

# Canterbury Local Environmental Plan No 178—Belmore-Lakemba Precinct (1998 EPI 595)

[1998-595]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct (1998 EPI 595)



New South Wales

## Part 1 General provisions

### 1 Name of plan

This plan is called *Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct*.

### 2 Where the plan applies

The plan applies to all land shown within the heavy blue line on the map which is referred to in this plan as the Belmore–Lakemba Precinct. The map is held in the office of the Council of the City of Canterbury.

### 3 Aims of the plan

The plan aims to achieve:

- (a) A variety of dwelling types in the City of Canterbury to cater for various life styles and population growth without having adverse effects on the amenity of the City.
- (b) Commercial and business centres which maintain the established hierarchy of centres and allow for a variety of retail, office and business uses.
- (c) Light industrial development which caters for traditional and modern forms of development without adversely affecting the amenity, health or safety of employees and surrounding residents.
- (d) Community facilities and utilities located in the City of Canterbury.
- (e) Recreational opportunities and facilities located in the City of Canterbury.
- (f) The creation of employment opportunities.
- (g) Development which promotes the economic and efficient provision of public services and amenities.
- (h) Protection of the environmental heritage of the City.

- (i) Public involvement and participation in environmental planning and assessment.
- (j) The classification or reclassification of public land as operational land or community land for the purposes of the *Local Government Act 1993*.

#### 4 Effects of the plan on other instruments etc

- (1) This plan repeals the following environmental planning instruments:
  - (a) *Canterbury Planning Scheme Ordinance* in so far as it applies to land to which this plan applies,
  - (b) Interim Development Orders Nos 41, 43, 45, 46 and 49—Municipality of Canterbury,
  - (c) all other local environmental plans that applied to the land to which this plan applies and that were in force immediately before the appointed day, but only to the extent that they applied to that land.
- (2) If any agreement, covenant or similar instrument restricts development allowed by this plan, then the agreement, covenant or instrument shall not apply to that development (to the extent necessary to allow that development).
- (3) Before this plan was made, the Governor approved of subclause (2) pursuant to section 28 of the Act.

#### 5 Terms used in the plan

In this plan:

**advertisement** means the display of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

**advertising structure** means a structure used or to be used for the display of an advertisement.

**alter**, in relation to a heritage item, means:

- (a) make structural changes to the outside of the heritage item, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, not including changes that maintain the existing detail, fabric, finish or appearance of the outside of the heritage item.

**amusement centre** means premises at which more than 2 amusement machines may be used (whether or not in conjunction with another use).

**amusement machine** means a machine, appliance or game table (whether coin operated or not) mechanically or electronically powered that releases or makes available balls, discs or other items for projection in or on the machine by the use of springs, flippers, paddles or cues, or electronic appliances which are controlled or partly controlled by a computer associated with an electronic screen operated by one or more players for amusement or recreation.

**appointed day** means the day on which this plan took effect.

**auction rooms** means premises used for the storage and display of goods which are then sold at a public sale at the premises by way of competitive bidding.

**boarding house** means a building or place:

- (a) where accommodation, meals and laundry facilities are provided to residents of the building or place in exchange for payment, and
- (b) which is not licensed to sell liquor within the meaning of the [Liquor Act 1982](#).

**bulky goods sale** means the sale of goods, excluding food and clothing items, which are, in the opinion of the Council, of such a size and shape as to require:

- (a) a large area for handling, storage and display, and
- (b) easy and direct vehicular access to enable the goods to be collected by customers after sale.

**child care centre** means a building or place used for the purpose of supervising or caring for children which:

- (a) caters for 5 or more under school age children, whether or not those children are related to the owner or operator of the building or place, and
- (b) may include an educational function, and
- (c) may be operated for the purpose of gain,

but does not include a building or place providing residential care for those children.

**community facility** means a building or place owned or controlled by a public authority or a body of persons which may provide for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a building or place elsewhere defined in this clause.

**conservation plan** means a document establishing the significance of a heritage item and identifying the policies that are appropriate to enable that significance to be retained in its future use and development.

