

OUTCOMES COMMITTEE

Meeting Date 12 June 2012

Item Number. 87

SUBJECT: Rezoning of sites in Canley Heights for open space purposes

FILE NUMBER: 12/03134

PREVIOUS ITEMS: 44 - Outcomes Committee - 10 April 2012
84 - Outcomes Committee - 8 May 2012

REPORT BY: Julio Assuncao, Land Use Planner

RECOMMENDATION:

That Council:

1. Note the Strategy for acquisition of Open Space sites identified in the report including the risk that sites may need to be acquired in the short to medium term from General Revenue that will be reimbursed from future Section 94 contributions.
2. Prepare a Planning Proposal that incorporates the sites identified in **Attachment A** of the report with sites located at 42 Derby Street, Canley Heights and 6,8,8a,10,12 Barton Street, Smithfield which Council resolved to rezone for Open Space purposes at its Outcomes Committee Meeting of 10 April 2012.
3. Inform the Department of Planning that Council wishes to commence the Gateway Determination Process to amend the Fairfield Local Environmental Plan (LEP) 1994 and the draft Fairfield Local Environmental Plan 2011 to rezone sites identified in **Attachment A** of the report for Open Space purposes.
4. Delegate the Executive Manager, Environmental Standards Department the authority to endorse the Planning Proposal prior to its submission to the Department of Planning and Infrastructure.
5. Submit the Planning Proposal to the Department of Planning pursuant to Section 55 of the Environmental Planning and Assessment Act 1979.

NOTE: This report deals with a planning decision made in the exercise of a function of Council under the EP&A Act and a division needs to be called.

SUPPORTING DOCUMENTS:

AT-A	Preferred Sites for Location of Open Space	1 Page
AT-B	Ownership Details of Affected Properties	1 Page
AT-C	Extract of Draft Fairfield Residential Development Strategy 2009	1 Page

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SUMMARY

Council at its Outcomes Committee meeting held on 10 April 2012 considered a report that sought to rezone various sites in Canley Heights and Fairfield Heights/Smithfield for open space purposes. At this meeting, Council resolved to prepare a Planning Proposal to rezone properties at 42 Derby Street, Canley Heights and at 6, 8, 8a 10 and 12 Barton Street, Smithfield for open space purposes.

In addition to the above sites, the report also sought the endorsement of Council for the rezoning of the following sites:

Canley Heights – Refer to Attachment A for a locality map

39 Ascot Street, Canley Heights
41 Ascot Street, Canley Heights
43 Ascot Street, Canley Heights
45 Ascot Street, Canley Heights
47 Ascot Street, Canley Heights

Note: Ownership details of the following properties are included as **Attachment B** to this report.

At this meeting, representations were made from owners and representatives of 3 sites identified above objecting to the proposal, as a result Council also resolved the following:

“3. Investigate other options in Canley Heights and a further report be submitted to the Outcomes Committee in May 2012.”

In accordance with the above resolution, Council at its Council Meeting of 22 May 2012 considered a further (confidential) report that outlined alternative sites for future open space within the locality of Canley Heights. Council at this meeting resolved to retain the sites listed above as its preferred option for future open space in the Canley Heights locality.

The purpose of this report is to seek endorsement of Council to proceed with the proposed rezoning of these sites for open space purposes.

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REPORT

Council at its Ordinary Meeting of 22 May 2012 considered a report prepared by Council's City Outcomes Department and Property & Open Space Branch that provided Council with options in respect to possible alternative locations for future open space within the locality of Canley Heights, details of which are provided below.

Council Officers have received correspondence from the owner of No 47 Ascot Street which objects to Council's proposal to rezone the property for open space purposes.

The issues raised in the correspondence are summarised below:

- Increased traffic congestion and associated safety concerns
- Accessibility of amenities such as public toilets which are located on the southern side of (busy) Canley Vale Road.
- Discussion in regards to the suitability of the area surrounding 42 Derby Street for open space purposes (which Council has previously resolved to rezone for open space purposes in order to establish a pocket park).
- Discussion in regards to the need for additional open space in Canley Heights, given that there is a park at off Gladstone Street and Adams Reserve which are located approximately 500m and 1100m respectively from 42 Derby Street.
- The proposed Medical centre at 47 Ascot Street will benefit the local community specifically the Khmer speaking community in the locality.
- Financial implications associated with the valuation of land.

