

46 Derby Street, Canley Heights - proposed rezoning

Proposal Title : **46 Derby Street, Canley Heights - proposed rezoning**

Proposal Summary : **The planning proposal seeks to amend Fairfield Local Environmental Plan 2013 to:**

- rezone no. 46 Derby Street, Canley Height from R4 High Density Residential to B2 Local Centre;
- remove the Floor Space Ratio that applies to the site; and
- apply an 8 metre building height limit.

PP Number : **PP_2014_FAIRF_006_00**

Dop File No : **qA342020**

Proposal Details

Date Planning
Proposal Received : **24-Dec-2014**

LGA covered : **Fairfield**

Region : **Metro(Parra)**

RPA : **Fairfield City Council**

State Electorate : **FAIRFIELD**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Derby Street**

Suburb : **Canley Heights**

City : **Fairfield**

Postcode : **2166**

Land Parcel : **Lot 108 DP 7225**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Edward Saulig**

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DoP Project Manager Contact Details

Contact Name : **Derryn John**

Contact Number : **0298601505**

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro West Central subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	1,000
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 : At this point in time, to the best of the regional team's knowledge, the Department's Code of Practice in relation to communications with lobbyists has been complied with.			

Supporting notes

Internal Supporting Notes : **ADDITIONAL INFORMATION:**

The proposal was received on 3 October 2014. On 22 October 2014, additional information was requested and received. On 10 December 2014, additional information was requested to clarify a number of discrepancies and inconsistencies in the Planning Proposal. Information was received from Council on 24 December 2014.

DELEGATION:

Council has requested delegation to exercise the Minister's plan making powers. It is considered that Council's request is appropriate.

EXECUTIVE SUMMARY:

The proposal is supported as it will provide an orderly but limited expansion of the existing Canley Heights local centre and would allow a reasonable economic use of the site.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The intended outcome of the proposal is to rezone the subject site from residential to business. In particular it will:**

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- Rezone 46 Derby Street, Canley Heights from R4 High Density Residential to B2 Local Centre;
- remove the current floor space ratio restriction that applies to the site;
- apply an 8 metre height limit to the site.

The proposal will allow an additional 1013 square metres of floor space.

It is considered that the intended outcome in the proposal is adequate.

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

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

Comment : The intended outcome will be facilitated by amending the following maps in Fairfield Local Environmental Plan 2013:

- Land Zoning Map - Sheet LZN_017 (rezoning the site from R4 to B2);
- Floor Space Ratio Map - Sheet FSR_017 (remove the current maximum FSR of 2:1, and replace with no FSR); and
- Height of Buildings Map - Sheet HOB_017 (reduce the maximum height from 20 metres to 8 metres).

It is considered that the explanation of provisions provided in the planning proposal is clear and adequate.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required?

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

d) Which SEPPs have the RPA identified?

SEPP No 19—Bushland in Urban Areas

SEPP No 55—Remediation of Land

SEPP No 64—Advertising and Signage

GMREP No. 2 - Georges River Catchment

SREP No. 18 - Public Transport Corridor

SREP No. 20 - Hawkesbury—Nepean River (No. 2 - 1997)

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

SECTION 117 DIRECTIONS

DIRECTION 1.3 - BUSINESS AND INDUSTRIAL ZONES

The proposal lists Direction 1.1 as being relevant. The proposal seeks to increase the floor space area in a business zone and is considered to be consistent with the Direction.

DIRECTION 3.1 - RESIDENTIAL ZONES

This direction applies based on the current zoning of the site. That is, Zone R4 - High Density Residential. The proposal is inconsistent with this direction, rezoning the site from a residential to business zone.

The proposal states the inconsistency is justified in accordance with Clause 6 of the Direction as the proposal is consistent with two local studies, being Fairfield City Retail and Commercial Centres study (2005) and draft Fairfield Residential Development

Strategy 2009.

However, the justification provided is inadequate because:

- the study was not endorsed by the Director General(secretary) pursuant to (6)(a)(iii) of the Direction; and
- the study was not prepared in support of the planning proposal pursuant to (6)(b).

Although the justification provided is inadequate, it is considered that the proposal can be justifiably inconsistent on the basis that it is of minor significance due to size specific nature of the rezoning (pursuant to (6)(d). This report recommends this inconsistency be supported.

DIRECTION 3.4 - INTEGRATING LAND USE AND TRANSPORT

This Direction applies as the Proposal is altering provisions in a zone for urban purposes, i.e., Zones R4 High Density Residential to B2 Local Centre.

The Direction requires the Proposal to, in part, have regard to 'Improving Transport Choice - Guidelines for Planning and Development (DUAP 2001)'. The Proposal is generally consistent with these guidelines as the subject land is located essentially within walking distance (i.e., 500m) of current retail area of Canley Heights, which is serviced by buses. Therefore, the Proposal is considered to be generally consistent with the Direction.

6.1 APPROVAL AND REFERRAL REQUIREMENTS

The proposal does not seek to introduce any additional approval or referral requirements.

