

INNOVATIVE

ITEM NUMBER	17.2
SUBJECT	FOR APPROVAL: Pre Gateway - Planning Proposal for 64 Victoria Road, North Parramatta
REFERENCE	RZ/2/2020 - D07902200
REPORT OF	Project Officer Land Use
LANDOWNER	DDC Planning
APPLICANT	Thi Thu Thuy Nguyen

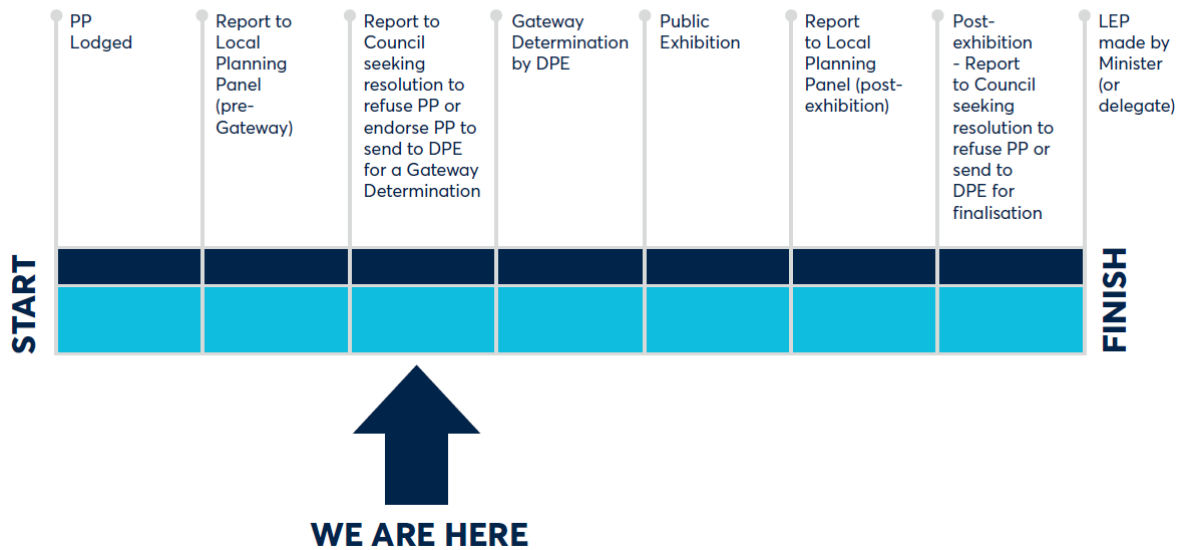
DEVELOPMENT APPLICATIONS CONSIDERED BY SYDNEY CENTRAL CITY PLANNING PANEL - NIL**PURPOSE**

The purpose of this report is to seek Council's endorsement of a Planning Proposal for land at 64 Victoria Road, North Parramatta to be forwarded to the Department of Planning, Industry & Environment for a Gateway Determination, in accordance with the recommendations of the Local Planning Panel (LPP) at the 16 February 2021 meeting.

RECOMMENDATION

- (a) **That** Council endorse for the purposes of seeking a Gateway Determination from the Department of Planning, Industry and Environment (DPIE), the Planning Proposal (at **Attachment 1**) for land at 64 Victoria Road, North Parramatta which seeks to amend Schedule 1 of the Parramatta Local Environmental Plan 2011 (PLEP 2011) to allow '*take away food and drink premises*' as an additional permitted use (limited to a maximum gross floor area of 100m²).
- (b) **That** the Planning Proposal be forwarded to the Department of Planning, Industry and Environment (DPIE) for Gateway Determination.
- (c) **That** Council advises the DPIE that the CEO will be seeking to exercise its plan-making delegations for this Planning Proposal, as authorised by Council on 26 November 2012.
- (d) **Further, that** Council delegates authority to the CEO to correct any minor anomalies of a non-policy and administrative nature that arise during the plan-making process.

Planning Proposal Timeline



BACKGROUND

1. On 26 August 2020, Council received a Planning Proposal application relating to land at 64 Victoria Road, North Parramatta, known as Lot 1 DP662142. The planning proposal seeks to amend Schedule 1 Additional Permitted Uses of the Parramatta LEP 2011 by formalising the use of part of the site as a *'take away food and drink premises'* (limited to a maximum gross floor area of 95.45m²). A copy of the Planning Proposal is included at **Attachment 1**. This planning proposal seeks to exceed the existing shop component of the building which is currently only 60m² but will still be entirely located within the existing building.
2. While the Planning Proposal seeks to limit the floor area of any *'take away food and drink premises'* specifically to 95.45m², it is considered reasonable for the purposes of inclusion in the LEP clause for this amount to be rounded up to 100m².
3. The subject site has a site area of 495m², and is located on the northern side of Victoria Road, a busy road with a range of residential dwellings surrounding it. The site currently comprises a 60m² food and drink premises and a dwelling house with parking at the rear which has been on the site since the early 1900's. See **Figure 1**, **Figure 2** and **Figure 3** below.

