

OUTCOMES COMMITTEE

Meeting Date 10 April 2012

Item Number. 44

SUBJECT: Issue - Rezoning of Various Sites within Fairfield Heights/Smithfield and Canley Heights for Open Space Purposes

FILE NUMBER: 12/02603

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. 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 B** and **Attachment D** of the report for open space purposes.
3. Council determine whether the properties in **Attachment C** in Ascot Street be included in the Planning Proposal referred to in 2 above for rezoning to open space or whether other options for open space acquisition be investigated.
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 s.55 of the Environmental Planning and Assessment Act 1979;
6. Defer the rezoning of the Villawood sites for open space purposes with a further report to be submitted to Council when all outstanding issues have been progressed.

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.

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SUPPORTING DOCUMENTS:

AT-A	Ownership Details	1 Page
AT-B	Locality Plan - Derby Street Site	1 Page
AT-C	Locality Plan - Ascot Street Sites	1 Page
AT-D	Locality Plan - Fairfield Heights/Smithfield Sites	1 Page
AT-E	Locality Plan - Villawood Sites	1 Page
AT-F	Extract Draft Fairfield Residential Development Strategy - Canley Heights	1 Page
AT-G	Extract Draft Fairfield Residential Development Strategy - Fairfield Heights	1 Page

SUMMARY

Council at its Outcomes Committee meeting held on 6 December 2011 considered a report in respect to the acquisition of various sites within Canley Heights, Fairfield Heights/Smithfield and Villawood for open space purposes.

During this meeting Council resolved amongst other matters the following:

“Council prepare a Planning Proposal to rezone the land identified for acquisition and development as public open space 6(a) Recreation – Future and Existing Open Space and that a report be prepared and brought to Council as soon as practical”

The purpose of this report is to commence the rezoning process as per the above resolution.

BACKGROUND

The Open Space Strategy 2007 identified that the provision of open space across the City was not meeting the needs of the community. Amongst the areas identified by the Strategy that are of relevance to this report are Fairfield Heights, Canley Heights and Villawood.

In 2009 as part of the Section 94 Contributions Review, Council adopted an acquisition program that was designed to address the issues identified in the Open Space Strategy 2007. One of the key objectives of the review was to provide for new open space areas in the areas of Fairfield Heights, Canley Heights and Villawood.

Council at its Outcomes Committee meeting held on 6 December 2011 considered a report that provided several options for the provision of open space within the areas highlighted above. During this meeting, Council resolved to commence negotiations with the owners of the properties identified below for acquisition.

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Note: Ownership details of the following properties are included as **Attachment A** to this report. This approach has been used to provide Councillors with the required ownership details so that they can determine whether they have any conflict of interest but still protect the privacy of the property owners.

Canley Heights – Refer to Attachment B for a locality map

42 Derby Street, Canley Heights

Canley Heights – Refer to Attachment C 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

Fairfield Heights/Smithfield – Refer to Attachment D for a locality map

6 Barton Street, Smithfield

8 Barton Street, Smithfield

8a Barton Street, Smithfield

12 Barton Street, Smithfield

Villawood – Refer to Attachment E for a locality map

54 Koonoona Avenue, Villawood

56 Koonoona Avenue, Villawood

58 Koonoona Avenue, Villawood

1 Karella Avenue, Villawood

3 Karella Avenue, Villawood

5 Karella Avenue, Villawood

STATUS OF NEGOTIATIONS WITH OWNERS OF AFFECTED PROPERTIES

Council at its Services Committee meeting held on 13 March 2012 considered a report that provided an update in respect to the status of negotiations with owners of properties identified for acquisition purposes. These are briefly discussed below:

Canley Heights

The enquiries made to date would suggest that further negotiations with the owners of 42 Derby Street and 43 Ascot Street could result in a possible purchase by agreement in the short to medium term.

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In respect of the other properties, it is unlikely that an agreement will be reached in the foreseeable future even though Council staff will continue to liaise with the owners.

Fairfield Heights/Smithfield

An opportunity exists for Council to purchase 12 Barton Street, Smithfield and have the subject site amalgamated with Council's existing site at 10 Barton Street. The Girl's Guide Association has advised that they do not wish to sell their property at 8 Barton Street.

In respect of 6 Barton Street, it is unlikely that Council will be able to purchase this site in the foreseeable future.

Villawood

Negotiations have indicated that there is an opportunity for Council to secure all the sites at Villawood at justifiable prices. These however are reliant on Housing NSW agreeing to dispose of their sites which are essential to allow a suitable open space park to be created.