DIRECTION 6.3 - SITE SPECIFIC PROVISIONS

This Direction applies. The proposal is consistent with this Direction, and does not seek to introduce any site specific controls in the plan.

DIRECTION 7.1 - IMPLEMENTATION OF THE METROPOLITAN STRATEGY

This Direction applies. The proposal is considered to be generally consistent with the Metropolitan Plan for Sydney 2036 in so far as relative minor nature of the proposal. On 14 December 2014, the Government announced a new plan, 'A Plan for Growing Sydney', which replaces the Metropolitan Strategy. The new plan, is addressed in the strategic consideration section of this report.

STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY 19 - BUSHLAND IN URBAN AREAS DEVELOPMENT

The proposal correctly identifies that the policy applies. Clause 10 requires a council to have regard to the aims of the plan and give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland.

The site appears to contain a small amount of vegetation (unknown type). The proposal does not seek to include any controls that would be inconsistent with the planning

policy.

STATE ENVIRONMENTAL PLANNING POLICY 55 - REMEDIATION OF LAND

The site was previously used for residential purposes, the site is unlikely to be contaminated.

STATE ENVIRONMENTAL PLANNING POLICY 64 - ADVERTISING AND SIGNAGE

The proposal is not inconsistent with the policy.

STATE ENVIRONMENTAL PLANNING POLICY - INFRASTRUCTURE 2007

The proposal is not inconsistent with the policy.

SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 20 - HAWKESBURY-NEPEAN RIVER (NO.2 - 1997)

The site is located outside of the mapped area for the policy.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The proposal correctly identified the following maps that will need to be amended:

- LZN_017;
- FSR_017; and
- HOB_017.

The draft maps provided with the planning are satisfactory for community consultation purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : The planning proposal incorrectly refers to the Community Consultation section as Part 4, rather than Part 5, inconsistent with the Guidelines.
No information is currently provided in that section (awaiting Gateway determination).

Part 6 - Project Timeline (misabeled as Part 5 in the proposal) indicates a 28 day notification period.

It is considered, however, that the proposal is a 'low impact proposal' and a 14 day exhibition period is appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **Note: Parts 4, 5 and 6 are incorrect and mislabeled in the proposal and not consistent with the Department's 'Guide to Preparing Planning Proposals'.**

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : It is noted that there are a number of inconsistent floor space numbers and figures used throughout the proposal and supporting information. This will be addressed in the assessment section of this report.

Proposal Assessment

Principal LEP:

Due Date : May 2013

Comments in relation to Principal LEP :

Fairfield Local Environmental Plan 2013 was notified on 17 May 2014.

The proposal seeks to amend 3 maps which form part of the Principal plan.

Assessment Criteria

Need for planning proposal :

The proposal is the best means to facilitate the intended outcome for the site.

The proposal is seeking to allow a two storey retail/commercial development as an extension to the existing retail/commercial area of Canley Heights.

However, the exact details of the current and proposed floor space area from the proposal and the Economic Impact Assessment (EIA) prepared by MarcoPlanDimasi, are, unclear and inconsistent.

The inconsistent numbers between the proposal, council report and the EIA are, as follows:

- The EIA essentially states that there is currently 13,000-14,000sqm of retail floor space in Canley Heights (refer page 17), however, the planning proposal (refer page 16) states the current retail floor space is approximately 18,206 by Council calculations.

- The planning proposal (refer page 19) states that the proposal is seeking to increase the floor space by 1,060sqm. However, the report to Council (refer Page 8) states the proposal is seeking 1013sqm.

- The planning proposal identifies a capability of approximately 37,000sqm under current LEP and DCP controls. It is unclear whether the figure is 'capacity', 'feasible' or 'realistic'.

As a result on 10 December 2014, Council was asked to confirm:

1. whether proposal seeks to add a further 1,013 sqm (or 1013sqm) of floor space to the current 13,000 - 14,000 sqm, (or to 18,206sqm); and
2. The correct current floor space, 18,206 or 13,000 - 14,000smq.

On 24 December 2014, Council confirmed:

1. the proposal seeks to add 1,013 sqm of floor space;
2. the current floor space is calculated at 18,206sqm; and
3. Council estimates 37,738 sqm of total potential floor space permitted by the development controls that apply in the Canley Heights Town Centre.

This report recommends that that the planning proposal be amended prior to exhibition.

Consistency with
strategic planning
framework :

A PLAN FOR GROWING SYDNEY

On 14 December 2014, the Government announced a new plan, 'A Plan for Growing Sydney', which replaces the Metropolitan Strategy. It will guide land use planning decisions for the next 20 years, decisions that determine where people will live and work and how we move around the city.

The new plan's vision 'a strong global city, a great place to live' is supported by 4 key goals.

Canley Heights is not identified as a strategic centre, nor are any actions in the plan specific to the site.

It is considered the planning proposal is generally consistent with the plan, in that supports the goal of continuing to add to a competitive economy, well connected by transport.