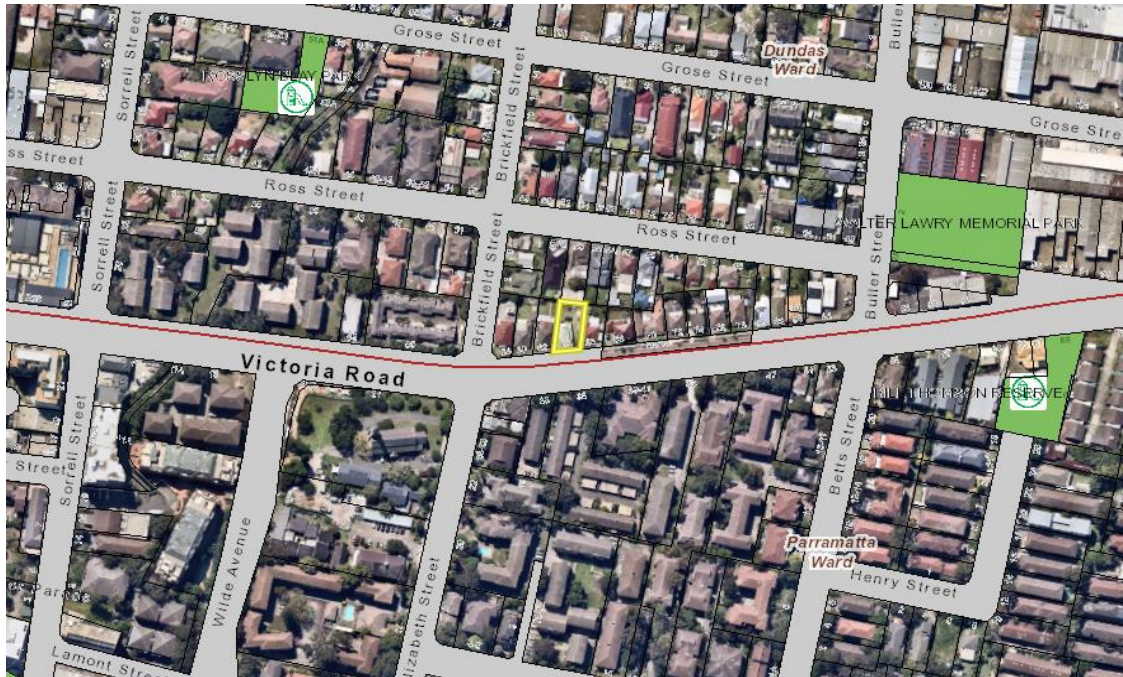


Figure 1 – Site at 64 Victoria Road, North Parramatta subject to the Planning Proposal



Figure 2 – Aerial view



Figure 3 – Street view of the premises

4. The need for this Planning Proposal is a result of a Land and Environment Court Order from July 2020 relating to 'existing use rights' provisions under the Environmental Planning and Assessment Act 1979 (EP&A Act). It has been determined that the food and drink premises on the site no longer benefits from 'existing use rights' despite previous approvals for the use. The Order requires a Planning Proposal to be lodged to legitimise the use under the existing zoning regime and for a development application to be lodged to enable the use to be formally approved.
5. This would enable the current use of the site and minor changes of use that fit within the food and drink premises definition. Other retail uses ie other types of shops etc would not be permitted in this case. This will allow continuation of the previously approved use of this site without opening it to a broader range of uses that are not consistent with the sites underlying zoning.
6. The Council officer's assessment of the applicant's Planning Proposal is contained in the Assessment Report to the Panel in **Attachment 2** and includes the Council Officer's recommendations.

ISSUES

7. Council's Compliance Team served an infringement notice on the property in January 2021 regarding the continued use of the premises as a 'takeaway food and drink premises'. The notice is currently on hold pending the outcome of the Planning Proposal process and subsequent development approval (via a future development application). Should any issues arise in the interim in relation to the operation of the 'takeaway food and drink premises' that results in adverse impacts on adjoining neighbours, compliance action can be undertaken by Council against the property owner to manage any impacts until a Development application is determined and appropriate conditions to protect the amenity of adjoining lands are put in place.