Some of the issues raised in the correspondence are inherent to providing open space near and around town centres whilst other issues relate to social and financial impacts. It should be noted that as part of the public exhibition process, Council will provide a formal opportunity for all stakeholders to make submissions on the proposal. At the conclusion of the public exhibition process a further report to Council will be prepared detailing any issues raised and an assessment provided for Council's consideration of the matter.

Open Space review

It is important to note that Council resolved to consider the matter in a closed session and as a result details of the specific properties have not been referenced in this report. This report will provide the general location of the sites which serve to provide context of Council's consideration of the matter.

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Option	Location	Approximate Land Size
Site 1	Sites located on Derby Street, Canley Heights	2,984m ²
Site 2	Sites located on Peel Street, Canley Heights	3,641m ²
Site 3	Sites located on Salisbury Street, Canley Heights	3,648m ²
Site 4	Sites located on Prince Street and Queen Street, Canley Heights.	6,794m ²
Site 5	Sites located on Earl Street and Queens Street, Canley Heights	3,700m ²
Site 6	Sites located on Earl Street and Queen Street, Canley Heights	2,900m ²
Site 7	Sites located on Earl Street, and Queen Street, Canley Heights	2,800m ²
Site 8	Sites located on Buckingham Street and Earl Street, Canley Heights	3,700m ²
Site 9	Sites located on Kiora Street and Arbutus Street, Canley Heights.	6,847m ²
Site 10	Sites located on Canley Vale Road and Ascot Street, Canley Heights.	3,306m ²
Site – 11 Current Preferred Site	39, 41, 43, 45, 47 Ascot Street, Canley Heights.	3,513m ²

Findings in relation to alternative options**Unviable Options**

Sites 1- 9 where deemed to be unviable by Council Officers for various reasons which are summarised below:

- Some sites are located further away from the Canley Heights Town Centre and are less desirable from an open space point of view in terms of accessibility.
- Some sites would require Council to close of partially unmade roads in order to consolidate these sites to form the open space parcel. It should be noted that the majority of the adjoining owners have access to their garage via the road reserve and no doubt will object to the closure of such roads should Council be unable to purchase or compulsorily acquire all their properties beforehand. Based on past experiences, the Department of Lands will not approve these road closures based on the anticipated objections by the adjoining owners.

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Some sites are owned by Housing NSW, which have indicated that the subject sites are required and have been earmarked for redevelopment. It is unlikely that Ministerial consent be given to Council to acquire these properties.

Viable Options

Council Officers deemed that **Site 10** was the only viable alternate option to the current proposal of **Site 11**. A comparison between these two sites is outlined in the table below.

Characteristics	Site 10	Site 11 (Current preferred site)
Visibility	The site is a corner block and therefore is slightly better exposed	The site is located away from Canley Vale Road and therefore is less exposed
Accessibility	Site is easily accessible from the town centre	Site is easily accessible from the town centre
Size	The site is approximately 3,306m ² in size	The site is approximately 3,513m ² and therefore is larger by approximately 200m ²
Zoning	The site is within the proposed R3 Medium Density Residential zone and may provide some cost savings to Council.	The current preferred site is in the proposed R4 High Density Residential zone.

Owners Position:

The owners of **Site 11** have all been contacted. Two of the 5 owners will sell subject to price. A further 2 will consider selling in time as they are elderly siblings. The remaining owner has refused to sell outright. This property is held as an investment property and is tenanted.

In respect of **site 10**, two of the 4 owners have been in contact with Council and have advised their refusal to sell. The owners of one of the sites have also recently lodged an objection to the proposed R3 Medium Density Housing zoning applied to their property during the exhibition period of Council's draft Fairfield Local Environmental Plan 2011. Their submission requested Council to consider the rezoning of their site to either B2 Local Centre or R4 High Density Residential in order to be consistent with the properties directly opposite. Any proposals to rezone the site to open space will no doubt attract further objections. Council Officers have not been able to contact the remaining 2 property owners at the time the report to consider the options was prepared.

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Conclusion – Alternative Sites.