Council staff has been in constant contact with Housing NSW and have made them aware of the willingness of the other owners to sell to Council. Furthermore, the other owners have also been made aware that the purchase of their sites will be dependent on Housing NSW selling its land to Council.

The rezoning of the Villawood sites for open space purposes will need to be deferred as the result of delays in negotiations with Housing NSW. The rezoning of the Villawood sites would be subject to a separate report and will not form part of this Planning Proposal.

Due to the difficulties outlined above, Council Officers are proposing an alternative option for the provision of open space in Villawood. This option is further discussed as a separate Confidential Report in this business paper.

PLANNING CONTEXT

CANLEY HEIGHTS

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 in the locality have not been made.

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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's on this basis that an overall strategy for the development of the locality has been developed.

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 F**.

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.

FAIRFIELD HEIGHTS**Open Space Strategy 2007**

The Open Space Strategy 2007 also identified Fairfield 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.

Strategy Position

The need for open space is likely to be increased given that the area north of the Fairfield Heights Town Centre has been identified as being suitable for higher density residential by the draft 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 Fairfield Heights as a small village; however Council is seeking reclassification of Fairfield Heights as a village.

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

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

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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 two local parks but no neighbourhood parks.	Increase amount and distribution of open space across catchment, particularly in south-east of catchment.

An extract of the relevant section of the draft RDS for Fairfield Heights is included as **Attachment G**.

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 Fairfield Catchment (with includes Fairfield Heights), which is estimated to increase by 6349 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 1.77 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 - 4 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 Fairfield 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. In reference to **Attachment G** of this report, the draft RDS identifies an area north east of the Fairfield Heights town centre as a possible location for open space. The sites being the subject of this proposal are located just north east of the in Fairfield Heights Town Centre.

PLANNING PROPOSALS

Planning Proposals will be prepared with the aim of amending the Fairfield Local Environmental Plan 1994 as well as the draft Fairfield Local Environmental Plan 2011.

The rezoning of the property 42 Derby Street, Canley Heights and the Fairfield Heights properties will proceed as one planning proposal.

The rezoning of the properties located on Ascot Street, Canley Heights are further discussed in a separate Confidential Report included in this business paper.

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 and Fairfield Heights/Smithfield.

Fairfield Local Environmental Plan 1994

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

Canley Heights

The sites identified in Derby Street and Ascot Street 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.

Note: If Council resolves not to proceed with the rezoning of the properties in Ascot Street, the Planning Proposal would be amended to just include the site in Derby Street.

Fairfield Heights/Smithfield Sites

The sites identified in Barton Street 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:

Canley Heights

The sites identified in Derby Street and Ascot Street are proposed to be zoned as R4 – High Density Residential under the draft FLEP 2011.

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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).

Note: If Council resolves not to proceed with the rezoning of the properties in Ascot Street, the Planning Proposal would be amended to just include the site in Derby Street.

Fairfield Heights/Smithfield Sites

The sites identified in Barton Street are proposed to be zoned as R3 Medium 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 9 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 0.45:1 maximum FSR limit (the draft FLEP 2011 does not specify an FSR limit within the RE1 – Public Recreation Zone.)

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.

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 at its Committee Meeting held on 13 March 2011 considered a report that adopted an Expenditure Plan for monies collected under the now superseded Fairfield City Section 94 Contributions Plan 1999 (S94 1999).

The above expenditure plan allocated funds for the acquisition of sites for open space purposes in Fairfield Heights, Canley Heights and Villawood.

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The funds available are as follows:

- Canley Heights – **1.7 Million**
- Fairfield Heights – **1.7 Million**
- Villawood – **1.2 Million**

It is envisaged that Council will utilise these funds to purchase properties in the short term. In the long term, funding will be provided by the Fairfield City Council Direct Development Contributions Plan 2011 (S94 2011) with monies collected for the Cabramatta Catchment and Fairfield Catchment which incorporate the areas of Canley Heights and Fairfield Heights respectively. Future reviews of the Section 94 Plan will include these sites in the work schedule so that there is a clear funding strategy in the longer term.

The following is an estimate (as of July 2011) of the amount of funds expected to be collected during the life of the S94 2011 plan:

- Estimated projected amount to be collected for the Cabramatta Catchment is **\$9,500,000.**
- Estimated projected amount to be collected for the Fairfield Catchment **\$11,500,000.**

Note: These funds are yet to be collected.

