

Holroyd LEP 2013 - Takeaway food premises at 459 Merrylands Road, Merrylands

Proposal Title : **Holroyd LEP 2013 - Takeaway food premises at 459 Merrylands Road, Merrylands**

Proposal Summary : **The planning proposal seeks to permit the continued use of land at 459 Merrylands Road, Merrylands, for the purposes of a takeaway pizza establishment. This is to be achieved via addition of the site to Schedule 1 Additional Permitted Uses of Holroyd Local Environmental Plan 2013.**

PP Number : **PP_2017_CUMBE_001_00** Dop File No : **17/03018**

Proposal Details

Date Planning Proposal Received : **14-Feb-2017** LGA covered : **Cumberland**

Region : **Metro(Parra)** RPA : **Cumberland Council**

State Electorate : **GRANVILLE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **459 Merrylands Road**

Suburb : **Merrylands** City : Postcode :

Land Parcel : **Lot W DP 391056**

DoP Planning Officer Contact Details

Contact Name : **Chris Browne**

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RPA Contact Details

Contact Name : **Heidi Bischof**

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DoP Project Manager Contact Details

Contact Name : **Adrian Hohenzollern**

Contact Number : **0298601505**

Contact Email : **adrian.hohenzollern@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Consistent with Strategy :

Regional Strategy :

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The aim of the planning proposal is to allow the continuing use of the site for the purposes of a take away food establishment while retaining the objectives of the existing R3 Medium Density Residential zone.**

The planning proposal does not seek to amend the applicable development controls or facilitate any changes to the built form, and nor does it seek to allow any uses which are likely to generate additional traffic or parking demand.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal seeks to amend Schedule 1 Additional Permitted Uses of Holroyd LEP 2013 to allow take away food and drink premises on the subject land. Any such development is to be limited to a floor area of 100m2. (This limitation is consistent with Holroyd LEP's requirement for neighbourhood shops, which are permitted with consent in the zone.)**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

3.1 Residential Zones

3.4 Integrating Land Use and Transport

6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

1.1 Business and Industrial Zones

The planning proposal, while seeking to permit an ongoing business use, does not seek to rezone the land for business purposes. As such, it is not inconsistent with this Direction.

3.1 Residential Zones

The planning proposal will allow the continued use of residential-zoned land for non-residential purposes. However, the use of the land for take away premises supports the primary use of the surrounding land for residential purposes and is consistent with the objectives of the R3 Medium Density Residential zone: 'To enable other land uses that provide facilities or services to meet the day to day needs of residents.'

As such, the proposal is consistent with this Direction.

3.4 Integrating Land Use and Transport

The planning proposal will allow the continuing use of the land for the purposes of a takeaway pizza establishment. This establishment serves the needs of the surrounding neighbourhood and, because it is not a restaurant, does not generate significant traffic or parking impacts.

As such, the planning proposal is consistent with this Direction.

6.3 Site specific provisions.

The planning proposal is not unnecessarily restrictive, as it will permit a particular type of development without prohibiting any development types otherwise permitted in the zone. The 100m2 floor area restriction is consistent with the LEP's restriction on neighbourhood shops, which are permitted in the zone.

As such, the planning proposal is consistent with this Direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Council has provided an aerial photograph which identifies the site in context. This is sufficient to identify the site for the purposes of this assessment and for the purposes of community consultation.

The Council report also includes an indicative draft version of the Additional Permitted Uses map that will need to be drafted prior to finalisation of the planning proposal.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has nominated a community consultation period of 28 days. Given the minor nature of the proposal, this is considered unnecessary, and the Gateway determination should specify a minimum community consultation period of 14 days. (This does not

prevent Council from exhibiting the proposal for 28 days should Council still wish to do so.)

Council has also identified the means by which it will carry out community consultation: providing copies to public authorities, advertising in local paper, publishing on Council's website, making the materials available at Council premises and directly notifying all adjoining and surrounding property owners.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Holroyd LEP 2013 is a Principal LEP.**

Assessment Criteria

Need for planning proposal : **Take away food and drink premises are prohibited as an innominate use in the R3 Medium Density Residential zone in Holroyd LEP 2013.**

Take away food premises have been operating on the subject land since 1989, when development consent was issued for the use of the land as a pizza shop, including home delivery service, for a trial period of 12 months. After this period, a further application would be required in order to continue operating the business. There is no record of a subsequent development application, so the pizza shop has been operating without consent ever since. Because of the absence of consent, existing use rights do not apply.