In summary, **site 10** and the **Site 11** are considered to be the best options for open space in Canley Heights in terms of location, accessibility, visibility, and costs when compared with the other alternatives detailed in this report. Both sites have very similar characteristics however it is the view of Council Officers that the purchase of the properties at the current preferred location in time will be achieved more amicably (without compulsory acquisition) than those in **site 10**. From an open space perspective, both sites have equal quality except the preferred site will provide a larger open space site (by 200m²). As a result it was the recommendation of Council Officers that Council should retain **site 11** as the location of future open space within the locality of Canley Heights.

In consideration of the above issues, Council at its May 2012 meeting resolved to retain the sites identified in **Attachment A** as the preferred sites for future open space in the Canley Heights locality.

PLANNING CONTEXT

Open Space Strategy 2007

The Open Space Strategy 2007 identified Canley Heights as one of the areas within the Local Government Area in most need of additional open space. It concluded that the existing provision of open space did not meet the current demand. It should be noted that since the release of this strategy, provisions for additional open space have been provided within the Catchment of Cabramatta (which includes Canley Heights) namely McBurney Park.

It is considered that McBurney Park will not meet the needs of the residents of Canley Heights as it is located approximately 700 metres from the town centre and is also located outside of the proposed R4 High Density Residential zone.

Strategy Position

The need for open space is likely to be increased given that the locality has been identified as being suitable for higher density residential by the draft Residential Development Strategy (RDS) (with its recommendations guiding the residential zoning for the locality under the draft LEP). The findings of the draft RDS are further discussed below.

The Metropolitan Strategy has identified Canley Heights as a small village however; Council is seeking reclassification of Canley Heights as a village.

The draft RDS, which was exhibited with Council's draft Fairfield Local Environmental Plan 2011, acknowledges Canley Heights Town Centre as a Village and it is on this basis that an overall strategy for the development of the locality has been developed.

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In regards to Open Space in the Canley Heights locality, the draft RDS provides the following assessment:

Village	Aspirational Target	Current Status	Recommendations
Open Space and Recreation	1 local park (1-4ha) 3 neighbourhood parks (0.25-2ha) Cycle links to other centres and key destinations Universally accessible pedestrian facilities throughout centre	Contains one local park, which is not near centre and limited neighbourhood parks.	Improve the provision of open space, particularly around the commercial core. Need to enhance quality of existing open space.

The draft RDS lists the **provision of additional open space in the short term to medium term** as one of the key Structure Plan Principles for the Canley Heights locality. An extract of the relevant section of the draft RDS for Canley Heights is included as **Attachment C**.

Section 94 Analysis

As part of the preparation of Council's Section 94 Plan 2011 an analysis was conducted in regards to the quantum of open space that would be required as the result of the expected increase in population in the Cabramatta Catchment (with includes Canley Heights), which is estimated to increase by 5284 persons in the next 20 years.

Council's Section 94 Plan 2011 estimates that 2.78m² of passive open space is required per additional person, and on this basis, would equate to a requirement of an additional 1.47 Hectares of open space for the next 20 years.

The plan estimates that a neighbourhood park should be sized between 4000-5000 square metres. This equates to the provision of approximately 3 additional neighbourhood parks to be provided in the next 20 years to keep up with the expected increase in demand as the population increases.

Conclusion

The proposal to rezone the identified sites in the Canley Heights locality is consistent with the findings of the Open Space Strategy 2007, draft RDS and the analysis that was conducted as part of the preparation of Council's Section 94 Plan 2011.

The draft RDS lists as one of its recommendations the need to improve the provision of open space within the Canley Heights locality, particularly around the commercial core. The Open Space Strategy 2007 identified Canley Heights as an area that is in need of additional open space. Council's Section 94 Plan 2011 also has provisions to provide funding additional open space in Canley Heights. The rezoning of the sites is consistent with the above instruments.

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PLANNING PROPOSAL

If Council resolves to proceed with the rezoning of the subject sites for open space purposes, a Planning Proposal will be prepared with the aim of amending the Fairfield Local Environmental Plan 1994 (FLEP1994) as well as the draft Fairfield Local Environmental Plan 2011 (DFLEP2011).

The amendment of both plans is required because Council has recently resolved to adopt the draft DFLEP2011. The new DFLEP2011 may or may not be in force when the proposed LEP amendment process is finalised and therefore amendments to both plans are being proposed to ensure that the amendment can proceed regardless of which plan is in force at the time.