**Council** means the Council of the City of Canterbury.

**demolition**, in relation to a heritage item, means the damaging, defacing, destruction, pulling down or removal of the heritage item, in whole or in part.

**dual occupancy** means 2 dwellings (whether or not attached) on one allotment of land.

**dwelling** means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate household.

**dwelling-house** means a dwelling which is the only dwelling erected on an allotment of land.

**education establishment** means a building or place used for education (including teaching) and includes:

- (a) a school, and
- (b) a tertiary institution, being a university, TAFE establishment, teachers' college, or other tertiary college providing formal education which is constituted by or under an Act, and
- (c) an art gallery or museum not used to sell the items displayed in it,

whether or not accommodation for staff and students is provided and whether or not used for the purpose of gain.

**entertainment facility** means a building or place used for the purpose of entertainment, exhibitions or displays, and includes a public hall, theatre, cinema, music hall, concert hall, open air theatre, drive-in theatre, function room, night club, reception lounge, or the like.

**exhibition home** means a dwelling constructed for display purposes to demonstrate aspects of housing form, design, construction, materials and the like and which may or may not be used for an ancillary purpose, such as a site office used for purposes related to house sales.

**health care professional** means a person who provides professional health services to members of the public, and includes:

- (a) a podiatrist registered under the [Podiatrists Act 1989](#), and
- (b) a chiropractor or an osteopath, or a chiropractor and an osteopath, registered under the [Chiropractors and Osteopaths Act 1991](#), and
- (c) a physiotherapist registered under the [Physiotherapists Registration Act 1945](#), and
- (d) an optometrist registered under the [Optometrists Act 1930](#).

**health consulting rooms** means a room or a number of rooms forming part of, attached to, or within the curtilage of, a dwelling-house and used or intended for use by not more

than 1 legally qualified medical practitioner, by not more than 1 dentist within the meaning of the *Dentists Act 1989*, or by not more than 1 health care professional, who practises there the profession of medicine, dentistry or health care, respectively, and who employs not more than 2 employees in connection with that practice.

**heritage item** means a building, work, relic, tree or place identified in Schedule 1.

**heritage significance** means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

**home business** means a business, profession or light industry carried on, in a dwelling-house or another building on the same allotment as a dwelling-house or a dual occupancy by 1 or more permanent residents of the dwelling-house or dual occupancy, in circumstances where the carrying on of the business, profession or light industry does not involve:

- (a) use of a floor area exceeding 30 square metres, or
- (b) interference with the amenity of neighbouring residential premises, or the locality as a whole, or
- (c) the display of goods, or
- (d) the display of a sign, other than a non-illuminated sign not exceeding 50 centimetres in width or 25 centimetres in height, indicating the name and occupation of the residents, or
- (e) any increase in the capacity of utility service mains in the locality.

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in a multiple dwelling building by the permanent residents of the dwelling-house or multiple dwelling which does not involve:

- (a) the registration of the building under the *Factories, Shops and Industries Act 1962*, or
- (b) the employment of persons other than those residents, or
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, or
- (d) the display of goods, whether in a window or otherwise, or
- (e) the display of a sign, other than a non-illuminated sign not exceeding 50 centimetres in width or 25 centimetres in height indicating the name and occupation of the residents.

**hospital** means a building or place used for the purpose of providing professional health



services (including preventative care, diagnosis, medical or surgical treatment or counselling) to people admitted as in-patients, whether or not out-patients are also cared for or treated.

**hotel** means premises specified or proposed to be specified in a hotelier's licence granted under the [Liquor Act 1982](#).

**identified development** means development that is not specified as being allowed in a zone in the Table in clause 10 but which is consistent with the objectives of the particular zone and any relevant State environmental planning policy and regional environmental plan and which, in the opinion of the Council, is suitable due to the circumstances of the site and is identified in a development control plan.

**light industry** means the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes, in which the processes carried on, or the transportation involved or the machinery or materials used, do not interfere unreasonably with the amenity of the neighbourhood, but (in the Table in clause 10) does not include development elsewhere defined in this clause.

**local shop** means a building on land zoned for residential purposes which was constructed for a shop use and which is not suitable on physical or economic grounds for conversion to, or replacement by, a residential use.