LOCAL STRATEGIES

Fairfield City Retail and Commercial Centres Study 2005

The planning proposal addresses the study which provides a retail floor space provision for local Centres (like Canley Heights) or between 5,000 - 10,000sqm. The proposal acknowledges that the retail component exceeds the recommended provision, however, also notes that the provision is not centre specific, but rather a guide based on centre typology. The adequate provision of retail floor space is better considered in a specific retail study (like the EIA included with the proposal).

The Fairfield City Plan 2012 - 2022

The proposal has adequately addressed the local strategy.

Environmental social
economic impacts :

ECONOMIC CONSIDERATION:

The proposal is support by an Economic Impact Assessment prepared by MacroPlanDimasi (attached).

While there are a number of inconsistencies between the proposal, council report and the EIA (as noted above), the EIA essentially states that there is currently 13-14,000sqm of retail floor space in Canley Heights (18,206 by council calculations), and a 'capability' of approximately 37,000 under current LEP and DCP controls. It is unclear whether the capacity figure is 'feasible' or 'realistic'. Notwithstanding, the proposal seeks to add a further 1,013 sqm of floor space to the current 13-14,000 sqm.

It is justified in the report, that there is a demand, because:

- There are only 4 current vacancies in the existing retail / commercial area; and
- The EIA has included an 'assumption' that the demand is calculated on 'applied retail floorspace provision of 2.2 sqm per capita, which is the estimated current average per capita provision across Australia' (refer page 14).

On 22 October 2014, the proposal was referred to the the Demography and Economics team to confirm:

- whether the applied retail floor space provision of 2.2sqm per capita is an accepted or reasonable industry standard; and
- whether the floor space calculations provided are correct – or reasonably close to being accurate.

Inter alia, the team confirmed that:

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- the Department does not hold existing data (commercial floor space), given the size of the centre; and
- the ratio of 2.2 sqm of retail per capital is a figure which appears to be used by the Shopping Centre Council of Australia.

The Department's demographers have projected an additional 52,000 people in Fairfield LGA between 2011 and 2031, but the projections do not break down to the suburb level to see how much of the growth may occur in Canley Heights and what retail will be needed.

Nonetheless, it is considered that an additional 1,013m² could cater for around 460 people which probably is not unreasonable into the future.

Assessment Process

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

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Essential Energy
Transport for NSW
Transport for NSW - Roads and Maritime Services
Sydney Water
Telstra**

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 :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Traffic Study

Identify any internal consultations, if required :

Employment Lands (ELDP)

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter - 46 Derby St, Canley Heights.pdf	Proposal Covering Letter	Yes
Maps - 46 Derby St, Canley Heights.pdf	Map	Yes
Council Report - Part 1 - 46 Derby St, Canley Heights.pdf	Proposal Covering Letter	Yes
Council Report - Part 2- 46 Derby St, Canley Heights.pdf	Proposal Covering Letter	Yes
Economic Impact Assessment - Part 1	Study	Yes
-MacroPlanDimasi - 46 Derby St, Canley Heights.pdf		

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Economic Impact Assessment - Part 2 - MacroPlanDimasi - 46 Derby St, Canley Heights.pdf	Study	Yes
Economic Impact Assessment - Part 3 - MacroPlanDimasi - 46 Derby St, Canley Heights.pdf	Study	Yes
Peer Review of EIA - Norling - 46 Derby St, Canley Heights.pdf	Study	Yes
Planning Proposal - Part 1 - 46 Derby St, Canley Heights.pdf	Proposal	Yes
Planning Proposal - Part 2 - 46 Derby St, Canley Heights.pdf	Proposal	Yes
Planning Proposal - Part 3 - 46 Derby St, Canley Heights.pdf	Proposal	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**
3.4 Integrating Land Use and Transport
6.1 Approval and Referral Requirements
6.3 Site Specific Provisions
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the proposal proceed subject to the following conditions:**

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979, for a period of 14 days.

2. Consultation is required with the following public authorities under section 56(2) (d) of the Environmental Planning and Assessment Act:

- Transport for NSW
- Transport for NSW - Roads and Maritime Services
- Sydney Water
- Essential Energy

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

3. The Secretary's delegate approves the inconsistency with Section 117 Direction 3.1 - Residential zones, on the basis that it is of minor significance.

4. Prior to undertaking community consultation, Council is to amend the planning proposal to:

a. update and correctly label Parts 4, 5 and 6 to be consistent with the Department's 'Guide to Preparing Planning Proposals';

b. clarify in the proposal:

- whether it is proposed to add a further 1,013 sqm or 1013sqm of floor space, and
- the correct current commercial/ retail floor space for Canley Heights figure, 13,000 to 14,000 sqm, or 18,206sqm.

c. to address the Government's new plan 'A Plan for Growing Sydney';

d. amend Part 6 to accord to the time frame specified in Condition 6, below.

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5. A public hearing is not required to be held into the matter by any person or body under the Section 56(2)(e) of the EP&A 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).

6. The time frame for completing the Local Environmental Plan is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal is supported as it will provide an orderly but limited expansion of the existing Canley Heights local centre and would allow a reasonable economic use of the site.

Signature:



Printed Name:

CHO CHO MYINT

Date:

8/1/15