ACQUISITION & TIMING

As mentioned earlier, Council has recently revised its expenditure plan for the use of monies collected from its S94 1999 Plan. It is important to note that the funding allocated for the purchase of properties under the expenditure plan **will not be** sufficient to acquire all the properties identified for open space purposes.

Council's acquisition strategy is that of the sites identified for open space properties; only a few sites (one or two depending on the location) would be acquired in the short term to provide an immediate area of open space (i.e a pocket park), although Council would proceed to rezone all the identified sites for open space purposes. The rezoning of the properties for open space purposes will ensure that they are preserved for future open space and Council would be able to acquire them when they come onto the market with funds expected to be collected under the S94 2011 Plan.

The issue that Council may face is that the rezoning process may trigger a request for immediate purchase of the affected properties. Legally Council would only be required to do this if the owners are able to demonstrate hardship, in which case Council would be required to purchase these properties (as the acquisition authority for land zoned for open space) with additional funding to be provided from General Revenue if insufficient funds have not been collected under the S94 Plan 2011. If this scenario was to eventuate, Council would reimburse the money paid for this land from Council's General Reserves with funds expected to be collected from the S94 Plan 2011 as outlined earlier.

Canley Heights

Council has allocated **1.7 million** of S94 1999 funds for the acquisition of sites in Canley Heights. Council will seek to purchase 42 Derby Street and another site in Canley Heights (subject to its decision in respect to the properties in Ascot Street) using the allocated section 94 funds.

Fairfield Heights

Council has allocated **1.7 million** of S94 1999 funds for the acquisition of sites in Fairfield Heights. The owner of 12 Barton Street has indicated a willingness to sell their property to Council in the short term. In terms of allocated funding, if Council was to purchase 12 Barton Street, there would be surplus monies available to purchase additional properties. In this regard, Council should seek to acquire either the Girl Guides site located at 8a Barton Street (the Girls Guide Site) or No 8 Barton Street in the short term given the availability funds.

Council has the ability to make use provisions provided under the Local Government Act to compulsory acquire properties. It is important to note that the acquisition of properties identified for open space purposes via negotiation is the most preferred approach.

Compulsory acquisition should only be considered in cases where Council has exhausted all negotiation avenues with the affected property owners in terms of reaching a mutual agreement.

The progress of the negotiations on the properties Council is seeking to acquire (which are described above) will continue to be subject to further reports from Council's Property Team.

In the short term if Council cannot secure the purchase of the sites it is seeking to acquire via negotiation, it may be necessary to consider compulsory acquisition as Council needs to spend Section 94 funds in a timely manner and because the longer Council holds the Section 94 funds unspent, the more their purchasing power decreases as property prices and other costs rise.

The strategy of zoning the remaining sites that Council is not seeking to purchase in the short term open space is a strategy to build up larger functional parks over a longer time frame. However it may also help decrease the need to use compulsory acquisition as Council can wait until those owners are ready to sell and acquire at that time without the risk that they will sell it to another party or the site being redeveloped in the meantime.

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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 and Fairfield Heights/Smithfield for open space purposes, Council will be providing a clear indication to the community in regards its intention to provide open space in those areas. The rezoning of these sites will restrict them from further development and ensure that they become open space over time.

Julio Assuncao
Land Use Planner

Authorisation

Manager Strategic Land Use Planning
Executive Manager Environmental Standards

Outcomes Committee - 10 April 2012

File Name: **OUT100412_9**

***** END OF ITEM 44 *****

ATTACHMENT A

Ownership
Mrs K.Y. Vo
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 (Mr. C. Nou)
Mrs O. Agostino
Mr V. Yin & Mrs S.H. Chea
The Girl's Guide Association of NSW
Mr D Burkorovic & Mrs V Burkorovic
Housing NSW
Housing NSW
Mr M.T. Vu
D.D. Dam & Ms L.T.V. Pham
Housing NSW
Mr M. El-Samad

ATTACHMENT B



- 42 Derby Street, Canley Heights

ATTACHMENT C

- 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 D



- 6 Barton Street, Smithfield
- 8 Barton Street, Smithfield
- 8a Barton Street, Smithfield
- 12 Barton Street, Smithfield

ATTACHMENT E



- 54 Koonoona Avenue, Villawood
- 56 Koonoona Avenue, Villawood
- 58 Koonoona Avenue, Villawood
- 1 Kareella Avenue, Villawood
- 3 Kareella Avenue, Villawood
- 5 Kareella Avenue, Villawood

