

Rezoning of 4R Argyle Crescent, Randwick for environmental protection

Proposal Title : Rezoning of 4R Argyle Crescent, Randwick for environmental protection

Proposal Summary : To rezone land known as 4R Argyle Crescent from 5 (Special Uses Zone) to 7 (Environmental Protection - Natural Heritage Areas Zone) and include in the Randwick Environment Park Heritage Conservation Area.

PP Number : PP_2011_RANDW_003_00 Dop File No : 11/17260

Proposal Details

Date Planning Proposal Received : 16-Aug-2011 LGA covered : Randwick

Region : Sydney Region East RPA : Randwick City Council

State Electorate : MAROUBRA Section of the Act : 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Argyle Crescent

Suburb : Randwick City : Randwick Postcode : 2031

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : Richard Roper

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RPA Contact Details

Contact Name : Ting Xu

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : N/A Release Area Name : N/A

Regional / Sub Regional Strategy : Metro East subregion Consistent with Strategy : Yes

Rezoning of 4R Argyle Crescent, Randwick for environmental protection

MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 0	No. of Dwellings (where relevant) :	0
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 : The land is 0.24ha and owned by the Commonwealth Government (Defence Housing Australia). DHA currently has a development application (DA) lodged with Randwick Council for the construction of 8 dwellings on the site for defence housing purposes. The application is yet to be determined.

The current 5 Special Use zoning permits residential development with Council consent.

Council has not sought the Commonwealth's views on the proposed rezoning. However, in response to an enquiry from Council in November 2009 about the inclusion of the land in the Randwick Environment Park, the responsible Minister advised that the land was to be retained to meet future defence housing requirements. The current development application seeks to implement this position.

The site forms part of a large Commonwealth land holding known as the Randwick Army Barracks. Part of this land is surplus to requirements and the Commonwealth is redeveloping it for (non defence) housing. The adjoining Randwick Environmental Park is land that was identified for environmental protection/recreation as part of the redevelopment scheme and was recently transferred from the Commonwealth to Council for that purpose.

The Department of Planning's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney Region East has not met any lobbyist in relation to this proposal, nor have they been advised of any meetings between other departmental officers and lobbyists concerning the proposal.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objectives encapsulate the purpose of the proposed rezoning which is to safeguard the land as part of the Randwick Environment Park for environmental protection, heritage and community enjoyment.

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

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

Comment : **The planning proposal facilitates the use of the land for environmental protection and heritage conservation.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

4.4 Planning for Bushfire Protection

6.2 Reserving Land for Public Purposes

7.1 Implementation of the Metropolitan Plan for Sydney 2036

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SEPP No 19—Bushland in Urban Areas

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 71—Coastal Protection

SEPP (Affordable Rental Housing) 2009

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

Council does not intend to acquire or reserve the land. As the current zoning allows for residential development, the rezoning will render housing a prohibited use and the Commonwealth will lose its ability to realise its potential land value.

There is no statutory obligation for Council to purchase the land.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council intends to consult with the Commonwealth, as landholder, following the Gateway determination. However, the timing of this consultation is questioned given the Commonwealth's almost certain objection (based on its previous stated position and the current DA.**

Additional Director General's requirements

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

If Yes, reasons :

The planning proposal is a response to the Commonwealth's lodgement of a DA for housing on the site and follows the specific exclusion of the land by the Commonwealth from the land transfer for the Randwick Environment Park for defence housing purposes.

If the planning proposal is to proceed, council should be required to acquire the land by way of an acquisition or savings provision. Such a provision is not currently proposed.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **June 2012**

Comments in relation
to Principal LEP :

Council is drafting its LEP and will lodge the s64 in mid October 2011

Assessment Criteria

Need for planning
proposal :

The land adjoins the Randwick Environmental Park. Council wishes to consolidate the land into the park to provide additional park and a buffer area to the existing park's natural vegetation. Despite ambiguous claims in its submission, Council has confirmed that the land to be rezoned does not include Eastern Suburbs Banksia Scrub (ESBS) but rather, performs a buffer role and is of strong visual amenity with dense natural vegetation.