**motel** means premises, not being a hotel, used for the temporary or short-term accommodation of travellers.

**multiple unit housing** means a group of 3 or more dwellings (whether or not attached), but does not include multiple dwellings comprising town houses or villa homes.

**office premises** means a building or place used for the purpose of administration, or for a clerical, technical or professional purpose or the like, but (in the Table in clause 10) does not include a building or place elsewhere defined in this clause.

**place of worship** means a building or place used for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

**public building** means a building or place used as a business or office by a public authority or an organisation established for public purposes.

**public parking** means land owned or operated (or both) by the Council for the parking of motor vehicles.

**recreation area** means:

- (a) a children's playground, or

- (b) a building or place used for sporting activities, sporting facilities or leisure activities, or
- (c) an area used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or
- (d) an area used by a body of persons associated for the purpose of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes.

**recreation area ancillary works** means landscaping, gardening, the provision of minor play equipment or picnic equipment and bushfire hazard reduction works, but does not include the provision of a building or lighting structure.

**recreation facility** means a building or place used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but (in the Table in clause 10) does not include a building or place elsewhere defined in this clause.

**registered club** means a building or place which is used by persons associated, or by a body incorporated, for a social, literary, political, sporting, athletic or another lawful purpose and which is, or is intended to be, registered under the [Registered Clubs Act 1976](#).

**relic** means any deposit, object or material evidence (terrestrial or under water) relating to the use or settlement of the City of Canterbury which is 50 or more years old.

**resident commercial vehicle parking** means the parking on land zoned for residential purposes of a commercial vehicle which is used to convey the resident or residents of any dwelling erected on the land to and from his, her or their place of work, and which conforms to the following criteria:

- (a) the vehicle:
  - (i) is not a prime mover or a tow truck, and
  - (ii) does not have more than 2 axles, and
  - (iii) is unladen when parked on the land (unless it is a light commercial vehicle used by a trades person which is laden with tools of trade only),
- (b) conveyance of the residents by the vehicle is restricted to reasonable hours,
- (c) the vehicle causes no adverse effect on the amenity of the locality by reason of noise, vibration, smell, fumes, smoke, dust, grit, soot or oil or otherwise,
- (d) there is no on-site maintenance of the vehicle and no on-site storage of vehicle parts,
- (e) only one such commercial vehicle is parked on the land,

(f) the land on which the vehicle is parked does not contain a multiple unit housing building, town house, villa home or dual occupancy.

**restaurant** means a building or place the principal purpose of which is the provision of food to people for consumption on the premises.

**retail plant nursery** means a building or place used for growing plants and selling plants by retail, whether or not landscape supplies (including earth products) or other landscape and horticultural products are also sold.

**service shop** means premises used for the purpose of a chemist shop, dry cleaning shop, fruit shop, hairdressing shop, milk bar, newsagency, take-away food shop, tobacconist or the like and which serves the immediate area.

**service station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products, whether or not the building or place is also used for the purpose of one or more of the following:

- (a) the hiring of trailers,
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles,
- (c) the washing and greasing of motor vehicles,
- (d) the repairing or servicing of motor vehicles (other than body building, panel beating or spray painting),
- (e) the retail selling or hiring of small consumer goods.

**shop** means a building or place used for the purpose of selling goods or materials, whether by retail or auction, or of hiring goods or materials or of displaying goods or materials for the purpose of selling or hiring them.

**specialised business** means the display and retail sale of goods (including bulky goods, but not including food or clothing) that satisfy a regional or specialised demand rather than a local retail demand.

**telecommunications facility** means any facility, not being a low-impact facility, within the meaning of the [Telecommunications Act 1997](#) of the Commonwealth.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the Corporation** means the corporation constituted by section 8 (1) of the Act.

**the map** means the map certified by the General Manager of the Council and marked “*Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct*”, as amended by the map (or the specified sheets of the maps) marked as follows:

*Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct*

*(Amendment No 1)*

*Canterbury Local Environmental Plan No 178—Belmore–Lakemba Precinct  
(Amendment No 3)*

**town house** means a dwelling that is one of a group of 3 or more dwellings (whether or not attached), where each dwelling is 2 storeys in height and has its own private entrance and landscaped area with direct access from the dwelling.

