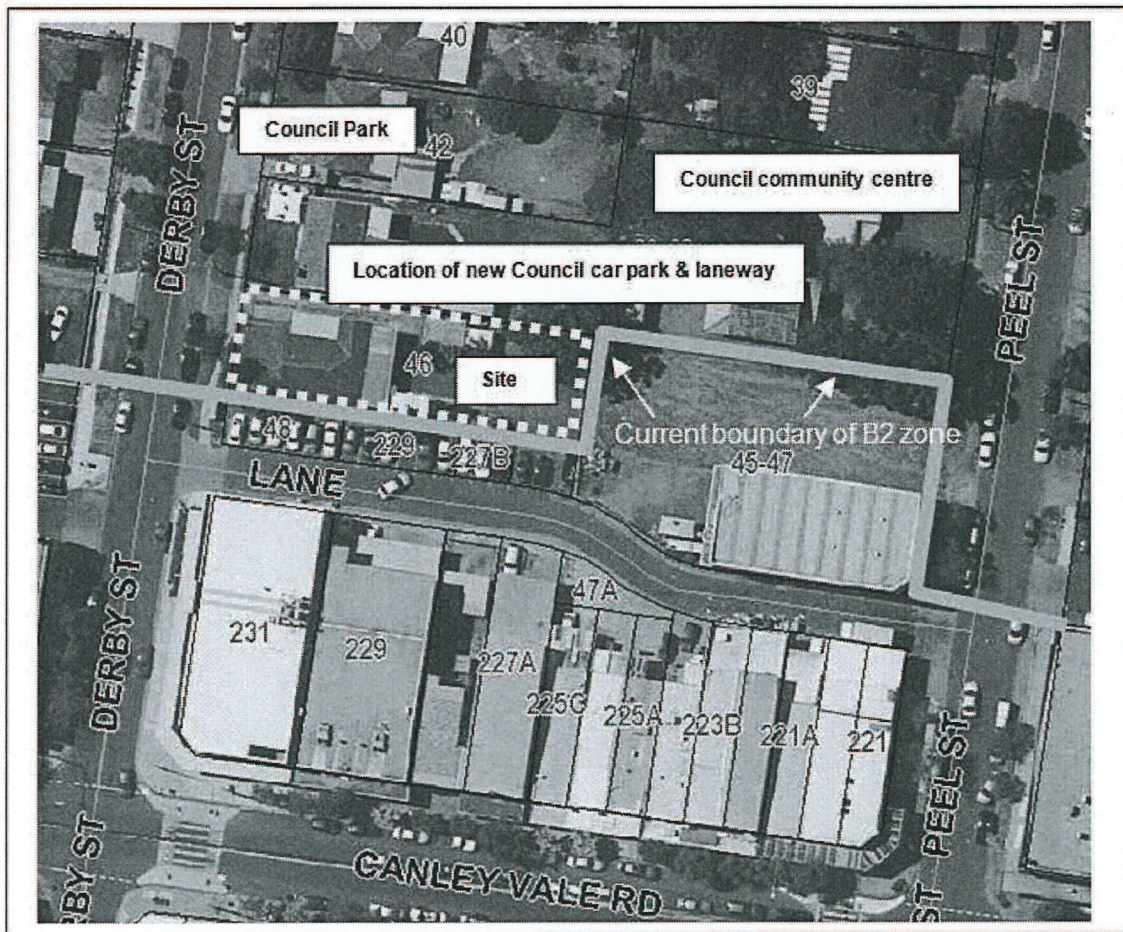


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Aerial Photo from 2011

A commercial zoning of the site provides an opportunity for a transitional commercial development between the existing town centre and adjoining residential properties including an opportunity to create a better interface to the new Council car park by orientating the outlook of retail and commercial premises toward the public space. This would increase casual and direct surveillance of the car park which would contribute to improved community safety.

