3 separate lots that are legally referred to as Lot 13 in DP 560, Lot 1 in DP796910 and Lot 1 DP905473.

Smith Street is considered a main street in Summer Hill and is undergoing significant change.

The site is approximately 200 metres to the east of the Summer Hill main street at Lackey Street and 350 metres south east of the Summer Hill Train Station. Other surrounding uses include low and medium density residential uses. Directly adjacent the site (west) is local heritage listed item – 621, Former House and directly adjacent (east) local item 500 – Semi-detached houses and C44 – Fleet Street Conservation Area, (Figure 1).



Figure 1 Site location (source: Six Maps)

The site is irregular in shape with a single frontage to Smith Street of approximately 41m and an area of approximately 2,600sqm.

2.2 Surrounding Development

The site is adjoined by low density residential dwellings to the east, south and north; local heritage listed item (Number 621), Former House with the built form of a low density residential dwelling to the west and medium density residential dwellings further west of the heritage item. It is noted that a number of buildings surrounding the subject site, are scattered with commercial and industrial uses, although they are zoned R2 - low density residential.

In the wider surrounding area, Summer Hill Station is located to the north of the site and Summer Hill Local Centre is located to the west. Ashfield Town Centre is located approximately 1.7km west of the site.

2.3 Access to the Site

Vehicular access to the site is via Smith Street via a main entrance central to the site.

Smith Street is a single lane dual carriageway local road with unregulated car parking on both side.

Smith Street is generally accessed from Liverpool Road, Hume Highway, located west of the site, which is a heavily trafficked State road, which links Parramatta Road. The Liverpool Road, Hume Highway/ Victoria Street (and Smith Street) intersection is regulated by traffic lights. It allows entry and exit to and from Liverpool Road, Hume Highway in all directions. Access is also gained east of the site via a round-about connecting Longport Street, Carlton Crescent, Grosvenor Crescent and Smith Street.

2.4 Site Improvements

57 – 63 Smith Street

The site is currently set out in separate lease areas as shown in Figure 2 below.

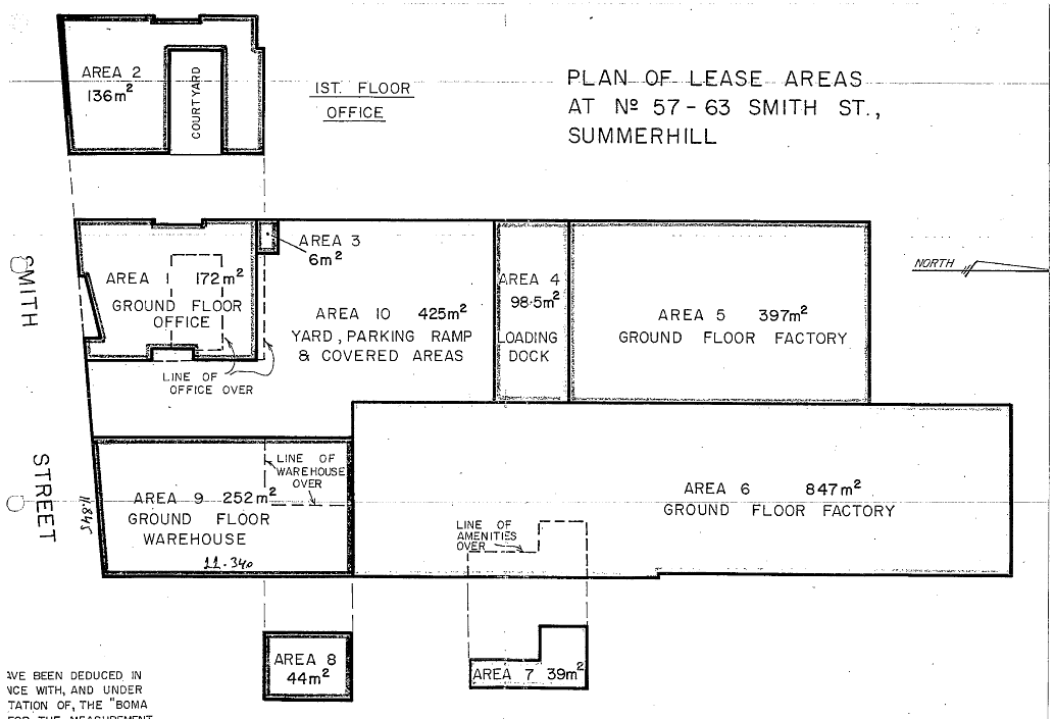


Figure 2 57-63 Smith Street Leasing Plan

The site at 57-63 Smith Street comprises the following uses in the corresponding areas:

- Personal Training Studio
- Residential accommodation (approval for shop top housing curtnet)
- Amenities
- Loading area for Area 5
- Current approved use for jewellery storage
- Furniture Manufacturing and warehouse
- Auxiliary to Area 7
- Auxiliary to Area 9
- The building is currently vacant, however was previously used for the storage and manufacture of leather goods.
- Car parking spaces are all allocated to current or approved uses on the site.

55 Smith Street

- The building on 55 Smith Street is used for the warehousing of electrical products.

