

Planning Proposal

46 Derby Street, Canley Heights

Fairfield Local Environmental Plan 2013 – Draft Amendment No. ()

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Preliminary Information

1.1 Context

This Planning Proposal has been drafted in accordance with section 55 of the Environmental Planning and Assessment Act 1979, and seeks to amend Fairfield Local Environmental Plan 2013 (FLEP 2013).

1.2 Background Information

In November 2013, a Planning Proposal application was lodged with Council by C.C Weston and Associates (applicant) on behalf of Mr and Mrs Ong (owners) requesting an amendment to FLEP 2013 to change the zoning at 46 Derby Street, Canley Heights to permit a two storey retail/commercial development. The applicant is seeking to amend FLEP 2013 to rezone the site from Zone R4 High Density Residential to Zone B2 Local Centre.

The issues associated with the proposal are outlined in the following sections of this document as well as in the attached Council Committee report dated 8 April 2014.

1.3 Subject Land

The subject site comprises the property known as 46 Derby Street, Canley Heights being Lot 108 DP 7225.

1.4 Surrounding Development

The subject site is immediately adjoined by a Council car park and local park to the north, Further to the north is the residential area of Canley Heights consisting of low density one and two storey residential development despite an R4 High Density Residential zoning.

To the south of the subject site is a mixed commercial and retail development with associated off-street parking on the corner of Canley Vale Road and Derby Street, an unnamed laneway provides access between Derby Street and Peel Street to the east, to the rear of mixed commercial and retail development. On the southern side of Canley Vale Road there is a continuation of the retail and commercial land uses with residential development further south.

The dominant development type to the east of the subject site is of low density one and two storey residential development despite an R4 High Density Residential zoning.

The western boundary of the subject site fronts Derby Street and on the opposite side of the street there is predominately residential development with a mixed commercial and retail development with associated off-street car parking located on the corner of Cumberland Highway and Canley Vale Road.

To the west of Cumberland Highway there is a continuation of residential land use.

Figure 1 – Aerial Photo



Part 1 – Objectives

The purpose of the planning proposal is to change the existing residential zoning of No. 46 Derby Street, Canley Heights to a business zoning to reflect the location of the site at the edge of the Canley Heights Local Centre and being predominantly surrounded by existing private/public car parking.

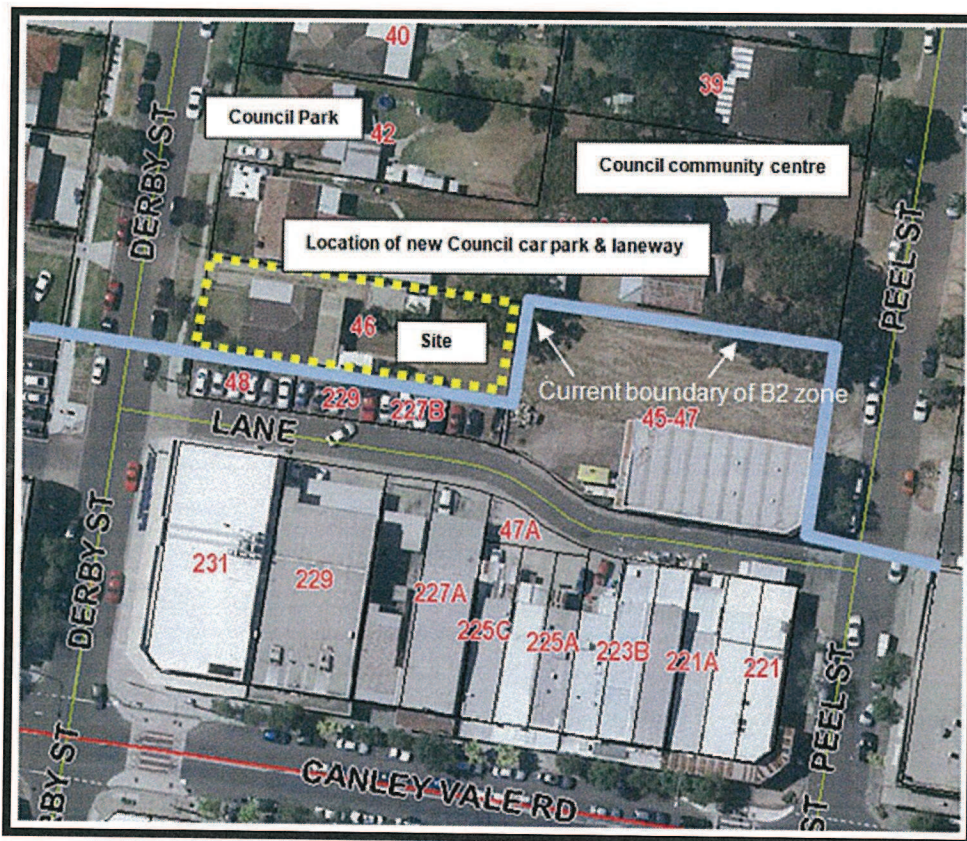
In summary, the objectives of the Planning Proposal are to amend Fairfield Local Environmental Plan 2013 to:

