



Item No: C0617 Item 8

Subject: PLANNING PROPOSAL: 55-63 SMITH STREET SUMMER HILL

File Ref: 17/6032/55869.17

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SUMMARY

Council has previously resolved to be the Relevant Planning Authority for a planning proposal that sought to amend Ashfield LEP 2013 to add additional land uses at 55 – 63 Smith Street Summer Hill.

This planning proposal has since been exhibited. This report covers the outcome of exhibition and outlines the remaining statutory processes. As Council has been provided the Minister's delegation to finalise this amendment, it is recommended that Council undertake the necessary remaining procedural steps and seek the plan to be made.

RECOMMENDATION

THAT:

1. Council note the report and response to submissions;
2. Council authorises the General Manager to finalise the Planning Proposal as outlined in this report;
3. the Planning Proposal be referred pursuant to Section 59 of the *Environmental Planning and Assessment Act 1979* (the Act) to the NSW Parliamentary Counsel Office to seek an Opinion that the Plan may be made;
4. upon receipt of a Parliamentary Counsel Opinion, Council request the Department of Planning and Environment to make the Plan; and
5. site specific Draft Development Control Plan contained in Attachment 5 be incorporated into the exhibition of future amendments to the "Inner West Comprehensive Development Control Plan 2016 Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill".

1.0 BACKGROUND

The property at 55 -63 Smith Street Summer Hill (refer *Figure 1* below) is currently zoned R3 –Medium Density Residential. The buildings currently on the site reflect the original light industrial zoning under the previous Ashfield LEP 1985, with the site operating under various development consents.