2.5 Site constraints

The site itself is relatively unconstrained in terms of geography. The site is relatively flat.

The main constraints to the site include the current land zoning and its permitted uses. As the site is currently used for development which is prohibited under the R3 – Medium Density Residential Zone, the uses are carried out through existing use rights. This constrains any future use of the site or flexibility for business to expand or locate on the site. Due to the current vacancy of the warehouse fronting Smith Street, there is limited ability for the site to accommodate any potential business tenants that suit the nature of the building.

The site is also constrained by car parking. However the preferred and intended future uses of the site are intended for businesses and employment opportunities which would be serviced by the local community and existing public transport opportunities.

2.6 Local Planning Controls

2.6.1 Ashfield Local Environmental Plan 2013

The primary environmental planning instrument applying to the site is the *Ashfield LEP 2013*. It is important for any future development within the LGA to be cognisant of and give consideration to the general aims of *Ashfield LEP 2013* and the relevant zone.

The proposed amendment supports the relevant aims of *Ashfield LEP 2013* as outlined in Table 1.

Table 1 Relevant Aims of Ashfield LEP 2013

Relevant aims of Ashfield LEP 2013	Response
<i>(a) to promote the orderly and economic development of Ashfield in a manner that is consistent with the need to protect the environment,</i>	The proposal encourages economic development in the local area by permitting the flexibility for a number of business options to be located on the site. It also encourages street activation along Smith Street in continuation of the Summer Hill Town Centre. No environmental impacts are identified as the site is not proposed to be redeveloped.
<i>(b) to retain and enhance the identity of Ashfield as an early residential suburb with local service industries and retail centres,</i>	The proposal contributes to the character of the Ashfield LGA and in particular Summer Hill. The proposal acts as a continuation of the Summer Hill urban village centre and contributes positively to the area directly surrounding the site. The proposal will allow continuation of existing uses into the future and fosters the opportunity for additional employment uses on the existing site. The uses provide additional amenity for surrounding residents

Relevant aims of Ashfield LEP 2013	Response
	<p>in the area.</p> <p>The proposal fosters physical wellbeing as the site is not left vacant and redundant. The proposal offers employment opportunities and promotes an active locality, safety and security and additional passive surveillance.</p> <p>By allowing the additional uses within the zone, the proposal encourages integrated land uses within the locality, an improved balance in the provision of diversity of land uses and encourages sustainability via the active use of the site as opposed to its use becoming redundant and the site not having value.</p>
<i>(c) to identify and conserve the environmental and cultural heritage of Ashfield,</i>	The proposal will not affect any heritage items located within the proximity of the site. No heritage items are located on the subject site.
<i>(e) to provide increased housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,</i>	The proposal is not currently used for the predominant purpose of residential development. As such, the proposal intends to continue its use as residential/commercial development, while enabling flexibility for other uses that provide amenity for the surrounding area. The proposal will not inhibit the development for residential purposes in the future.
<i>(f) to protect the urban character of the Haberfield, Croydon and Summer Hill urban village centres while providing opportunities for small-scale, infill development that enhances the amenity and vitality of the centres,</i>	The proposal is located within close proximity to the Summer Hill urban village centre. As such, the proposal contributes to the village as a continuation along Smith Street. It proposes the opportunity for small-scale, infill development. It will improve the opportunity for casual surveillance along Smith Street and contribute to the character of the surrounding area.
<i>(h) to ensure that development has proper regard to environmental constraints and minimises any adverse impacts on biodiversity, water resources, riparian land and natural landforms,</i>	The proposal does not include redevelopment of the site. As such, the proposal intends to create flexibility of land uses on the site and will not have any impacts on biodiversity, water resources, riparian land and natural landforms. Environmental impacts will be assessed in the future if the site is to be redeveloped.

Relevant aims of Ashfield LEP 2013	Response
<i>(i) to require that new development incorporates the principles of ecologically sustainable development.</i>	The proposal does not include new development. If new development is intended on the site in the future, a separate Development Application will be required and will assess its merit.

Under *Ashfield LEP 2013*, the site is zoned R3 Medium Density Residential. The objectives of the zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The R3 zone does not reflect the current use of the site as a mixed use development for commercial, warehouse, storage and factory. The existing uses do provide services to meet the day to day needs of residents in that the personal training studio is booked out and looking for opportunities to expand.

The proposed uses are consistent with the zone objectives in that the future uses will provide services and facilities for the day to day benefit of the local residents in the form of employment opportunities and business premises.

The proposed amendment to the Ashfield LEP 2013 will reflect the historic use of the site while encouraging the retention of employment opportunities that would otherwise be lost. There have been no complaints received or made that are associated with the existing uses on the site or its existence adjacent to surrounding commercial and residential development.

The proposed uses support the needs of residents in the local community of Summer Hill and provide for additional employment uses. This provides the opportunity for jobs to be located close to homes and eliminate the need for car usage. Given the close proximity of Summer Hill Town Centre and Summer Hill train station, there is an opportunity to build on existing uses at the site and provide the community with a complex that services the needs of the surrounding area.