**trade services** means a building or place used for supplying goods, services and other activities which support light industry, including plumbing or electrical supplies, hire equipment, storage and the like, to people at trade prices but (in the Table in clause 10) does not include a building or place elsewhere defined in this clause.

**transport depot** means a building or place used for the parking or storage of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, light industry or shop.

**utility installation** means a building or work used for a utility undertaking.

**utility undertaking** means any undertaking carried on by an authority or any Government department, or in pursuance of any Commonwealth or State Act, for the purpose of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) low impact telecommunications facilities, or
- (e) communication facilities.

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel beating or spray painting.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs or the selling and fitting of accessories to vehicles or agricultural machinery in conjunction with repairs.

**vehicle sales** means the use of a building or place for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are sold or displayed.

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

**villa home** means a dwelling that is one of a group of 3 or more dwellings (whether or not attached), where each dwelling is one storey in height and has its own private entrance and landscaped area with direct access from the dwelling.

**warehouse or distribution centre** means a building or place used for the principal purpose of storing or handling items (whether goods or materials) which have been produced or manufactured for distribution to other premises, but not if the premises are used for retail sales.

## **6 Consent authority for the plan**

The Council is the consent authority for the purposes of this plan.

## **7 Permissible development**

The Table in clause 10 lists development which may be allowed in each zone. All other development is prohibited.

## **8 When development consent is required**

- (1) All development that may be allowed requires the consent of the Council, except development identified in the Table in clause 10 as not requiring the consent of the Council.
- (2) However, clause 29 of the *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998* applies to this plan as if this plan had commenced before 1 July 1998, despite any other provision of this plan.

## **9 Zones indicated on the map**

- (1) Land is within a zone referred to in subclause (2) and the Table in clause 10 if it is shown on the map by distinctive colouring and edging or in some other distinctive manner as referred to in subclause (2) for the purpose of indicating the restrictions imposed by this plan on the development of land within that zone.

- (2) The following zones apply to land to which this plan applies:

Zone No 2 (a) Residential “A” Zone, coloured light scarlet.

Zone No 2 (c) Residential “C” Zone, coloured light scarlet with red edging and lettered “2 (c)”.

Zone No 3 (a) General Business Zone, coloured light blue.

Zone No 3 (e) Business Office Zone, coloured light blue with red edging and lettered “3 (e)”.

Zone No 3 (f) Specialised Business Zone, coloured light blue with red edging and lettered “3 (f)”.

Zone No 4 (a) Light Industrial Zone, coloured purple.

Zone No 4 (d) Industrial Business Zone, coloured purple with red edging and lettered “4 (d)”.

Zone No 5 Special Uses Zone, coloured yellow and lettered to denote the existing or proposed special use on the land.

Zone No 6 (a) Public Open Space Zone, coloured dark green.

Zone No 6 (b) Private Open Space Zone, coloured dark green with red edging and lettered “6 (b)”.

Zone No 6 (c) Regional Open Space Zone, coloured green with red edging and lettered “6 (c)”.

Zone No 9 Arterial Road Reservation and Arterial Road Widening Zone, coloured with red bands on white with black edging.

## 10 Development Table

In the following Table:

**x** means development that may be carried out without consent.

**o** means development that may be carried out only with consent.

absence of a symbol means development that is prohibited.

(a) Part 1—Development generally

Development for the purpose of:	Residential		Commercial			Industrial		Special Uses	Open Space			Roads
	2a	2c	3a	3e	3f	4a	4d	5	6a	6b	6c	9
Advertising Structure			o	o	o	o	o	o	o	o	o	o
Amusement Centre			o									
Auction Rooms			o	o	o	o	o					
Boarding House		o	o	o								
Bulky Goods Sale			o		o							
Child Care Centre	o	o	o	o	o	o	o					
Community Facility			o	o	o	o	o		o		o	
Dual Occupancy	o	o										