1. Rezone No. 46 Derby Street, Canley Heights from R4 High Density Residential to B2 Local Centre;
2. Remove the current Floor Space Ratio (FSR) restriction that applies to the site under Clause 4.4 Floor Space Ratio and associated map of Fairfield LEP 2013; and
3. Amend the current height limit that applies to the site under the Heights of Buildings Map from 20 metres to 8 metres.

The planning proposal applies to land known as Lot 108 DP 7225 – 46 Derby Street, Canley Heights

The planning proposal is in accordance with Council's Outcomes Committee decision at its meeting on Tuesday 8 April 2014 and Council's decision at its meeting on Tuesday 23 September 2014 - see **Attachment A** for Council report.

Figure 2 – Context Map



Part 2 – Explanation of provisions

To achieve the objectives mentioned above, the Planning Proposal will need to amend the Fairfield Local Environmental Plan 2013 (FLEP 2013) as follows:

1. Amend Land Zoning Map Sheet 17 of Fairfield LEP 2013 to rezone 46 Derby Street, Canley Heights from R4 High Density Residential to B2 Local Centre;
2. Amend Fairfield LEP 2013 Floor Space Ratio Map Sheet 17 to remove the maximum FSR of 2:1 that currently applies to the subject site. This will result in there being no applicable FSR for the site which will ensure consistency with immediately adjoining land zoned B2 Local Centre; and
3. Amend Fairfield LEP 2013 Height of Buildings Map Sheet 17 to reduce the maximum building height from 20 metres to 8 metres. This proposed change in height reflects the intended two storey retail/commercial development of the site.

A copy of the existing R4 High Density Residential zoning table is provided below and includes details of the zone objectives and permissibility.

Zone R4 High Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise opportunities for increased development on all land by encouraging site amalgamations.*

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Boarding houses; Child care centres; Community facilities; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Shop top housing; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Backpackers' accommodation; Bed and breakfast accommodation; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Dual occupancies; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Environmental facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function

centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home businesses; Home industries; Home occupations (sex services); Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies

The Planning Proposal seeks to rezone No. 46 Derby Street, Canley Heights to zone B2 Local Centre under Fairfield LEP 2013. A copy of the B2 Local Centre zone table as taken from Fairfield LEP 2013 is included below.

Zone B2 Local Centre

1 Objectives of zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for shop top housing that supports local business activity.*
- *To ensure that mixed use developments include an active street frontage by locating business, retail and community uses at ground level.*

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Attached dwellings; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Group

homes; Heavy industrial storage establishments; Helipads; Home businesses; Home industries; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Multi dwelling housing; Open cut mining; Recreation facilities (major); Research stations; Residential flat buildings; Resource recovery facilities; Rural industries; Rural workers' dwellings; Secondary dwellings; Semi-detached dwellings; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies

Figure 3 – Existing zoning under Fairfield LEP 2013



Part 3 – Justification

Section A – Need for a planning proposal

Is the planning proposal a result of any strategic study or report?

No. The Planning Proposal is not the result of any direct recommendation contained within a strategic study or report. The planning proposal is a result of an owner initiated rezoning application. It is however generally consistent with the background principles contained in State, regional, sub regional and metropolitan planning documents as identified in Section B to this Part.