To enable the pizza shop to continue to operate, there are three possible options:

A) rezone the land to a zone which permits take away food and drink premises (eg. B1 Neighbourhood Centre);
B) alter the land use table to make take away food and drink premises permissible in the R3 Medium Density Residential zone; or
C) allow the specific use on the specific land via an amendment to Schedule 1 Additional Permitted Uses.

Option A would provide clarity for all stakeholders by applying an appropriate zone. However, it would prevent the retention of the R3 zone objectives on the subject land, and, by creating a small pocket of land zoned for business purposes, may result in the introduction of land uses that are incompatible with the surrounding residential land.

Option B would provide a fix for what may be viewed as a policy gap, being the prohibition of certain supportive uses (ie. take away food and drink premises) in the R3 zone. However, this approach would apply throughout Holroyd's R3-zoned land, and this is a larger decision than a site-specific planning proposal, requiring a detailed strategic enquiry into its merits.

Option C is considered preferable, as it achieves the objectives of the planning proposal without impacting land outside the subject land.

Consistency with strategic planning framework :

The planning proposal will allow the continued existence of a particular take away food establishment that has been providing pizza to the people of Merrylands since 1989. This is broadly consistent with the liveability aims of A Plan for Growing Sydney, which notes that shops, cafes and other food services play a positive role in improving the general liveability of an area, particularly in areas where there are higher population densities (such as in the R3 Medium Density Residential zone of the subject land). The proposal is also broadly consistent with Council's Holroyd City Economic Development Strategy, which, among other things, seeks to support businesses and enable them to develop and grow within Holroyd.

Council has not addressed the question of consistency with the draft West Central District Plan. The planning proposal should be updated to address this prior to finalisation.

Environmental social economic impacts :

ENVIRONMENTAL

The planning proposal seeks to legitimise a land use of low environmental intensity that has been occurring on the site since 1989. In doing so, the proposal will deter the land owner from developing the site for medium density residential purposes, which would likely have a greater environmental impact than the existing land use. As such, the proposal is likely to have a net positive environmental impact. In providing pizza within walking distance of dwellings, the premises also discourage delivery, resulting in a slight reduction in fossil fuel pollution.

SOCIAL

In legitimising the current use of the land, the proposal will allow the premises to continue to support the zone objectives and provide food for the surrounding low and medium density residential area, resulting in a net social benefit. In providing pizza within walking distance of dwellings, the premises also discourage delivery, encouraging more active lifestyles.

ECONOMIC

The planning proposal will allow the continuation of a local business that has been active since 1989, supporting the local economy. It is not possible to accurately predict what use the land would be put to were the planning proposal not to proceed, but the likelihood is that it would be either some form of neighbourhood shops or medium density housing. Any economic change as a result of these uses would be negligible to minor; as such, the potential economic impact of the planning proposal is minimal.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

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Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Signed Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal - 459 Merrylands Rd Merrylands.pdf	Proposal	Yes
Attachment 1 - Planning Proposal Request - DFP	Study	Yes
Planning Consultants.pdf		
Attachment 4 - APU map.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 6.3 Site Specific Provisions

Additional Information : **1. Prior to finalisation, the planning proposal is to be updated to address consistency with the draft West Central District Plan.**

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 (a) the planning proposal must be made publicly available for a minimum of 14 days; and
 (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A Guide to Preparing Local Environmental Plans' (Department of Planning and Environment 2016).

3. No consultation is required with public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the Plan is to be 6 months from the week following the date of the Gateway determination.

Supporting Reasons : **The planning proposal allows the continuation of an existing use that is consistent with the zone objectives and that supports the surrounding land uses. Any impacts will be minor in nature.**

Signature:



Printed Name:

Chris Browne

Date:

27/02/2017