Dwelling-house not used with factory	o	o										
Dwelling-house used with factory			o			o	o					
Dwelling with Office Premises or Specialised Business Premises or Shop			o	o	o							
Educational Establishment	o	o	o	o	o		o					
Entertainment Facility			o	o	o	o	o					
Exempt Development	x	x	x	x	x	x	x	x	x	x	x	x
Exhibition Home	o	o			o							
Health Consulting Rooms	o	o	o	o	o							
Home Business	o	o										
Home Occupation	x	x	x	x	x	x	x					
Hospital	o	o	o	o								
Hotel			o	o								
Identified Development	o	o	o	o	o	o	o	o	o	o	o	o
Light Industry (no change of light industry use)			o		o	o	o					
Light Industry (change of light industry use) <sup>(1)</sup>			o		x	x	x					
Local Shop	o	o										
Motel			o	o	o	o	o					

Multiple Unit Housing (not with office premises or Specialised Business Premises or Shop)		o		o								
Multiple Unit Housing with Office Premises or Specialised Business Premises or Shop)			o	o	o							
Office Premises (no change of office premises use)			o	o	o		o					
Office Premises (change of office premises use) <sup>(2)</sup>			x	x	x		x					
Place of Worship	o	o	o	o		o	o					
Public Building	o	o	o	o	o	o	o					
Public Parking	o	o	o	o	o	o	o	o	o	o	o	o
Recreation Area (but not Recreation Area Ancillary Works)	o	o	o	o	o	o	o		o	o	o	
Recreation Area Ancillary Works	x	x	x	x	x	x	x		x	x	x	
Recreation Facility			o	o	o	o	o					
Registered Club			o	o		o						
Resident Commercial Vehicle Parking	x	x										
Restaurant			o	o	o	o	o		o	o	o	
Retail Plant Nursery			o		o	o	o					
Road	o	o	o	o	o	o	o	o	o	o	o	x



Service Shop (not on land fronting Canterbury Road)			o	o	o	o	o					
Service Shop (on land fronting Canterbury Road)			o	o								
Service Station			o	o	o	o	o					
Shop (no change of shop use)			o									
Shop (change of shop use) <sup>(3)</sup>			x									
Specialised Business					o							
Telecommunications Facility	o	o	o	o	o	o	o	o	o	o	o	o
Town House (not with Office Premises, Specialised Business Premises or Shop)	o	o										
Town House (with Office Premises, Specialised Business Premises or Shop)			o	o	o							
Trade Services			o		o	o	o					
Transport Depot						o	o					
Utility undertaking	x	x	x	x	x	x	x	x	x	x	x	x
Vehicle Body Repair Workshop						o						
Vehicle Repair Station			o		o	o						
Vehicle Sales			o		o	o	o					
Veterinary Hospital			o	o		o	o					

Villa Homes (not with Office Premises, Specialised Business Premises or Shop)	0	0										
Villa Homes (with Office Premises, Specialised Business Premises or Shop)			0	0	0							
Warehouse or Distribution Centre			0		0	0	0					

(b) Part 2—Subdivision

	Residential		Commercial			Industrial		Special Uses	Open Space			Roads
	2a	2c	3a	3e	3f	4a	4d	5	6a	6b	6c	9
Subdivision	0	0	0	0	0	0	0	0	0	0	0	0

**Note—**

- (1) See Clause 21
- (2) See Clause 20
- (3) See Clause 19

**10A What is exempt and complying development?**

- (1) Development of minimal environmental impact listed in Schedule 1 to *Development Control Plan No 31—Exempt and Complying Development Code* as adopted by the Council on 10 May 2001 is **exempt development**, despite any other provision of this plan.
- (2) Development listed in Schedule 2 to *Development Control Plan No 31—Exempt and Complying Development Code* as adopted by the Council on 10 May 2001 is **complying development** if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Development Control Plan No 31—Exempt and Complying Development Code* as

adopted by the Council on 10 May 2001.

- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Schedule 3 to *Development Control Plan No 31—Exempt and Complying Development Code* adopted by the Council, as in force when the certificate is issued.

## **11 Zone objectives**

Before granting consent to development within a zone, the Council must take into consideration the zone development objectives. The development objectives of zones are as follows:

### **(1) Zone No 2 (a) (Residential “A” Zone)**

The objective of this zone is to achieve:

- (a) residential development comprising single dwellings, dual occupancies, town houses and villa homes, and
- (b) development which will not detrimentally affect the residential character or amenity of the area.