Council's new community centre and car park linking Derby and Peel Street now provides a natural boundary between the commercial activity along the spine of Canley Vale Road and the Zone R4 High Density Residential.

Key Local Strategy

Fairfield draft Residential Development Strategy (RDS) 2009

The Fairfield draft RDS 2009 recommended rezoning of the subject site and surrounding residential lands in Canley Heights from medium density to high density residential which was subsequently undertaken as part of implementation of the Fairfield LEP 2013.

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The subject site at 46 Derby Street is approximately 750sqm in area, with a width of approximately 15m. A development site of this area and width could achieve a residential flat building development consisting of approximately 5 or 6 dwellings depending upon design and the ability to meet parking requirements.

When considering this broader context of potential dwelling yield within the Canley Heights locality, the loss of 5 or 6 dwellings possible on the subject site is considered insignificant in its impact on local, regional or metropolitan objectives.

As referred to above the isolated nature of the site, located between a private and public car park, reduces the potential for achieving desirable levels of residential amenity due to the traffic, noise and the hard paved environment within which it is located.

Under the B2 Local Centre zoning, shop top housing is still permitted as an additional form of development on the site. As referred to previously, the constraints in developing the site for residential uses are influenced by a number of factors including the ability to provide a basement car park for residential parking which under current Council policy cannot be provided by way of Section 94 contributions.

There will also be substantial land remaining in the surrounding R4 High Density Residential zone adjoining the Canley Heights Centre for additional residential development, as well as shop top housing development opportunities along Canley Vale Road within the Canley Heights B2 Local Centre zone. It is not considered that rezoning of the site to Zone B2 Local Centre would undermine the objectives of the draft RDS for the locality.

Retail Commercial Centres Study and associated Policy

The Retail Centres Study 2005 and associated Retail and Commercial Centres/Activities Policy (2006) were developed to help provide a strategic framework for retail and commercial development in the City including consideration of development and rezoning applications.

The Study developed a hierarchy for various centres in the City depending on their function and scale, with Canley Heights being identified as one of 9 middle order local centres that lead to the B2 Local Centre zoning being applied to the site under the Fairfield LEP 2013.

A review of the Retail Study has recently commenced, with retailing and population data underpinning directions in the current review. Of the current criteria in the retail policy of critical relevance to this planning proposal is the recommended range in the provision of retail floor space for local centres (such as Canley Heights) of between 5,000 – 10,000sqm.

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The analysis under the next section of this report indicates that currently in the Canley Heights Centre the total provision of both retail and commercial floor space (both ground and floors above) is approximately 18,206sqm. Although this exceeds the above range contained in the Retail Study, this does not discount consideration of the current rezoning proposal as:

- **The overall retail/commercial footprint for Canley Heights has not expanded significantly since 2005** and it is likely the centre already exceeded the 5,000 - 10,000sqm range in 2005.
- **There are limited shop vacancies in Canley Heights** indicating the rezoning proposal will not undermine other retail/commercial tenancies in the centre.
- **The Retail Study 2005 does not discount the expansion of a local centre** above 10,000sqm where:
 - The proposal will result in an outcome consistent with the role of a local centre;
 - Any expansion proposal does not unacceptably affect the range of services available in nearby local or neighbourhood centres;
 - The economic viability of the proposed expansion does not rely upon an expansion in the existing trade area of a local centre; and
 - The proposal will strengthen the viability of a centre.

A detailed assessment of the above issues would need to be undertaken as part of an Economic Impact Assessment and is addressed under the next section of this report.

Economic Impact Assessment Issues

At this stage an Economic Impact Assessment (EIA) has not been submitted for the proposal. Council's Retail and Commercial Centres/Activities Policy – 2006 requires a detailed economic justification prepared by a qualified consultant where a development or rezoning proposal is considered to have an unacceptable economic impact.