ATTACHMENT F

CHAPTER 6.0 97

STUDY AREA 4 CANLEY HEIGHTS STRUCTURE PLAN PRINCIPLES

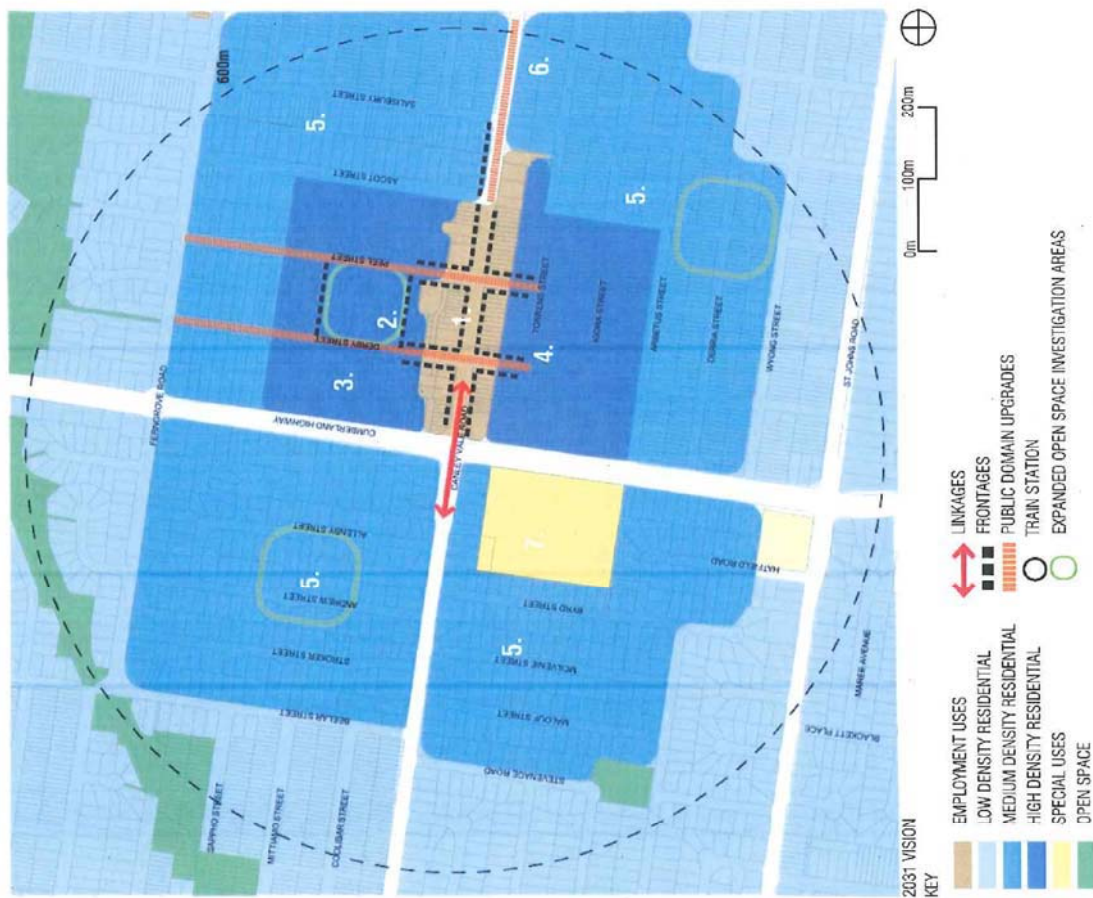
1. Promote shop top housing in commercial core in the short term.
2. Provide additional open space in the short to medium term.
3. Potential for high density in the medium term. Additional density is dependent on development of open space (above). A height transition is required between Canley Vale Road 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.



ATTACHMENT G

CHAPTER 6.0
105STUDY AREA 5 FAIRFIELD HEIGHTS
STRUCTURE PLAN PRINCIPLES

1. Promote shop top housing in commercial core in the short term.
2. If Polding Street is developed into a strategic east-west bus link, provide mixed-use development along Polding Street over the medium term.
3. Reinforce Polding Street as a key axis through provision of high density over the medium term.
4. Existing catchment area currently zoned for medium density, with limited uptake. This should be the focus for redevelopment in the short term.
5. Currently zoned for medium density lots, future redevelopment limited by existing strata lots.
6. Existing school.
7. Provide linkages to open space and orientate development towards these new access ways in the short term.
8. Break up long blocks with mid-block links.
9. Investigate civic space
10. Investigate additional open space

URBAN RENEWAL MASTER PLAN

Fairfield 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 Fairfield Heights meets the required level of services and facilities for a village. The vision for Fairfield 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 Fairfield 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 Fairfield.

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