### **(2) Zone No 2 (c) (Residential “C” Zone)**

The objective of this zone is to achieve:

- (a) residential development allowed in the Residential “A” zone and multiple unit housing, and
- (b) development which will not detrimentally affect the residential character or amenity of the area.

### **(3) Zone No 3 (a) (General Business Zone)**

The objective of this zone is to achieve a hierarchy of shopping centres containing a range of retail, office and related uses, which contribute to employment and economic growth of the area.

### **(4) Zone No 3 (e) (Business Office Zone)**

The objective of this zone is to achieve:

- (a) office development which provides for employment and economic growth of the area, and
- (b) suitable associated uses which support office development.

### **(5) Zone No 3 (f) (Specialised Business Zone)**

The objective of this zone is to achieve:

- (a) comprehensive development for a variety of retail, display, business and office uses which serve a regional or specialised demand and do not detrimentally affect the amenity of residential areas, and
- (b) development that does not significantly compete with, or detract from, existing retail centres in the area.

**(6) Zone No 4 (a) (Light Industrial Zone)**

The objective of this zone is to achieve:

- (a) a range of light industries which expand the local employment base and do not detrimentally affect the amenity of residential areas, and
- (b) suitable uses which support industrial development.

**(7) Zone No 4 (d) (Industrial Business Zone)**

The objective of this zone is to achieve a variety of business, office and compatible light industrial development and other suitable uses which contribute to employment and economic growth of the area.

**(8) Zone No 5 (Special Uses Zone)**

The objective of this zone is to indicate land which is currently used or is intended to be used in the future for community services and utility undertakings.

**(9) Zone No 6 (a) (Public Open Space Zone)**

The objective of this zone is to indicate:

- (a) land which is currently used or is intended to be used in the future for public recreation and community purposes, and
- (b) suitable associated activities which support the recreational and community use of the land.

**(10) Zone No 6 (b) (Private Open Space Zone)**

The objective of this zone is to indicate:

- (a) land which is currently used or is intended to be used in the future for private recreational purposes, and
- (b) suitable associated activities which support the recreational use of the land.

**(11) Zone No 6 (c) (Regional Open Space Zone)**

The objective of this zone is to indicate:

- (a) land which is currently used or intended to be used in the future for regional open

space purposes, and

(b) suitable associated activities which support the recreational use of the land.

**(12) Zone No 9 (Arterial Road Reservation and Arterial Road Widening Zone)**

The objective of this zone is to indicate land required for new arterial roads or the widening of existing arterial roads within the City of Canterbury.

## **Part 2 Special provisions**

### **12 Advertising**

(1) The Council will advertise applications for consent to development (except designated development) involving the following in a local newspaper for a minimum period of 21 days and will advise occupiers of surrounding properties by letter of the proposal:

amusement centres, child care centres, community facilities, entertainment facilities, hotels, identified development, places of worship, recreation areas, recreation facilities, registered clubs, roads or telecommunications facilities.

(2) The Council need not advertise a development application (not being an application relating to designated development) listed in subclause (1) if (in the opinion of the Council) it involves only minor alterations or additions to existing development and the scale, size or degree of the existing development is not being significantly changed.

### **13 Preservation of trees**

(1) The Council may make a tree preservation order.

(2) A tree preservation order may relate to any tree or trees or to any specified, class, type or description of trees on land described particularly or generally by reference to the City of Canterbury or any divisions of the area.

(3) If a tree preservation order is in force in relation to any land, a person must not, except with the consent of the Council, ringbark, cut down, top, lop, remove, injure or destroy a tree on that land in contravention of the order, other than where it can be demonstrated to the satisfaction of Council that the tree is dying, dead or has become dangerous.

(4) The Council may not grant consent for any action referred to in subclause (3) unless it has made an assessment of the importance of the tree or trees in relation to:

(a) soil stability and prevention of land degradation, and

(b) scenic or environmental amenity, and

(c) vegetation systems and natural wildlife habitats.