Intended uses for the site will not impact on surrounding residential uses and will be subject to separate Development Application assessments with Council. The proposed additional uses build on the existing Summer Hill Town Centre, to provide the community with high-technology and self-storage units type uses that are not specifically provided in the town centre. The proposed uses will be visible from the street and will provide activation, to encourage active street frontages and a better community interaction.

Development permitted without consent in the R3 zone includes:

Home occupations

Development permitted with consent includes:

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Child care centres; Community facilities; Group homes; Multi dwelling housing; Neighbourhood shops;

Places of public worship; Respite day care centres; Roads; Seniors housing; Any other development not specified in item 2 or 4

Development prohibited includes:

*Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; **Commercial premises**; Correctional centres; Crematoria; Depots; Dual occupancies (detached); Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; **Industries**; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; **Recreation facilities (indoor)**; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; **Storage premises**; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals;*

The following definitions are provided to identify the proposed additional uses to be included in Schedule 1 over the subject site.

Office premises (type of Commercial Premises) are defined as:

a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Business premises (type of Commercial Premises) is defined as:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.*

Recreation Facility (indoor) is defined as:

a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

Self-storage Units (type of **Storage Premises**) is defined as:

means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

This Proposal seeks council endorsement for permitted additional uses of *Office and Business Premises, Recreation Facilities (Indoor) and Self-storage Units* over the site.

Due to the history of the site and its close proximity to the Summer Hill Town Centre, this would be the best outcome for the community as it would allow the subject site to evolve and host a broader range of uses that will directly support the growing local community and provide for local employment opportunities.

The proposal does not seek any changes to the development standards applicable to the site such as height of buildings and floor space ratio.

All of the above uses are compatible with the R3 zone objectives. These uses all provide opportunities for the growth of local businesses in a range of industries to operate in close proximity to the operators' place of residence.

3.0 Part I – Objectives or Intended Outcome

The concept of an integrated mixed use development is as of yet very uncommon in Australia, however is slowly gaining traction in some markets. Traditionally, planning policy and zoning since the early 20th Century has aimed to separate industrial uses from residential dwellings due to the need to remove industrial side effects such as pollution, excess noise and heavy vehicle movements away from suburbs.

Summer Hill as an older residential area has historically provided a mix of residential and industrial activity. The industrial activity in this locality is dissimilar to the typical heavy industrial developments in Sydney including Seven Hills, Dunheved, Smeaton Grange, Ingleburn and now the Western Sydney Employment Area (WSEA) which are entirely separated from residential uses.

In recent decades, industrial activity and manufacturing, specifically in more developed countries, has moved away from inner areas to cheaper land located at the fringe of cities. As such, older traditional industrial areas such as Summer Hill have moved towards more high-technology manufacturing and logistics.

The objective of this Proposal is to amend Schedule 1 of the Ashfield LEP 2013 in order to permit a number of additional land uses at 55–65 Smith Street, Summer Hill. The intended outcomes for the Proposal are as follows:

- To increase the flexibility of uses on the site to provide both local services;
- To provide employment generating use opportunities to reduce the travel to work times in the local community;
- Provide residents in the area with recreational opportunities; and
- Integrate employment generating uses which supply services and goods to the local community that do not impact on the amenity of the residential area.

To achieve these objectives, it is proposed to amend schedule 1 of the Ashfield LEP 2013 to permit site specific additional uses of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* at 55–63 Smith Street, Summer Hill.

There are a number of examples of similar employment generating uses occurring throughout Sydney whereby uses including, indoor recreation and smaller scale storage and warehousing occur in close or immediate proximity to residential uses.

3.1.1 Local Examples

The following section provides additional examples of similar types of development.

- 43 Bridge Road, Stanmore

This building complex includes the following uses under Light Industrial uses. The approval intended to facilitate the reuse of the building for the purpose of an arts and industry centre comprising 30 industrial studios with off street parking for 31 cars and to strata subdivide the premises into 30 lots. The light industrial uses included the following uses.

-
- Artists studio
 - Computer Graphics
 - Computer application & software development for internet application
 - Photographic production and storage
 - Manufacture and warehousing of blinds and fittings
 - Warehousing and distribution and light industry for audio, electronic and audio visual equipment's with associated offices
 - Model Making
 - Fashion design studios
 - Design studio architect & related industries
 - Production of media products
 - Warehousing of promotional goods, showroom, office

- *One+2 (Rozelle Studios) –*
http://www.oneplus2.com.au/index.php?option=com_flexicontent&view=category&cid=5&Itemid=7
 - *Sydney Art Studios (Artarmon) –*
<http://www.creativespaces.net.au/find-a-space/sydney-art-studios-artarmon>
 - *Oxford Street spaces –*
<http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/opportunities-for-artists/creative-space/oxford-street-spaces>
 - *Brand x*
(<http://www.brandx.org.au/about-us/find-us/>)
 - » *TWT Creative Precinct (St Leonards)*
 - » *The Brand x Studio (Surry Hills)*
 - » *Tempe Jets Music Hub (Tempe)*
 - » *The Palace Studio (Marrickville)*
 - *Newington Armory –*
(http://www.sydneyolympicpark.com.au/whats_on/arts_and_culture/artists_at_the_armory/facilities)
-

3.1.2 International Examples

Three case studies of industrial development integrated into the urban environment have been analysed below.