It is considered that given the location of the site at the edge of an existing local centre, and context of surrounding development as outlined above, that there is merit in the proposal.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that the Planning Proposal is the best means of achieving the objectives and intended outcomes for the site in the following respects:

- The Planning Proposal will rezone the subject site from R4 High Density Residential to B2 Local Centre and will result in the most effective and efficient use of the land;
- The Planning Proposal seeks to provide additional retail and commercial land in the Canley Heights locality. The proposal seeks to address the current and future demand for retail and commercial floor space in the Canley Heights locality;
- Rezoning the land is the most effective means of achieving the desired future development of the site. The use of Additional Permitted Uses under Schedule 1 of FLEP 2013 to permit commercial premises (prohibited in the R4 High Density Residential zone) is not the preferred means of achieving the planning outcome. This approach is consistent with previous advice provided by the NSW Department of Planning and Environment; and
- The timing of the Planning Proposal is appropriate to meet the demand for retailing, create investment and employment, and generate economic activity and benefits in the locality.

The Draft Centres Policy – Planning for Retail and Commercial Development, prepared by the Department of Planning and Infrastructure and dated April 2009 ('the Draft Centres Policy'), recommends the following sequential approach when considering edge-of-centre proposals as proposed by this Planning Proposal:

- *"it must first be demonstrated that there are no suitably zoned sites within the existing centre. Where the zoning is flexible – such as a mixed use zone – there will be more options available to proponents. It is recognised that*

acquiring appropriately zoned sites within existing centres may not always be practical or feasible particularly if large format sites are required.

- *if there are no suitably zoned sites in the existing centre, it must then be demonstrated that there are no suitable sites in an edge-of-centre location. Where available, edge-of-centre sites will generally be supported particularly if good connections can be established with the existing centre."*

The subject site is an edge-of-centre site which provides direct connection to the existing Canley Heights Local Centre.

Is there a net community benefit?

The Department of Planning and Infrastructure's Draft Centres Policy sets out the required net community benefit test required to be addressed, where a retail or commercial development is not a permissible use on a site under the provisions of an LEP, the plan would need to be amended to enable the development to proceed and the proposed development is to be subject to a Net Community Benefit Test.

Net Community Benefit Test

Evaluation Criteria	Y/N	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Y	The proposed rezoning will be compatible with the State and regional strategic direction for development in Canley Heights
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Y	The subject site is within the Draft West Central Subregion Strategy and is consistent with that Strategy.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	N	It is unlikely to create a precedent in the future due to the subject site being an edge-of-centre proposal with limited scope for future residential development. There is limited scope for rezoning of nearby properties in the future to use this planning proposal as a precedent for rezoning as the subject site is land locked on both side boundaries by private and public car parks.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Y	The Planning Proposal has been lodged following consultation and in-principal support from Council on the basis of a strategic need for additional retail and commercial floor space in Canley Heights and the unique circumstances of the site. There are no cumulative impacts resulting from other spot rezonings.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Y	The rezoning will result in the creation of additional employment opportunities during construction as well as in ongoing retail and commercial uses.
Will the LEP Impact upon the supply of residential land and therefore housing supply and affordability?	Y	The proposed rezoning will result in the loss of one R4 High Density Residential lot of 730m ² . It is considered that the loss of this lot

Evaluation Criteria	Y/N	Comment
		will not result in a significant effect on the future supply of housing or the affordability of such housing in Canley Heights due to the size and limited development potential of the site for residential flat buildings.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future transport?	Y	The existing public transport system is more than capable of servicing the proposed future development of the subject site. Canley Heights is serviced by four bus services which run along the Cumberland Highway, Canley Vale Road and St Johns Road every 30 mins. The bus services provide access to Fairfield, Cabramatta, Blacktown, Liverpool and Parramatta. The regular road access within Canley Heights provides a high degree of accessibility for both pedestrians and vehicles. East-west pedestrian access is somewhat limited by the Cumberland Highway, which is a divided four lane road and serviced by traffic lights. Canley Heights sits outside the regional bike network. However, a bike trail is proposed along the Green Valley Creek then heading north along the Cumberland Highway to the west of the subject site.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of	Y	The proposal will not result in an increase in travel distances by customers. The proposed rezoning is an edge-of-centre proposal that will utilise the existing off-street car parking of the Canley Heights Local Centre located on Derby Street. It is anticipated that the development will result in an insignificant increase in road users with the intention being that customers will park and visit a number of businesses when in Canley Heights. Additional off-street car parking is provided by Council to the north of the subject site (No. 44 Derby Street and No. 43 Peel Street), with 47 car spaces. The applicant is to provide developer contributions as determined by Council following approval of the development application.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	Y	There are no significant Government investments in infrastructure or services in the area whose patronage will be affected by the planning proposal.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	Y	The proposal will not impact upon land that the Government has identified as requiring protection or burdened by any environmental factors.
Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	Y	The proposal will be complementary with the adjoining B2 Local Centre zone to the south and compatible with the surrounding R4 High Density Residential zoning. It is anticipated that any adverse impacts on the amenity on