- (5) This clause does not apply to trees in a State forest or on other Crown timber lands within the meaning of the *Forestry Act 1916*, or to the trimming or removal of trees in accordance with section 48 of the *Electricity Supply Act 1995* or by an electricity distributor in accordance with clause 5 (1) (a)-(c) of the *Electricity (Tree Preservation) Regulation 1995*.

#### **14 Floor space ratios for non-residential development in a residential zone**

- (1) The maximum floor space ratio for non-residential buildings in Zone No 2 (a) is 0.5:1.0 and 0.75:1.0 in Zone No 2 (c).
- (2) In this clause, **floor space ratio**, in relation to a building, means the ratio of the gross floor area of the building to the area of the site on which the building is, or is proposed to be, erected.

#### **15 Community uses of schools**

The Council may consent to the community use of the facilities and sites of schools, colleges and other education establishments and to the commercial operation of those facilities and sites.

The Council may also consent to community uses on land used for the purposes of schools, colleges or other educational establishments.

#### **16 Recreation areas**

The Council must not consent to the carrying out of development of land owned by the Council within Zone No 6 (a), unless consideration has been given to:

- (a) the need for the proposed development of the land, and
- (b) whether the impact of the proposed development will be detrimental to the existing or likely future use of the land, and
- (c) whether any proposed building will be secondary and complementary to the existing use of the land as public open space, and
- (d) whether the proposal will diminish public use of and access to open space to an unacceptable degree, and
- (e) whether the proposal is compatible with adjacent uses in relation to its height, bulk, noise generation, traffic generation, and any other aspects that might conflict with surrounding uses, and
- (f) whether the proposal is consistent with any plan of management adopted by the Council.

## **17 Development below high water mark**

The consent of the Council is required for any development on land:

- (a) below high water mark, or
- (b) forming part of the bed of a river, creek or other natural watercourse, or
- (c) which has been reclaimed.

## **18 Temporary use of land**

Nothing in the plan prevents the Council from granting consent to the use of land for any purpose (not being designated development) for a maximum period of 28 days, whether consecutive or non-consecutive, in any one year.

## **19-21 (Repealed)**

## **22 Acquisition and development of land reserved for roads**

- (1) In this clause:

**the RTA** means the Roads and Traffic Authority constituted under the *Transport Administration Act 1988*.

**vacant land** means land on which, immediately before the day on which a notice under subclause (2) is given, there were no buildings other than fences, greenhouses, conservatories, garages, summerhouses, private boathouses, fuel sheds, tool sheds, cycle sheds, aviaries, milking bails, haysheds, stables, fowlhouses, pigsties, barns or the like.

- (2) The owner of any vacant land within Zone No 9 may, by notice in writing, require:
- (a) the RTA—in the case of land that is included in the 5 year Works Programme of the RTA current at the time of receipt of the notice, or
  - (b) the Corporation—in any other case,
- to acquire the land.
- (3) The owner of any land within Zone No 9 that is not vacant may, by notice in writing, require the RTA to acquire that land if:
- (a) the land is included in the 5 year Works Programme of the RTA current at the time of the receipt of the notice, or
  - (b) the RTA has decided not to give concurrence under subclause (5) to an application for consent to the carrying out of development on the land, or
  - (c) the RTA is of the opinion that the owner of the land will suffer hardship if the land

is not acquired within a reasonable time.

- (4) On receipt of a notice under this clause, the RTA or the Corporation, as the case may be, must acquire the land unless the land might reasonably be required to be dedicated for public roads.
- (5) A person may, with the consent of the Council and:
  - (a) in the case of vacant land, with the concurrence of the RTA and the Corporation, or
  - (b) in the case of land that is not vacant, with the concurrence of the RTA, carry out development on land within Zone No 9:
    - (c) for a purpose for which development may be carried out on land in an adjoining zone, or
    - (d) for any purpose which is compatible with development which may be carried out on land in an adjoining zone.
- (6) In deciding whether to grant concurrence to proposed development under this clause, the RTA and the Corporation must take the following matters into consideration:
  - (a) the need to carry out development on the land for the purposes of classified roads, or proposed classified roads, within the meaning of the [Roads Act 1993](#),
  - (b) the imminence of acquisition,
  - (c) the likely additional cost to the RTA or the Corporation resulting from the carrying out of the proposed development.
- (7) Land acquired under this clause may be developed, with the consent of the Council, for any purpose, until such time as it is required for the purpose for which it was reserved.