3.1.2.1 [Case Study 1 – Eastern Neighbourhoods, San Francisco, USA](#)

The Eastern Neighbourhoods Program is a strategy by the San Francisco Planning Department to encourage a broad range of housing opportunities whilst preserving the historical industrial presence within the Mission, Central Waterfront, East South of Market and Showplace Square/Potrero Hill neighbourhoods. The industrial uses within the Eastern Neighbourhoods are a variety of production, and distribution businesses such, furniture wholesalers, caterers, performance spaces and other high-tech industrial businesses.

Competition for land between housing and for industrial employment has seen a considerable increase in land values within the Eastern Neighbourhoods. This has caused much of the industrial sector to relocate and reduced the opportunities for affordable housing in newer residential developments compared to the relatively older building stock which offer lower land values and a supply of low-rent housing.

By developing a strategy that integrates the existing industrial environment with the new residential developments, the San Francisco Planning Department aims to extend the existing neighbourhoods while maintaining the industrial employment environment for local residents.

Source: San Francisco Planning Department (2014) About the Eastern Neighbourhoods.

3.1.2.2 [Case Study 2 – Manhattan, New York City, USA](#)

The Northern Tribeca neighbourhood in Manhattan, otherwise known as the Special Tribeca Mixed Use District was originally a traditional manufacturing district that over recent decades has transformed into a desirable area for residential and commercial uses. Since 1997, the area has seen the coexistence of manufacturing businesses with residential uses.

In 2010, the New York City Department of City Planning rezoned 25 blocks in the District to accommodate the increase in residential development and the change in the types of industrial businesses in the District. The zoning changes permit a mix of light manufacturing uses that would have been restricted under the previous planning controls. These light industrial uses range from carpentry, electrical and plumbing, produce or meat markets, and the production of leather goods and metal stamping.

Source: New York City Department of City Planning (2010) North Tribeca Rezoning – Approved.

3.1.2.3 [Case Study 4 – Boulder, Colorado, USA](#)

Over the last decade, the City of Boulder has started to embrace the concept of mixed use development incorporating industrial and residential land uses in a single building. Boulder is a major employment centre that accommodates a greater number of jobs than its resident workforce. The shift to mixed use development rose from the need to provide additional housing with the opportunity to live and work within the area and reduce urban sprawl and traffic.

One such example is Boulder Junction formerly known as the Transit Village, which has two distinct industrial mixed use zones within the precinct. This area was primarily an industrial zone but has been rezoned to introduce a greater number of residential dwellings. This has led to the development of co-habiting industrial and residential uses on the one site. The type of industrial businesses within these mixed use developments are service and repair businesses, computer design and development, green technology, publishing or telecommunication industries.

Boulder Junction is only partially completed, however the existing residents have perceived this new precinct as a positive for the community with an increase in housing and community infrastructure.

Source: City of Boulder (2015) Boulder Junction.

4.0 Part 2 – Explanation of Provisions

Specifically, this Proposal is seeking to amend Schedule 1 – Additional Permitted Uses of *Ashfield LEP 2013* to allow the use of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* on the site.

The provisions to be included in the proposed LEP are outlined below, in accordance with Section 55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

4.1 Ashfield Local Environmental Plan 2013

Name of Plan

This plan is *Ashfield Local Environmental Plan 2013*.

Aims of the plan

This plan aims to amend Schedule 1 Additional permitted uses in the *Ashfield Local Environmental Plan 2013* by adding subclause 8 to Schedule 1 as follows:

Schedule 1 Additional permitted uses

8 Use of certain land at 57 - 63 Smith Street, Summer Hill

(1) This clause applies to land at 55 - 63 Smith Street, Summer Hill, being Lot 13 in DP 560, Lot 1 in DP796910 and Lot 1 DP905473.

(2) Development for the purposes of *Office Premises, Business Premises, Recreation Facilities (Indoor), and Self-storage Units* permitted with development consent.

5.0 Part 3 – Justification

5.1 Section A – Need for Proposal

5.1.1 Is the Planning Proposal a result of a study or report?

The Proposal is not the result of a strategic study or report.

Strategic plans which are relevant to the site are discussed in Section 5.2.1.

5.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Over the past few years a number of uses have been investigated as to a legal right to operate within the existing development under the provisions of 'Existing Use Rights' contained within the *Environmental Planning and Assessment (EP&A) Regulation 2000*. The current existing approved use at 57 Smith Street, Summer Hill is defined as a warehouse and therefore the provision of Clause 41 of the EP&A Regulation does not apply. Clause 41 applies to a commercial or industrial use only.

This is the same issue with a number of the uses currently approved and not abandoned on the site. The current approved uses include storage, warehouse and distribution and manufacture of leather goods, which effectively means that the uses on the site are restricted to only those currently approved. There is strong ongoing attempt to lease the properties under the current approvals, however due to the restrictive nature of the current approvals, securing a tenant has not been achieved.