PARRAMATTA LOCAL PLANNING PANEL RECOMMENDATION

8. The LPP considered the Applicant's Planning Proposal and Council officer's assessment report at their meeting on the 16 February 2021 and resolved to adopt Council officer's recommendation to forward the Planning Proposal to the DPIE for a Gateway Determination.

PLAN-MAKING DELEGATIONS

9. Revised delegations were announced by the then Minister for Planning and Infrastructure in October 2012, allowing councils to make LEPs of local significance. On 26 November 2012, Council resolved to accept the delegation for plan-making functions. Council has resolved that these functions be delegated to the CEO.
10. Should Council resolve to endorse the Planning Proposal to proceed, it is recommended that Council request that it exercise its plan-making delegations. This means that once the Planning Proposal has been to Gateway, undergone public exhibition and been adopted by Council, Council officers will deal directly with the Parliamentary Counsel Office on the legal drafting and mapping of the amendment. The LEP amendment is then signed by the CEO before being notified on the NSW Legislation website.
11. It is therefore recommended that Council request the DPIE that Council be granted plan-making delegation for this Planning Proposal.

PLANNING AGREEMENT

12. The proponent has not provided a letter of offer to enter into a planning agreement associated with the Planning Proposal. Given the Planning Proposal is not seeking changes to planning provisions that would significantly alter a use that had previously been approved on the site (despite the fact that existing use rights have been extinguished), it is considered that a planning agreement is not necessary in this instance due to the minor nature of the proposal.

LEGAL IMPLICATIONS FOR COUNCIL

13. There are no legal implications for Council in endorsing the Planning Proposal to proceed to Gateway Determination. However, should the proposal not be supported, Council's Compliance Team would be required to commence legal action against the existing business regarding the current unauthorised use or any attempt in the future to continue this use.

CONSULTATION & TIMING

Stakeholder Consultation

14. The following internal stakeholder consultation has been undertaken in relation to this matter:

Date	Stakeholder	Stakeholder Comment	Council Officer Response	Responsibility

2 November 2020	Traffic and Transport Team	Car parking provision exceeds DCP requirements and vehicles can access the site in a forward direction. Planning Proposal is supported.	Comments discussed under Assessment of Key Issues section of LPP report shown in Attachment 2.	City Planning
5 November 2020	Economic Development Team	Use of the site as a ' <i>take away food and drink premises</i> ' means there are established supply chains that support the ongoing operation of the business. Further the minor nature of the proposal is unlikely to have adverse impacts on nearby centres. Planning Proposal is supported.	Comments discussed under Assessment of Key Issues section of LPP report shown in Attachment 2.	City Planning

Councillor Consultation

15. Consultation is yet to be carried out in relation to the Proposal at the time of writing this report. However, this matter will be covered as part a scheduled Councillor briefing on the subject Business Paper one week prior to the 22 March 2021 Council Meeting.
16. Pending Council's resolution on this matter, the draft Planning Proposal will be forwarded to DPIE for the purpose of seeking a Gateway Determination.

FINANCIAL IMPLICATIONS FOR COUNCIL

17. The financial implications for Council associated with this report include costs related to the public exhibition process, should Council endorse the Planning Proposal to proceed and a Gateway Determination be issued. This includes advertising and landowner notification by a mail out. These costs can be funded from the City Planning budget.
18. As discussed above, a VPA is not considered necessary in this instance due the proposal's minor nature. Accordingly there are no ongoing maintenance obligations or capital works required from Council associated with the progress of this planning proposal. There will be no direct impact on Council's budget and the table below is blank to reflect there is no impact.

	FY 20/21	FY 21/22	FY 22/23	FY 23/24	F24/25
Operating Result	N/A				
External Costs		\$	\$	\$	
Internal Costs					
Depreciation					
Other					
Total Operating Result					
Funding Source	N/A	General Revenue	General Revenue	General Revenue	General Revenue
CAPEX					
CAPEX					
External					
Internal					
Other					
Total CAPEX					
Funding Source					

CONCLUSION AND NEXT STEPS

19. Should Council resolve to proceed with the Planning Proposal for the site, it will be forwarded to the Department of Planning, Industry & Environment requesting a Gateway Determination.
20. Should a Gateway Determination be issued, the Planning Proposal will be placed on public exhibition and the outcomes will be reported to the Local Planning Panel if any objections are received. If no objections are received, the matter will be reported directly to Council post-exhibition.

Jane Liang
Project Officer Land Use

Michael Rogers
Land Use Planning Manager

Paul Perrett
Chief Financial Officer

David Birds
Acting Executive Director, City Planning & Design

Brett Newman
Chief Executive Officer

ATTACHMENTS:

- 1 Planning Proposal 60 Pages
- 2 Local Planning Panel Minutes and Report 13 Pages

REFERENCE MATERIAL