Provided below is a brief outline of the proposed changes to the respective plans if Council was to proceed with the rezoning of the identified sites in Canley Heights.

Fairfield Local Environmental Plan 1994

The zoning map under this plan will need to be amended as follows:

The sites identified in **Attachment A** are zoned as 2(a1) Residential A1 under FLEP 1994. The Planning Proposal will propose to amend the zone to 6(a) Recreation – Existing & Proposed.

Draft Fairfield Local Environmental Plan 2011

The Zoning Map, Height of Building Map and Floor Space Ratio Map will need to be amended as follows:

The sites identified in **Attachment A** are proposed to be zoned as R4 – High Density Residential under the draft FLEP 2011.

The Planning Proposal proposes to:

- Amend the zone to RE1 – Public Recreation.
- Amend the Height of Building Map to remove the 20 metre maximum height limit (the draft FLEP 2011 does not specify a height limit within the RE1 – Public Recreation Zone)
- Amend the Floor Space Ratio Map to remove the 2:1 maximum FSR limit (the draft FLEP 2011 does not specify an FSR limit within the RE1 – Public Recreation Zone).

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Note: It is anticipated that the rezoning of the properties identified in **Attachment A** will be included in the Planning Proposal that seeks to rezone 42 Derby Street, Canley Heights and those sites along Barton Street, Fairfield Heights/Smithfield that Council had previously resolved to rezone for open space purposes.

The Planning Proposal will address the following Section 117 directions in more detail.

3.1 Residential Zones

6.2 Reserving Land for Public Purposes

7.1 Implementation of the Metropolitan Plan for Sydney 2036

The above directions are the only ones that apply to this rezoning proposal and the amendments are consistent with these directions.

GATEWAY PLANNING PROPOSAL PROCESS

The steps in the Planning Proposal process are as follows:

Submit Planning Proposal to Department of Planning

Finalise the Planning Proposal document which will be endorsed by delegation by the Executive Manager of Environmental Standards Department.

Forward the Planning Proposal and relevant documentation to Department of Planning for Gateway Determination.

Gateway Determination

The Gateway Determination from the Department of Planning will outline the conditions and requirements Council is required to comply with when proceeding with the Planning Proposal, such as the public consultation. This may also include alterations to the Planning Proposal, general community and public authority consultation and a timeframe for completion of the LEP.

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Public Consultation

The Gateway Determination from the Department of Planning will specifically outline the public consultation required with specific public authorities as well as a determined period for the document to be on public exhibition which will occur once an ad is placed within the local paper.

Further Council Report

A further report to Council will be prepared at the conclusion of the consultation process. At this stage the Planning Proposal may be amended to reflect any issues that were identified during the consultation process. The planning proposal is then forwarded to the Department of Planning & Infrastructure for finalisation and gazettal.

FUNDING

Section 94

Council considered a Supplementary Report (Item 85) at its Outcomes Committee Meeting held on 22 May 2012 which seeks to amend the Expenditure Plan (EP) that details how money collected under Council's superseded Section 94 Developer Contributions Plan 1999 should be spent.

The effect of the amendment is to remove the specific expenditure allocations to the Fairfield Town Centre, Fairfield Heights, Canley Heights and Villawood catchments currently included in the EP. The purpose of the proposed amendment is to provide Council with a greater degree of flexibility in implementing its strategy to acquire land for future Open Space in these locations by allowing the funds allocated by the EP to be spent across all 4 catchments outlined above.

The acquisition strategy adopted in December 2011 was to acquire anchor sites as soon as possible and then to acquire the remaining adjoining lots around the anchor sites over time. Lots surrounding the anchor sites are to be rezoned for use as open space and acquired over time.

It should be noted that regardless of how the funding allocation is outlined in the EP, funding in the plan **is not** sufficient to acquire all the properties identified/rezoned for open space purposes. As a result there is a risk that Council may need to acquire these sites in the short to medium term from General Revenue that will be reimbursed from future Section 94 contributions if the new Section 94 Developer Contributions Plan 2011 has not collected sufficient funds at the time of acquisition.