There have been a number of discussions with Ashfield Council's Development Assessment team over the past 3-4 years involving both legal advice and specialists input to determine the permissible uses on the site under the current legislative framework and court determined precedent. Businesses such as personal training (as an expansion of the existing studio), café, boutique light industry and other low impact employment generating uses have approached the leasing agent and Council with interest in occupying the various portions of the site however to date, none of these are permissible, despite a clear benefit to the local community displayed. As a result of these ongoing discussions, specialist advice and investigations a planning proposal is now the most appropriate method of achieving ongoing use of the sites creating activity and community opportunities.

A planning proposal to amend Schedule 1 of *Ashfield LEP 2013* to include *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* permitted with development consent as additional uses on the subject site is considered the best means to achieve the objectives and intended outcomes set forth in Section 3.0 above.

The following table outlines three options for achieving the desired outcome. Option 1 is the preferred option.

Table 2 Options

Option	Response
1	Amend Schedule 1 of the LEP to include an "Additional Permitted Use" of <i>Office Premises, Business Premises, Recreation Facilities (Indoor), and Self-storage Units</i> for this property.
	Option 1 is considered the most suitable approach. It only requires consideration and justification for additional uses on the subject site, rather than numerous sites. This, in the future is intended to facilitate a mixed use building whereby employment generating

Option	Response
	uses may be retained within the lower floors of a building also containing residential uses.
2	<p>Amend the zoning of the property to another zone which would permit <i>Office Premises, Business Premises, Recreation Facilities (Indoor), Car Parks, and Self-storage Units</i>.</p> <p>Option 2 is not preferable given the range of additional permitted uses proposed on the site. Only one zone permits these uses, which is the B4 Mixed Use Zone. Whilst the rezoning of the site to B4 Mixed Use may be suitable for the site, this would not meet all of the objectives of the zone.</p>
3	<p>Amend the Land Use table of the LEP to remove <i>Commercial Premises, Recreation Facilities (Indoor) and Self-storage Units</i> as prohibited uses in the R3 zone, or include <i>Commercial Premises, Recreation Facilities (Indoor) and Self-storage Units</i> as uses to be permitted with consent in the R3 zone. This would then apply across the entire LGA.</p> <p>Option 3 would require significantly more investigation and more detailed reporting, given they would impact a much wider area than just the subject site. It is not considered necessary or appropriate for such investigations to be undertaken as part of this Proposal. Such investigations would need to be instigated and identified at the local government level. This site specific amendment creates no impacts at a regional level. Therefore, for this Proposal, investigations were only conducted for the subject site, not a broader area along Smith Street or all of R3 zones.</p>

5.2 Section B – Relationship to Strategic Planning Framework

5.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies?)

A Plan for Growing Sydney and Central Sub-Region

A Plan for Growing Sydney (the strategy) was released in December 2014 and is a plan for the Sydney Metropolitan Area for the next 20 years. It provides direction for Sydney's productivity, environmental management, and liveability, as well as for the location of housing, employment, infrastructure and open space. The Strategy sets out 4 key goals to achieve the intent of the strategy. These include:

- Goal 1: A competitive economy with world-class services and transport
- Goal 2: A city of housing choice with homes that meet our needs and lifestyles
- Goal 3: A great place to live with communities that are strong, healthy and well connected
- Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

It will be supported by six sub-regional strategies that will help to set out how A Plan for Growing Sydney will apply to local areas. They will ensure each community has the right types of housing, jobs, public spaces, community facilities, transport options, schools and hospitals to meet their needs.

The Strategy shows Ashfield Council as being located within the Central Subregion and sets the following priorities for the subregion:

- A competitive economy

- Accelerate housing supply, choice and affordability and build great places to live
- Protect the natural environment and promote its sustainability and resilience

The Central Subregion map within the Strategy identifies the site and surrounding areas generally to the south as within the Global Economic Corridor and Urban Renewal Corridor. The Proposal seeks to improve the economic opportunities on the site and provide improved urban form to contribute to improved visual amenity in the area. The subject planning proposal will increase employment opportunities and provide for a range of employment generating industries that are compatible with the residential character of the locality.

The DP&E's website notes that the Subregional Plans are currently being created.

Table 3 demonstrates that the Proposal is supportive of the relevant goals of the Strategy.

Table 3 A Plan for Growing Sydney Goals

Relevant Goals	Relevant Priorities and/or Actions	Comments
Goal 1: A competitive economy with world-class services and transport	Expand the global economic corridor	The Proposal maintains and increases employment opportunities close to residential neighbourhoods including the current zone R3 Medium Density Residential and surrounding zone, R1 Low Density Residential. The site is also close to the Liverpool Road, a main thoroughfare road that also provides good public transport opportunity. The site is also located within close proximity to the Summer Hill Train Station.
Goal 2: A city of housing choice, with homes that meet our needs and lifestyles	Accelerate urban renewal across Sydney – providing homes closer to jobs	The proposed provides improved visual amenity to the subject site and contributed to the historical context of the surrounding area. The site created visual interest along Smith Street, while providing employment opportunities and amenity to resident in the surrounding area.
Goal 3: A great place to live with communities that are strong, healthy and well connected	Support urban renewal by directing local infrastructure to centres where there is growth.	As above.