The most recent figures for retail and commercial space in the Canley Heights local centre were assessed for the Canley Heights Section 94 Car Parking Plan and are shown in the following table:

Canley Heights Non-Residential Floor Space Retail and Commercial	sq m
Current Floor Space (as at October 2013)	18,206sqm
Total Additional Floor Space remaining to be developed as permitted by the Canley Corridor DCP 2013	14,532sqm
Total Potential Retail and Commercial Floor Space	37,738sqm

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The proposed additional 1,013sqm of retail and commercial floor space for 46 Derby Street represents a total increase of 2.7%. Despite the Canley Heights local centre not being a designated strategic centre, it could potentially accommodate this additional space and grow employment opportunities. The broader economic impact of the additional floor space of Canley Heights by 1,013sqm needs to be considered further.

Under Council's Retail and Commercial Centres/Activities Policy 2006 a further detailed EIA is required to assess the full scope for potential impacts on existing economic activity in the Canley Heights shopping centre and on other centres and if deemed necessary for Council to either (a) place restrictions on FSR allowances for future development of the site or (b) resolve not to proceed with the planning proposal.

The two options for preparation of the EIA under the proposal are as follows:

Option 1: Submission of an EIA prior to requesting a Gateway Determination (Recommended)

The recommended option is for the applicant to submit an EIA prior to the planning proposal being referred to NSW Planning and Infrastructure (NSW P&I). This step would involve a further report to Council on the findings of the EIA and the result of a peer review (paid for by the applicant) by Council's expert independent economic advisor.

This would allow early consideration of economic impact issues and opportunity for Council to either place FSR restrictions and associated site specific DCP building envelope controls on future commercial development of the site or decide not to proceed with the planning proposal in the event that there is insufficient economic justification for rezoning of the site from Zone R4 High Density to Zone B2 Local Centre.

It is noted that under processes associated with consideration of planning processes the applicant is also required to pay for independent review of the EIA.

Option 2: Submission of EIA prior to public exhibition (Not Recommended)

A second option is for Council to refer the planning proposal to NSW P&I immediately and request as part of the Gateway Determination the applicant be required to submit an EIA prior to the proposal being placed on public exhibition.

The disadvantages of this step are that consideration of economic impact issues by Council would not occur until after public exhibition. If Council wanted to place restrictions on FSR allowances it is likely the planning proposal would need to be re-exhibited.

In addition, notwithstanding Council's request, there is no guarantee the NSW P&I will require preparation of an EIA under the Gateway Process.

Based on the above reasons it is not recommended that Council pursue this option.

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In the event Council does adopt this as the preferred option, it will also be necessary for Council to include the following alternative recommendations for referral of the planning proposal to NSW P&I:

- 1 *Prepare a Planning Proposal and then inform NSW Planning and Infrastructure (NSW P&I) that it wishes to commence the Gateway Determination Process to amend Fairfield Local Environmental Plan 2013 to rezoned 46 Derby Street, Canley Heights, being Lot 108, DP 7225 from zone R4 High Density Residential to B2 Local Centre.*
- 2 *Request that NSW P&I, as part of its gateway determination, require the Applicant to prepare an economic impact assessment to be placed on public exhibition with the Planning Proposal.*
- 3 *Delegate to the City Manager authority to endorse the Planning Proposal prior to its submission to NSW P&I;*
- 4 *Submit a Planning Proposal to NSW P&I pursuant to Section 55 of the Environmental Planning and Assessment Act 1979;*
- 5 *Undertake public consultation according to any conditions or requirements imposed by NSW P&I's Gateway Determination and that the results of the public exhibition be reported to Council.*
- 6 *Request the Minister delegate Section 59 Making of local environmental plan to Council as provided for under Section 23 of the EP&A Act.*
- 7 *The report be referred to full Council as a Section A Report.*

The Gateway Determination advice from the DP&I will most likely specify that a 28 day public consultation period would be the most appropriate exhibition period for this Planning Proposal. Notwithstanding specific advice from the DP&I contained within the Gateway Determination, the following consultation strategy is recommended:

1. Notice in the local circulating newspaper as per legislative requirements;
2. Letter to Canley Heights Chamber of Commerce; and
3. Notification letter to adjoining properties within a 50 metre radius.