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CONSULTATION STRATEGY

It is considered that the rezoning of the subject sites would have minimal impact on the respective localities. It is recommended that the consultation strategy be as follows:

1. Notice in the local newspaper as per legislative requirements
2. Letter to owners of properties being rezoned
3. Letters to owners and or occupiers of properties within an approximate 50 metre radius of the subject sites

It is considered that for this type of proposal, a 28 day public consultation period would be appropriate. The gateway determination may also specify additional requirements for the exhibition of the planning proposals.

CONCLUSION

The rezoning of these sites is seen as a key step in addressing the issues identified in the Open Space Strategy 2007.

By commencing the rezoning process for the identified properties in Canley Heights for open space purposes, Council will be providing a clear indication to the community in regards its intention to provide open space in the area. The rezoning of these sites will restrict them from further development and ensure that they become open space over time.

The rezoning described in this report will be included in the planning proposal already being prepared for sites at 42 Derby Street, Canley Heights and 6,8,8a,10,12 Barton Street, Smithfield which Council resolved to pursue on 10 April 2012 to avoid processing separate planning proposals.

Julio Assuncao
Land Use Planner

Authorisation:
Manager Strategic Land Use Planning
Executive Manager Environmental Standards

Outcomes Committee - 12 June 2012

File Name: **OUT120612_5**

***** END OF ITEM 87 *****

ATTACHMENT 'A'

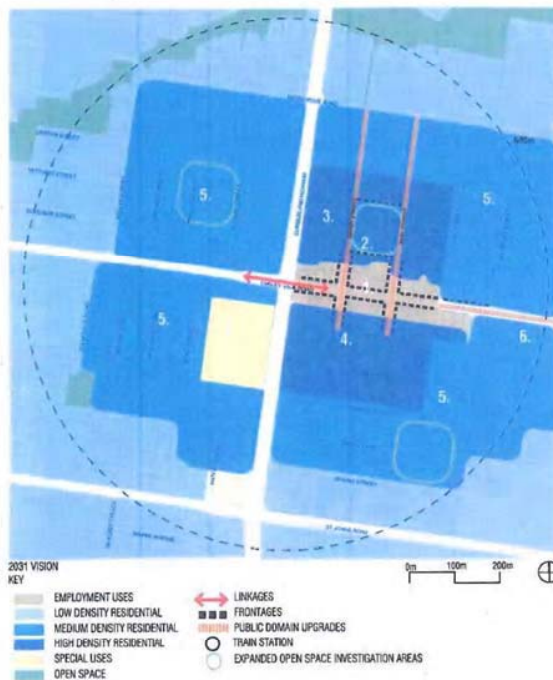
- 39 Ascot Street, Canley Heights
- 41 Ascot Street, Canley Heights
- 43 Ascot Street, Canley Heights
- 45 Ascot Street, Canley Heights
- 47 Ascot Street, Canley Heights

ATTACHMENT B

Ratepayers Name
Ms K Szyszko & Ms J Stabelmann
Mr C Szyszko & Mrs K Szyszko
Mr N C Ly & Mrs T T Nguyen
Mrs V Acimovic
Rycha Pty Ltd

ATTACHMENT

'C'



STUDY AREA 4 CANLEY HEIGHTS

STRUCTURE PLAN PRINCIPLES

1. Promote shop top housing in commercial core in the short term.
2. Provide additional open space in the short to medium term.
3. Potential for high density in the medium term. Additional density is dependent on development of open space (above). A height transition is required between Canley Vale Road and Ferngrove Road.
4. Medium to long term high density area in close proximity to retail core.
5. Increase density and extend public domain improvements along corridor towards Canley Vale in the short term.
6. Existing school.

URBAN RENEWAL MASTER PLAN

Canley Heights is a medium term priority location for the preparation of an Urban Renewal Master Plan (URMP). The URMP should establish a long term (20 year) plan which will ensure Canley Heights meets the required level of services and facilities for a village. The vision for Canley Heights should be based on the Structure Planning Principles (above) and develop a detailed action and implementation plan to address the Recommendations in the Sustainability Matrix.

The URMP for Canley Heights should prioritise the in-fill of existing areas zoned medium density. Local area improvement plans could assist in attracting medium density housing. High density around the core should be considered in the medium along with a corridor of medium density towards Canley Heights.

Details of the general requirements of an Urban Renewal Master Plan are in Section 5.5.