It is considered that the Proposal is consistent with the strategic directions that are relevant to the subject site and that there will be no adverse impacts on the natural environment given the site is within an existing urban area. Additionally, the Proposal is consistent with the surrounding context of the site. Surrounding land uses include existing commercial uses and carry through from the Summer Hill Town Centre to the site. Therefore, it is considered that the Proposal is an extension and improvement to the Town Centre. Given the surrounding infrastructure to the site, the proposed use is considered to be complimentary to the surrounding area to increase patronage for public transport and provide job opportunities in close proximity to residential living.

Draft Central District Plan

The Draft District Plans were released by the Greater Sydney Commission on 21 November 2017 and provides district level strategic planning to connect local planning strategies with longer term metropolitan goals from the Greater Sydney Commission.

Each goal from 'A Plan for Growing Sydney' has been analysed in the context of each district, determining which goals would require greater attention to achieve. The result is an action plan combining the Greater Sydney Commission goals into three desirable city outcomes outlined below.

- A productive city (Goal 1)
- A liveable city (Goals 2 and 3)
- A sustainable city (Goal 3)

Proposed Priorities and Actions	Relevant Priorities and/or Actions	Comments
Productive City	To capitalise on a once in a generation transformation in investment into; Major urban renewal and expansion of Sydney CBD; Major transport infrastructure; Health and education precincts.	The proposal increases the commercial viability of the site as well diversifying the commercial typology of the area. The inclusion of the gym will vastly increase the health benefits to the local community.
Liveable City	To conserve and enhance quality of life and local identity through; Urban design; Connectivity (public transport); Community identity; Social infrastructure (health, education, POS); Community engagement; and Diversity of job opportunities.	The proposal allows for increased connectivity by implementing additional commercial spaces within underutilised residential landscape. The proposal does not include building works and will cement the identity and social infrastructure of the area through maintaining existing design.
Sustainable City	A sustainable city protects and enhances its natural environment, integrating its bushland, open spaces, waterways and vegetation into the planning for how it will grow and build its resilience and efficiency.	The proposal will not create adverse impact to the environment on the site or to the community. The proposal is only for additional occupancy of existing vacant serviced buildings.

It is considered that the Proposal is consistent with the directions of the Draft Central District Plan and will have no adverse environmental impacts to the site or surrounding neighbourhood. The proposal complies with desired strategic outcomes for the area in providing diverse employment; alleviate transport stress, and service local residents whilst keeping existing character. It is not foreseen that any adverse environmental impacts will occur from the proposal.

5.2.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Ashfield Urban Planning Strategy 2010

The Ashfield Urban Planning Strategy 2010 was adopted by Council on 28 September 2010 and was used to inform the Ashfield LEP 2013.

The purpose of Urban Planning Strategy 2010 is as follows:

- To provide the strategic underpinning for the preparation of Council's comprehensive Local Environmental Plan 2010.
- To provide the long term direction for land use planning decisions within the Ashfield local government area.
- To demonstrate that strategic directions and actions, including additional dwelling and employment capacity targets, as set out in the Sydney Metropolitan Strategy 2005 and the Draft Inner West Subregional Strategy 2008 can be implemented.
- To assist decision making in terms of future infrastructure projects, population growth and economic investment within the local government area.

The Ashfield Urban Planning Strategy contains strategic land use directions and actions. Of these two are of particular relevance to the Planning Proposal. These are 'Retain the Heritage Value of Summer Hill Urban Village' and 'Foster Local Business'.

The proposed additional uses on the subject site would allow the development of existing uses on the site to continue and foster the opportunity for new local business to locate on the site where buildings are currently vacant. This will encourage a strong sense of place in the area, continuing on from the Summer Hill Urban Village.

Although the site is not heritage listed, the facade of the buildings facing Smith Street contributes to the visual interest of the street through older, heritage style architecture. The proposal will ensure retention of this facade and enable flexibility of the site to continue use as mixed commercial, industrial and residential premises. The Proposal does not change the existing building height or floor space controls, keeping within the context of the surrounding area, providing potential amenity and employment opportunity for local residents.

5.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The Proposal is consistent with the applicable State Environmental Planning Policies as summarised in the table below.

Table 4 Application of SEPPs

SEPP Title	Requirement	Consistency of Proposal
SEPP No 32 Urban Consolidation (Redevelopment of Urban Land)	The Minister must, when considering the making of environmental planning instruments relating to urban land, implement the aims and objectives of this Policy to the fullest extent practicable.	While the site may be suitable for medium density residential housing and related development, the Proposal seeks to increase the range of permitted uses on the site to include <i>Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units</i> . This would promote the orderly and economic use and development of the site for the stated uses. These uses on a small scale are compatible within the urban environment as they do not

SEPP Title	Requirement	Consistency of Proposal
		generate external impacts that will adversely impact on the amenity of the locality. Furthermore, future vertical integration of residential and high technology industries are likely to become an integral source of employment.
SEPP No 55 Remediation of Land	When carrying out planning functions under the Act (including undertaking LEP amendments), SEPP No 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.	The Proposal does not include building work, however permits additional uses on the subject site. Potential contamination of the site would be considered at any future DA stages.

5.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The relevant Section 117 Directions are considered in the table below.