The Gateway Determination may specify additional requirements for exhibition of the Planning Proposal.

Precedent Issues

A review has been undertaken of other residentially zoned sites adjoining the Canley Heights B2 Local Centre Zone. It is considered that Council's support to the current proposal would not generate a precedent for similar rezoning proposals as other Zone R4 High Density Residential sites:

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- are not isolated by car parks and have greater scope to be developed for residential flat buildings;
- have a strong relationship and better interface with surrounding residential properties than the subject site at Derby Street; and
- have scope to amalgamate with adjoining properties to address minimum planning requirements for the provision of residential flat buildings including the provision of on-site (basement) car parking.

B. INTERNAL REFERRALS

A summary of the various issues raised by other Council Departments appears below, with a corresponding comment:

Development Issues – Senior Development Planner, Development Planning Division

The site is an isolated piece of Zone R4 High Density Residential land and is considered to be significantly constrained in terms of its development potential.

It is noted that the adjoining site, fronting Peel Street, contains an unoccupied 2-storey retail/commercial building with an approval for a 6/7 storey mixed-use development.

Planning Comment

The expansion in the commercial and retail floor space has been calculated at 2.6% for the total potential floor space within Canley Heights and is considered minor in nature. Unlike 46 Derby Street, there is limited justification for other edge of centre Zone R4 High Density Residential sites to similarly seek retail and/or commercial development, as amalgamation opportunities with adjoining sites exist to maximise their development potential.

It is noted that the adjoining development at 45-47 Peel St is located in the B2 Local Centre zone and includes approval for ground floor retail and commercial development.

Economic Development Issues - Senior Policy Advisor Economic Development – Place Management and Economic Development Division

The development could generate 30 to 40 onsite jobs based on the proposed floor space, with the resulting parking issue for employees being a significant consideration in the impact on the locality. The risk of floor space growth beyond the upper limits of its current centre designation could fragment the retail and commercial hierarchy and place pressure on existing centres within the City.

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Planning Comment

As referred to previously in this report, it is recommended that Council require the applicant submit an EIA (that would look at the potential impact of the proposal on other centres of the City) prior to referral of the planning proposal to the NSW P&I for a Gateway Determination.

It is noted that Council's draft Residential Development Strategy for the east of the City recommends for Canley Heights that the centre continue to build on the mix and diversity of commercial and retail uses to meet long term increase in residential population.

Traffic and Parking Issues - Professional Engineer, Built Systems Division

Trip generation to and from the site for office and commercial purposes during peak hour is 2 per 100m² Gross Floor Area (GFA) and is considered insignificant due to the ability of nearby intersections and road network to accommodate the proposed commercial/retail development (Roads and Maritime Services' Guide to Traffic Generating Developments – 2002).

The parking requirement for retail premises within the Canley Heights Town Centre is 1 space per 40m² gross leasable area. Adequate parking is to be provided on-site as per Chapter 12 of Fairfield City Wide Development Control Plan 2013.

There are no concerns with regard to pedestrian connectivity and safety, as the site has good pedestrian connectivity to and from the Canley Heights Town Centre.

Planning Comment

The main issue of concern is the impact of providing all parking through Section 94 developer contributions, and the need to accommodate employee parking either on the street or in Council car parks.

This is the main point of difference between a residential development as currently permitted under the Zone R4 High Density Residential and a commercial development is the significant increase in car parking generation in a locality where the availability of car parking can be at a premium at various times of the day and night.

The number of car parking spaces required varies depending on whether car parking is provided on site (1 car space for every 40sqm of retail floor space) or off site through a developer contribution (1 car space for every 40sqm of retail floor space or 66sqm of commercial floor space). The concept plan associated with the Planning Proposal seeks to meet its 1,013sqm of retail floor space of 25 generated car parking space requirement by way of Section 94 development contribution currently valued at \$328,125.00 (\$13,125.00 per space).