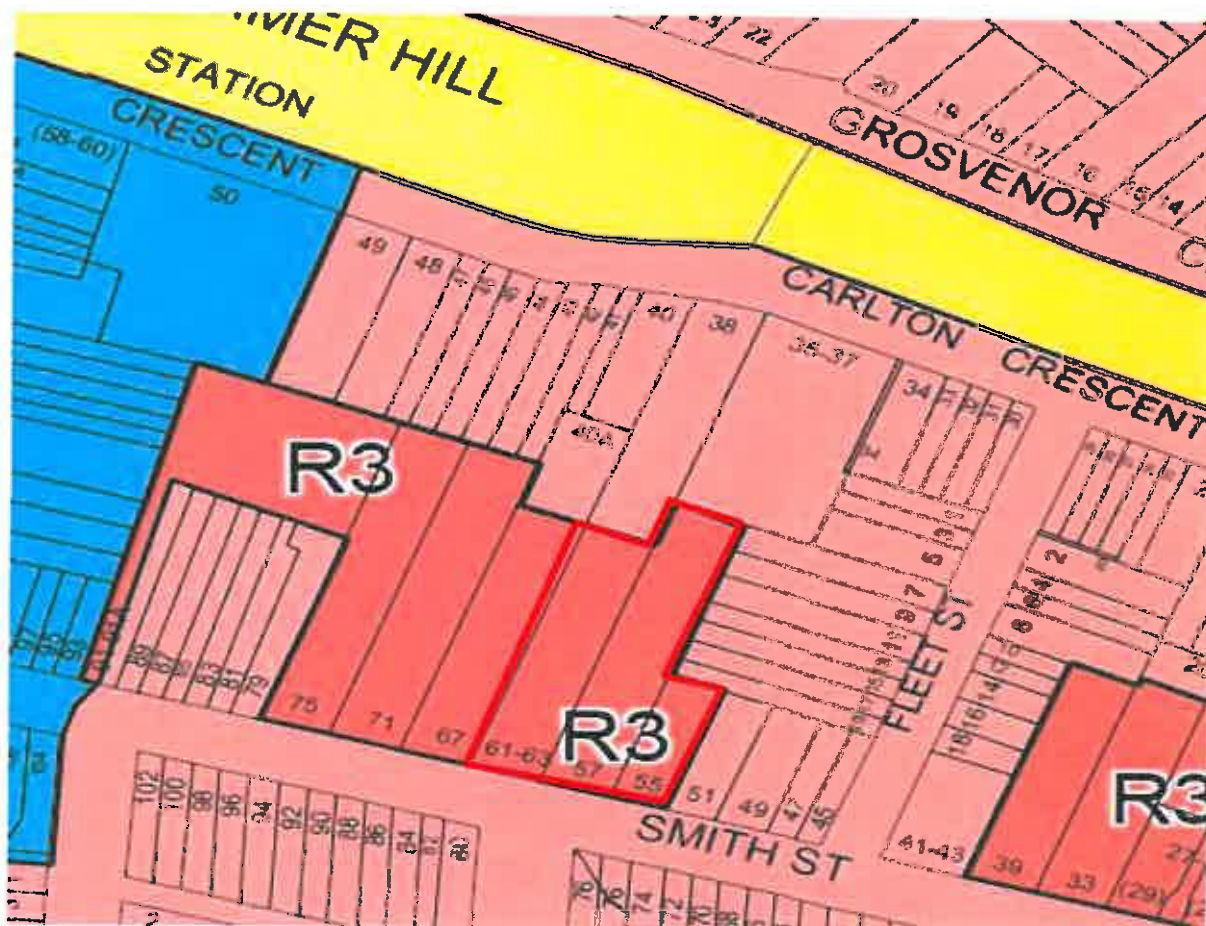


Figure 1: Subject site outlined in red

The Planning Proposal seeks to add the following additional uses to "Schedule 1 –Additional Permitted Uses" of the Ashfield LEP 2013 for the properties at 55-63 Smith Street Summer Hill :

- Office premises
- Business premises
- Recreation facility (indoor)
- Self Storage Units

The Planning Proposal was placed on preliminary public exhibition during 2016 and reported to Council in September 2016.

The planning proposal was submitted in the context that that the building owner had substantial difficulty attracting tenants by relying on existing use rights and that he had sought to retain the existing buildings.

The rationale for the Proposal was that it will add employment generating land uses close to public transport, keep the existing buildings viable and improve activation of the premises, consistent with the objectives of the Ashfield Urban Strategy 2010.

The Proposal was also considered to comply with the R3 Zone objective for providing "services to meet the day to day needs of residents".

Council resolved to support the application in September 2016 (**Attachment 3**) and seek a Gateway Determination, subject to a site specific working Draft Development Control Plan being also concurrently exhibited.

In February 2017, the Department of Planning and Environment granted its Gateway Determination and issued Council delegation (**Attachment 2**) to act as the Relevant Planning Authority and administer the Planning Proposal.

2.0 Public Exhibition of Planning Proposal

Community Consultation was carried out between 4 April and 2 May 2017 for a minimum period of 28 days in accordance with the Gateway Determination.

There were no requirements for referrals to any public authorities.

3.0 Response to Public Exhibition

Pursuant to Section 57 of the Act, Council is required to consider any submissions made during exhibition period.

The proposal was advertised on Council's "Have Your Say" webpage and local newspapers.

There were 61 visitations to Council's web page, 67 document downloads, and one submission which has been addressed below.