Direction	Requirement	Comment
Employment and Resources		
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	. It is important to consider that the subject site is not predominately used for residential purposes and is used for industrial and commercial uses under existing use rights. As such, the proposed amendments to Schedule 1, Additional Permitted Uses will ensure the flexibility of uses on the site to be carried out, while not limiting the site to be used for residential purposes in the future if required. There may be future opportunities to vertically integrate employment generating uses with residential accommodation where the employment generating uses are compatible with residential accommodation. The compatibility of these uses is spelled out in the definitions. The proposed changes to the permitted uses provide for uses within the locality that provide for employment generating uses that are also guided to supply of services to the local community. These small changes provide opportunities for small creative industries to operate in close proximity to home while also providing creative services to local communities and businesses.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:	The Proposal is consistent with this direction by increasing the range of permitted employment uses on land in an area that is well serviced by existing infrastructure, transport, and

Direction	Requirement	Comment
	<p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p> <p>The planning proposal must be consistent with DUAP publications “Improving Transport Choice” and “The Right Place for Business and Services”.</p>	<p>services. It is also in immediate proximity to existing and future residential areas.</p> <p>The site is located close to Summer Hill Train Station, existing bus services and will create additional opportunities for residents in the surrounding area to work close to home.</p>
6. Local Plan Making		
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Proposal includes the addition of <i>Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units</i> as a permitted use at the site. This provides flexibility for vacant premises on the site to be used for appropriate uses. The addition of stated uses has been determined to improve the social and economic potential for the site, while not having any adverse impacts on the site or surrounding area.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036 (A Plan for Growing Sydney)	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036 (A Plan for Growing Sydney).	The Proposal is consistent with all relevant matters within the Metropolitan Plan as discussed at Section 5.2.

5.3 Section C – Environmental, Social & Economic Impact

5.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Not relevant. There are no critical habitats or threatened species, populations or ecological communities, or their habitats located on the site.

5.3.2 Are there any other likely environmental effects as a result of the Proposal and how are they proposed to be managed?

The Proposal does not seek to increase the intensity of uses currently at the site or the amount of floor space that is permissible.

As the site will be used for predominately the same uses, however will be given more flexibility, it has been concluded that there would be no increase in traffic generation. Therefore traffic impacts would be likely to be negligible.

The existing amenity of the surrounding area which is a mix of residential and commercial / industrial land uses would not be affected by the proposal.

5.3.3 How has the Proposal adequately addressed any social and economic effects?

The Planning Proposal is not considered to have any adverse social or economic impacts. It has been determined that the Proposal will improve the social amenity of the area by encouraging casual surveillance and activation along Smith Street to carry over from the Summer Hill Town Centre. The potential for the site to provide additional uses allows the site to continue operating as it is currently and provides opportunity for flexible uses of the building on the site which are currently vacant. This provides additional prospect for surrounding residents to visit and work on the site.

Economic effects of the Proposal would be positive as it recognises the need for the flexibility of uses on the site to host a broader range of employment generating uses. The Proposal would also allow current uses of the site to continue and provide additional employment opportunities for local residents. Some the buildings on site are currently vacant, and as such, amending Schedule 1 to include Additional Permitted Uses would improve the economic opportunity on site and provide a better social outcome for the surrounding community.

The proposed uses will improve the variability of uses within the Summer Hill Town Centre to ensure residents in the local area are provided with required services within close proximity to homes. The proposed additional uses will improve the community interaction along Smith Street and provide for a more vibrant environment for local residents. The proposal does not encourage an enclosed design and ensures uses will be visible from the street to encourage social interaction and passive surveillance from the site.

Recently, the Federal Government announced a National Innovation and Science Agenda to which \$1.1 Billion has been dedicated. The initiative encourages innovative ways to use space and generate jobs and wealth are a direct day to day need of all communities. The agenda identifies these spaces as being provided in the immediate vicinity of residential, development and provide employment opportunities for the local community as well as community collaboration with designers and manufactures. The proposal is consistent with the intent of the National Innovation and Science Agenda in that it supports the use of space for innovative type uses.

The Proposal does not reduce the ability of the site to be developed for residential purposes in the future.

5.4 Section D – State & Commonwealth Interests

5.4.1 Is there adequate public infrastructure for the Proposal?

The proposed uses are less intensive than high density residential uses in terms of demand on infrastructure. The subject site is located within close proximity to major arterial roads (Liverpool Road) and is within walking distance to the Summer Hill Train Station, providing excellent opportunity for users of the site to use public transport.

5.4.2 What are the views of State and commonwealth public authorities consulted in accordance with the gateway determination?

Consultation was undertaken from 3 November 2015 to 4 December 2015. As a result of the consultation period components of this report have been updated to clarify the history of the sites as well as how future uses may impact on the local amenity.

This report has been updated as a result of these comments. In summary the issues comprised:

- *Whether the amenity of adjacent residential areas would be protected regarding the operation of the land uses proposed*

Response: The nature of the uses proposed will both benefit the community as well as be subject to formal development assessment. The proposed uses have been chosen based on market demand as well and compatibility with the surrounding residential areas.