As there is currently a DA lodged with Council by the Commonwealth for defence housing, an alternative to the planning proposal could be to assess the merits of the proposal through the DA process. The rezoning is contrary to Commonwealth identified defence housing needs, for which the land has been held for many years. The rezoning renders housing prohibited development. The land was specifically ruled out of discussions by the Commonwealth prior to the land transfer in March 2011, on the basis that it was required for defence housing.

Consistency with strategic planning framework :

The intended rezoning is consistent with general Metropolitan Plan objectives about the protection of Sydney's natural environment. The rezoning would allow the extension of the Environmental Park and assist in protecting on-site vegetation and adjoining ecological communities.

The draft East Subregional Strategy reiterates these environmental objectives and, more specifically, the protection of biodiversity values. In addition, the Strategy promotes increased access to parks.

The Randwick City Plan (2010) is a local planning strategy which contains directions for natural heritage and biodiversity recognition and protection.

The rezoning is generally consistent with these state and local environmental protection strategies. The site does not contain protected native vegetation but adjoins the Randwick Environment Park which contains ESBS. Council contends that the rezoning would provide a logical, consolidating and valuable extension to the park.

On the other hand, the land provides the opportunity for a small amount of community housing, close to defence infrastructure. The Commonwealth may regard this as an essential purpose. Whilst the land is surrounded to the west and north by the Environmental Park, it lies opposite an area of established housing to the east. The land is covered in dense vegetation and, as such, relates better visually to the adjoining park than adjoining housing. Council has pointed to the minor contribution the site would make towards housing provision in Randwick (8 dwellings based on defence housing needs identified in the lodged DA).

SEPPs

SEPP 19 Bushland in Urban Areas – not directly applicable as land is not zoned Public Open Space, although the rezoning is consistent with the general aims of the SEPP to protect bushland in urban locations with ready access to the community.

SEPP 71 Coastal Protection – not applicable, as council claims, as the land is neither within the coastal zone nor a sensitive coastal location.

SEPP 32 Urban Consolidation – technically not applicable in that land is still required for housing in keeping with permissibility under its current zoning. The rezoning is inconsistent with the SEPP objective of making land available for multi unit housing. However, the proposed environmental protection zoning raises questions about its suitability for housing and its size limits its housing potential.

SEPP (Affordable Rental Housing) – it is not clear if Defence housing can be construed as affordable or social housing, but the the rezoning would remove the ability to provide housing for defence personnel. Nevertheless, the site is small and the current DA is for 8 dwellings only.

117 Directions

2.1 Environmental Protection Zones – consistent in that the rezoning to an Environmental Protection zone seeks to protect and conserve an environmentally sensitive area.

2.3 Heritage Conservation – consistent in that the rezoning seeks to include an area of environmentally sensitive land in a Heritage Conservation Area.

3.1 Residential Zones - is of consideration in that the existing Special Use zoning permits housing with consent. However, the direction only applies if significant residential development is permitted or proposed to be permitted. As the land holding is small and only 8 dwellings are proposed, the direction can be considered to be either not relevant or justifiably inconsistent by virtue of its minor significance.

4.4 Planning for Bushfire Protection – the land is not bushfire prone but the masterplan for the adjoining Randwick Environmental Park makes provision for bushfire protection.

6.2 Reserving land for Public Purposes - Council does not intend to reserve or acquire the land.

7.1 Implementation of the Metropolitan Plan for Sydney 2036 – generally consistent.

Environmental social economic impacts :

Council claims the rezoning and heritage listing will extend the Randwick Environment Park to a more complete entity, recognise the environmental value of the land and assist in protecting (nearby) endangered and protected native vegetation. This will have positive community benefits.