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The Planning Proposal includes a concept plan that could be the subject of a future development application, seeking a retail development and the provision of car parking via the payment of Section 94 development contributions is permissible under Council's current policies in relation to this matter.

The main issue for Council is that this planning proposal, should it be supported and proceed to the development stage, may necessitate a strategic review of the existing Section 94 Car Parking Plan for Canley Heights. This matter will be further reviewed and be reported to Council in due course.

C. ASSESSMENT OF CONSISTENCY WITH MINISTERIAL DIRECTION UNDER SECTION 117

Planning Proposals are required demonstrate consistency with Section 117 Ministerial Directions under the NSW Environmental Planning and Assessment Act.

Attachment C contains a review of the proposal with all Section 117 Directions with a detailed assessment against the 2 key relevant directions provided below:

Direction 1. Employment and Resources, 1.1 Business and Industrial Zones.

The objectives of the Business and Industrial Zones direction is to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres identified in a regional strategy, sub-regional strategy. Canley Heights is subject to the draft West Central Subregion Strategy (WCSS) prepared by the NSW Government in 2007.

It is noted that in recent years the Centre has undergone a strong degree of economic 'gentrification' with an increasing number of restaurants now being located in the Centre. Restaurants and cafes occupy a higher proportion of ground floor and retail space, complementing the daily shopping needs of residents by way of supermarkets (both traditional and Asian), fruit and vegetable shops, butchers, florists, clothing , personal services and the like.

The proposal is consistent with the Direction as it provides opportunities for additional retail/commercial floor space in the Centre and to generate employment opportunities.

Direction 3. Housing, Infrastructure and Urban Development, 3.1 Residential Zones

The objectives of this direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.

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As referred to previously, the subject site does not have capacity for extensive residential development with a maximum projected number of 6 dwellings. It is noted that the B2 Zone allows for shop top housing. However, given the limited capacity to amalgamate with surrounding properties, constraints on residential amenity relevant to the site and limitations on providing on site (basement car parking) commercial zoning represents the superior option for achieving orderly and economic development of the site.

In this regard the Planning Proposal is considered consistent with the above Ministerial Direction under Section 117.

CONCLUSIONS

The consideration of the merits of the planning proposal to facilitate a commercial development on 46 Derby Street is supported in principle for the following reasons:

- **The development concept proposal is suitable** given its location in regard to the existing centre and adjacent a Council car park;
- **The Zone R4 High Density Residential site is isolated**, has limited development opportunity and viability for residential uses, with any resulting development offering low residential amenity located at the edge of a commercial centre and surrounded on 2 sides by a public and private car park;
- **The small scale of the proposed development**, with the additional 1,013 sq m of retail and commercial floor space representing a total increase of 2.7%;
- **Section 94 Development Contributions** will assist in the provision of additional car parking spaces in the Canley Heights catchment which is permitted under the relevant Development Contributions Plan;
- **The development would create a defined zoning/activity boundary** between the commercial activity along the spine of Canley Vale Road and the adjoining Zone R4 High Density Residential; and
- **The site's unique characteristics and challenges** make it a unique case for supporting the development given the site's isolated nature which limits its development as a residential flat building, its edge of centre location and those described above.

Therefore, at this preliminary stage without the benefit of an Economic Impact Assessment, Council officers believe there is sufficient local planning and urban design considerations to provide in principle support to further preparation of a planning proposal to rezone the site from Zone R4 High Density Residential to Zone B2 Local Centre.

It is recommended that Council provide in principle support to the preparation of a Planning Proposal for the site subject to submission of an Economic Impact Assessment by the proponent for further consideration by Council.

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Manager Strategic Land Use Planning
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***** END OF ITEM 42 *****