Further consultation will be undertaken following gateway determination.

6.0 Part 4 – Mapping

The Planning Proposal does not seek any amendments to Sheet 1 or 2 Land Zoning Map of *Ashfield LEP 2013*.

The Planning Proposal seeks to include Additional Permitted Uses in Schedule 1 of the LEP, by adding subclause 8 in line with the following:

Ashfield Local Environmental Plan 2013

Schedule 1 Additional permitted uses

8 Use of certain land at 57 - 63 Smith Street, Summer Hill

(1) This clause applies to land at 55 - 63 Smith Street, Summer Hill, being Lot 13 in DP 560, Lot 1 in DP796910 and Lot 1 DP905473.

(2) Development for the purposes of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* permitted with development consent.

7.0 Part 5 – Community Consultation

The GateWay Determination issued February 2017 specifies consultation to be undertaken, in accordance with Section 56 (2)(c) of the EP&A Act 1979 as part of the LEP amendment process, with a minimum 28 day exhibition period required.

Community consultation would be commenced by the placing of a public notice in the local newspapers and on the website of Inner West Council. In addition, adjoining landowners would be notified in writing.

Normal exhibition material would be made available by the relevant planning authority during the exhibition period. The community consultation process would be completed when the relevant planning authority has considered any submissions received concerning the proposed Local Environmental Plan and has forwarded those reports to the DP&E for final consideration by the Minister.

Background – Notes from 04/01/2016 provided by Applicant

Preliminary Community consultation was undertaken by Council for 30 days ending on 4 December 2015. The issues raised included:

- The provisions of 'Existing Use Rights' provide for the uses that are proposed by this planning proposal

Applicant's Response

Part 5.1.2 of this report was updated to include discussion around the many discussions with Council and legal advice which has determined that the majority of uses on the site are not 'light industry' or 'commercial premises' and therefore existing use rights provisions cannot be relied on.

- The operation of the land uses proposed and whether the amenity of adjacent residential areas would be protected

Applicant's Response

The inclusion of these additional uses as permissible on this site will result in a number of benefits to the local community. These include the generation of employment as well as provision of services that will be of direct benefit to the local community. These uses will be subject to future assessment by Council in a detailed manner and any adverse impacts on the locality carefully considered at that stage. The size of the buildings does not facilitate large scale operations and as a result, the site will house boutique operations and businesses.

Specifically, in terms of impacts on the amenity of the adjoining neighbours, the definition of light industry is a strong indication of the restrictive nature of what is proposed in terms of allowing and facilitating uses that will benefit the community but not impact negatively on the amenity of the locality. The light industry definition is:

a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, ...:

The definition is clear in that light industry activity will not impact on the amenity of the neighbourhood. This is the intention of the planning proposal: to provide uses and employment within Summer Hill that will benefit the local community.

March 2017 Note : Council resolved in September 2016 not to support a Light Industry use, and the the Light Industry Use was removed from the Planning Proposal prior to referral for GateWay Determination.

8.0 Part 6 – Project Timeline

The Gateway Determination issued 10 February 2017 requires the Planning Proposal process to be completed within 12 months. The following is an indicative timeframe in the event the Planning Proposal was supported by Council and gazetted.

Planning proposal stage	Timeframe
Commencement date (date of Gateway determination)	10 February 2017
Completion of required technical information	March 2017
Advisory report to Council	
Commencement and completion dates for public exhibition period	During period April – May 2017
Government agency consultation	Not required by Gateway Determination
Consideration of submissions	June 2017
Post exhibition report to Council	Period August-September 2017
Submission of planning proposal to DP&E to finalise the LEP	N/A
Council decision to make the LEP amendment (if delegated)	Period October to November 2017
Forwarding of LEP amendment to DP&E for notification (if delegated)	January 2018

9.0 Conclusion

This Proposal has been prepared to enable the additional use of *Office Premises, Business Premises, Recreation Facilities (Indoor) and Self-storage Units* at 55-63 Smith Street, Summer Hill. The proposed LEP amendment does not seek to amend the R3 zone applying to the site but will allow for the continued use of the site for existing uses, while providing opportunity for flexibility of uses on the site. This is proposed through an amendment to Schedule 1 Additional Uses of the Ashfield LEP 2013.

The retention of existing uses at the site independent of permissible uses in the R3 Medium Density Residential zone would allow flexibility for a range of uses on the site that contribute to the local economy and provide additional amenity for residents in the surrounding area. The proposal will create employment opportunities within the context of Summer Hill Town Centre and within close proximity to residents.

The proposal will not cause any adverse impacts on the surrounding area and will contribute positively to the existing built form where some buildings on the site area currently vacant. Provision of additional uses on the site will contribute positively to the local economy and continue the character of Summer Hill urban village centre along Smith Street. The proposal will encourage an active street frontage and contribute to opportunities for casual surveillance and social interaction.

The Proposal does not reduce the ability of the site to be developed for residential purposes in the future and would not result in any land use conflicts either internal or external to the site.

It is therefore recommended that this Proposal be favourably considered by Council and that they resolve to forward it to the DP&E for a Gateway determination in accordance with the *Environmental Planning and Assessment Act 1979*.