Submission	Officer Response
<p><i>The claim that "...The proposal will have no adverse impacts on the surrounding area..." are false. The increased traffic generation at the Smith Street frontage must be addressed. This is a site of pedestrian / vehicle conflict - with vehicles (all sorts) likely to be reversing and undertaking dangerous maneuvers.</i></p> <p><i>There will be a conflict / increased demand on the already affected street / lane parking in this area of Summer Hill - vide Council's recent residential parking scheme implementation.</i></p> <p><i>This proposal will likely increase the noise levels (often out of hours) at this location. Council has already had to deal with the shouting and unacceptable levels of noise coming from the gymnasium on the site. How will this be managed in the future if approved. There are many land uses suggested. However, the implications of these MANY land uses must be detailed and quantified for appropriate assessment. To give carte blanche approval to this proposal is unacceptable.</i></p>	<p>The applicant as part of the preliminary exhibition in 2016 submitted a site layout that showed how car parking and vehicular maneuvering could be wholly accommodated on site - refer to Attachment 5, which was reported to Council in September 2016.</p> <p>A working draft DCP was subsequently produced (see part 5 of the report below) and concurrently put on exhibition which sought to address the type of matters raised by the objector. This includes that future development applications must demonstrate that they can use the internal existing driveway and loading area for servicing of the use and that no servicing shall occur in Smith Street.</p> <p>Council Engineers have also reviewed the draft DCP and have advised that :</p> <p>It is noted that there is a site specific draft DCP which will ensure that vehicle servicing and maneuvering will occur within the site and the on-site car parking will comply with Council's current DCP 2016. No objection is raised to the planning proposal and traffic</p>

Submission	Officer Response
	issues will be examined in detail with any future development application for the site.

Based on detail consideration of the submission to Council, the Planning Proposal should be progress to finalisation.

4.0 Next Statutory Steps

Pursuant to Section 23 of the Act, delegation has been given to Council to carry out the necessary statutory processes for making of the LEP amendment, noting that Council's nominated delegate for the former Ashfield LGA (Ashfield LEP 2013) is the General Manager, and that this is also required to be ratified by Council. The remaining statutory steps are as follows:

4.1 Legal Drafting of LEP amendment by Parliamentary Counsel

Under Section 59 of the Act, Council officers will forward the Planning Proposal to the Parliamentary Counsel Office. Parliamentary Counsel will check that the statutory procedures to date and the content of the Planning Proposal in order to ensure there are no drafting errors. Parliamentary Counsel will then issue an opinion to Council that the plan can be legally made.

4.2 Council makes the Draft LEP

Once Council receives Parliamentary Counsel opinion that the plan may be legally made, Council will send an instruction (together with various ancillary documents) to the Department of Planning and Environment that the amendment to the Ashfield LEP 2013 be placed on the legislation website. The amended version of the Ashfield LEP 2013 will come into effect on the date of its publication on the website.

5.0 Draft Site specific DCP

A working draft - site specific Development Control Plan was produced primarily to respond to concerns raised by objectors during the preliminary exhibition in 2016 including issues concerning the potential impacts of future uses at the site.

Key provisions of the draft DCP are:

- any future development application for the site will need to document the building operations for the entire site to ensure that the requirements of a DCP are met, such as car parking and servicing.
- no nuisance caused to adjacent residential properties, including controlling hours of operation, and noise attenuation.
- locating employee car parking on site.
- locating vehicular deliveries on site.
- provision on site of waste storage areas.
- improvement of the current building appearance and enhancement of the historic streetscape.

This working draft version DCP should be included as part of future amendments to the Inner West DCP 2016 and the formal exhibition process required under the Act.

FINANCIAL IMPLICATIONS

The Planning Proposal does not raise any financial implications for Council. The Planning proposal is intended to increase the level of flexibility in land uses at the site and is unlikely to require any upgrade works to Council infrastructure. Detailed assessment of new uses will undertaken at the detail design stage associated with each new development application.

OTHER STAFF COMMENTS

Council's Traffic Engineers have raised no objection.

CONCLUSION

The subject site is close to public transport and serviced by all relevant utilities. The Planning Proposal will broaden employment generating activities possible at the site and retain the ongoing viability of this site which provides employment important urban services to the local area.

The Planning Proposal was publicly exhibited concurrently with a draft site specific development control plan. Council Officers have considered in detail the submission in relation to the planning proposal and have advised that likely impacts associated with future uses of the site will be limited through provisions within the development control plan and further addressed managed and/or mitigated via the development application process.

It is recommended that Council continue with the Plan making process and seek for the plan to be made.

ATTACHMENTS

1. Planning Proposal
2. Gateway Determination
3. Report Sept 2016 Council Resolution
4. Working Draft DCP
5. Site Layout - Sept 16