Comment was also sought from the Office and Environment and Heritage (OEH) regarding the environmental merits of the proposal. The OEH advised that there was ambiguity as to whether the ESBS existed on the site. It was suggested that a survey be undertaken to determine exactly what vegetation exists on site. It was also suggested that the Infrastructure and Biodiversity section of OEH be consulted regarding the conservation values of the subject land and appropriate mechanisms to protect those values.

The resultant 'loss' of housing development land may claim to have community disbenefit, especially in terms of community and essential services provision. However, the degree of 'loss' is small (8 dwellings).

Assessment Process

Proposal type : Minor Community Consultation Period : 14 Days

Timeframe to make LEP : 6 Month Delegation : DDG

Public Authority Consultation - 56(2)(d) : Other

Is Public Hearing by the PAC required? No

(2)(a) Should the matter proceed ? No

If no, provide reasons : Despite the nature of the land being contiguous with the adjoining Randwick Environmental Park and, therefore, lending itself to retention of its environmental values, there is an alternative essential demand placed on the site by defence housing.

Whilst there is no protected vegetation on the site, the wholesale clearance of existing vegetation required to enable the housing development to take place would completely change its nature and encroach on what now presents visually as part of the park.

The Planning Proposal is a response to a DA to develop the land for housing, the land having been omitted from inclusion in the land transfer for the establishment of the park.

It is noted that the Council does not intend to support its position by acquiring the land or including a savings provision for the lodged DA. Further the Commonwealth has not been notified of the intended rezoning.

In the circumstances, and despite the environmental and recreational merits of the proposal, a rezoning is difficult to justify. It will deny an essential defence related purpose and will exacerbate rather than resolve conflict between Council and the

Rezoning of 4R Argyle Crescent, Randwick for environmental protection

Commonwealth intentions. Additionally, advice from the OEH indicates that there is uncertainty regarding the environmental and conservation values of the site which need to be addressed.

Council has identified several major issues with the DA and asked the Commonwealth for amendments and further information to justify the development. It is considered more appropriate for the matter to be resolved through the development assessment process rather than a rezoning that will not have the support of the landowner and lacks the provision for redress.

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

If Yes, reasons :

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
PP Argyle Cres zoning map.pdf	Map	Yes
PP Argyle Cres Cn s55 sub.doc.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.4 Planning for Bushfire Protection
- 6.2 Reserving Land for Public Purposes
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **Not proceed.**

Supporting Reasons : **A rezoning is difficult to justify in that it will deny an essential defence related purpose which deserves to be assessed on its own merits.**

These merits include the existing zoning of the land which permits housing development, and its well located position close to a range of services and facilities in an established and developing urban area. The development of the land for housing would also meet State Plan and Metropolitan Plan housing objectives. However, there is also a case to be made which recognises the conflicting housing and open space objectives and supports an incorporation of the land into the adjoining park.

Council has identified several major issues with the DA and asked the Commonwealth for further information to justify the development. It is considered more appropriate for the matter to be resolved through the development assessment process rather than a rezoning that does not have the support of the landowner.

Should the LEP Panel deem the proposal worthy of proceeding, the following conditions are recommended in line with advice from the Office of Environment and Heritage:

Rezoning of 4R Argyle Crescent, Randwick for environmental protection

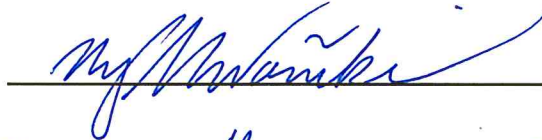
- That a survey be undertaken by a suitably qualified ecologist or botanist to determine what vegetation exists on site.

- That the Infrastructure and Biodiversity section of OEH be consulted regarding the conservation values of the subject land and appropriate mechanisms to protect those values.

The following condition is also recommended should the proposal proceed:

- That Council supports its position by acquiring the land or including a savings provision for the lodged DA.

Signature:



Printed Name:

NyAmira NwAwiki

Date:

26/9/11