Evaluation Criteria	Y/N	Comment
		adjoining properties on Derby Street and Canley Vale Road can be effectively ameliorated through effective design of the retail and commercial building and through the imposition of appropriate Council conditions on the future development consent. The proposal will improve the public domain by addressing the adjoining car park and presenting an active frontage.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Y	The proposal will increase choice for retail and commercial floor space within Canley Heights. The resulting retail and commercial tenancies will increase retail and commercial competition however it is anticipated that any new retail and commercial uses would complement the existing uses in Canley Heights for the benefit of the community.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	Y	The proposal is an edge-of-centre proposal that will marginally expand the existing retail and commercial floor space of the existing Canley Heights Centre by approximately 1000 sq. metres.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	Y	The public will benefit from an increase in retail and commercial floor space in Canley Heights and the resulting employment opportunities from the use of the building. It is not considered that the loss of 747 sq. metres of high density residential land will have a significant impact on the supply and cost of housing in the area.

In light of the above detailed assessment, the overall merits of the proposal can be summarised as follows:

- Increased opportunities for investment and jobs in the Canley Heights Local Centre both during the construction and ongoing operation of the site;
- Meets increasing consumer demand for retailing and commercial floor space;
- Contributes to meeting the retail and employment demands of 16,000 future residents in the Fairfield LGA over the next 15 years;
- No additional public infrastructure investment is required as all public transport services and utilities are pre-existing;
- There are no significant environmental constraints or costs;
- The proposal will not significantly reduce the amount of residential land, and is compatible with adjacent land uses;
- The proposal will likely have a positive economic impact on the adjoining Canley Heights retail and commercial centre; and
- The proposed development is unlikely to set a precedent for other landholders due to the specific location of the site and surrounding development.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Metropolitan Plan for Sydney 2036 ('the Metropolitan Plan') applies to the subject site. The Metropolitan Plan sets the boundaries for future urban development and identifies the strategic transport corridors and Major Centres best placed to focus sustainable commercial and residential growth in the future. It is therefore essential to determine how the Planning Proposal meets the strategic directions and objectives of the Metropolitan Strategy.

The Draft Metropolitan Strategy for Sydney sets the framework for Sydney's growth and prosperity to 2031 and beyond and will replace Metropolitan Plan for Sydney. The Draft Metropolitan Strategy identifies six new subregions for Sydney. The subject site is within the Fairfield LGA, which forms part of the South West Subregion.

The Draft West Central Subregional Strategy applies to the subject site. The Draft West Central Subregional Strategy provides a broad framework for the long term development of the area, guiding government investment and linking local and state planning issues.

Tables A, B and C below detail how the planning proposal is consistent with the objectives and actions contained within The Metropolitan Plan, the Draft Metropolitan Strategy for Sydney and the Draft West Central Subregional Strategy.

Table A - The Metropolitan Plan for Sydney 2036

Strategic Direction	Objective/Action	Comment	Fulfilment
STRENGTHENING THE 'CITY OF CITIES'	Objective A2 To achieve a compact, connected, multi-centred and increasingly networked city structure.	The Planning Proposal will foster the growth of employment opportunities in an existing urban centre. The extension of the commercial centre will reduce the need for out-of-centre commercial development which can result in disconnection of land uses.	YES
	Objective A3 To contain the urban footprint and achieve a balance between greenfield growth and renewal in existing areas	The Planning Proposal will permit the future development of the subject site as a commercial premises. The development of the site will aid in the ongoing renewal of the Canley Heights commercial area.	
GROWING AND RENEWING CENTRES	Objective B1 To focus activity in accessible centres.	The Planning Proposal will concentrate retail and commercial activity within the existing Canley Heights centre through an edge-of-centre rezoning and will provide additional capacity for commercial development within centres, more sustainable growth can be achieved, avoiding pressure for such development in inappropriate out-of-centre locations.	YES