### **23 Acquisition of privately owned land within Zones Nos 6 (a) and 6 (c)**

- (1) Land within Zone No 6 (a) must be acquired by the Council on request by the owner. The request must be made in writing.
- (2) Land within Zone No 6 (c) must be acquired by the Corporation on request by the owner. The request must be made in writing.
- (3) Before acquisition, any development may be carried out on land within Zone No 6 (a) or 6 (c), but only with the consent of the Council.

### **24 Heritage items**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:



- (a) demolish or alter the building or work, or
- (b) damage or move the relic, or
- (c) excavate for the purpose of exposing the relic, or
- (d) damage or despoil the place or tree, or
- (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
- (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,

except with the consent of the Council.

- (2) The Council must not grant consent to a development application required by this clause unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.
- (3) The Council may decline to grant consent to a development application required by this clause until it has been provided with a conservation plan so as to enable the Council to fully consider the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.

## **25 Development in the vicinity of heritage items**

The Council must not grant consent to an application for consent to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

## **26 Heritage advertisements and notifications**

- (1) Except as provided by this clause, sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of the demolition of a heritage item in the same way as those provisions apply to and in respect of designated development.
- (2) Before granting consent to an application to demolish a heritage item, the Council must notify the Heritage Council of its intention to do so and take into consideration any comments received from the Heritage Council within 28 days of the notice being sent.
- (3) This clause does not apply to the partial demolition of a heritage item if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item in relation to the land to which this plan applies.

## **27 Conservation incentives**

Nothing in this plan prevents the Council from granting consent to the use, for any purpose, or part or all of any building that is a heritage item or the land on which the building is erected, if it is satisfied that the proposed use would have little or no adverse effect on the amenity of the area and the conservation of the building depends on the Council granting that consent.

## **28 Additional development of land**

Despite the provisions of this plan, a person may, with the consent of the Council, carry out development on land referred to in Column 1 of Schedule 2 that is specified in Column 2 of that Schedule, subject to such conditions, if any, as are specified in Column 2 or imposed by the Council under the Act.

## **29 Classification and reclassification of public land as operational land**

The public land described in Schedule 3 is classified, or reclassified, as operational land for the purposes of the [Local Government Act 1993](#).

## **30 Classification and reclassification of public land as community land**

The public land described in Schedule 4 is classified, or reclassified as community land for the purposes of the [Local Government Act 1993](#).

## **31 Savings**

Nothing in this plan prohibits or restricts:

- (a) the use of existing buildings of the Crown by the Crown, or
- (b) the carrying out by persons carrying on railway undertakings on land comprised in their undertakings of:
  - (i) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
  - (ii) the erection within the limits of a railway station or buildings for any purpose, but excluding:
    - (iii) the construction of new railways, railway stations and bridges over roads, and
    - (iv) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station, and the reconstruction or alteration, so as materially to affect their design, of railway stations or bridges, and
  - (v) the formation or alteration of any means of access to a road, and

- (vi) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes where such buildings have direct access to a public place, or
- (c) the carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings:
  - (i) development of any description at or below the surface of the ground,
  - (ii) the installation of any plant inside a building, or the installation or erection within the premises of a generating station or substation established before the appointed day of any plant or other structures or erections required in connection with the station or substation,
  - (iii) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housings of stone, concrete or brickworks,
  - (iv) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
  - (v) the erection of service reservoirs on land acquired or in the process of being acquired for that purpose before the appointed day, provided reasonable notice of the proposed erection is given to the Council,
  - (vi) any other development, except:
    - (A) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration, so as materially to affect their design or external appearance, of buildings, or
    - (B) the formation or alteration of any means of access to a road, or
- (d) the carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
  - (i) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
  - (ii) the formation or alteration of any means of access to a road, or

- (e) the carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf, or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
  - (i) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
  - (ii) the formation or alteration of any means of access to a road, or
- (f) the carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
  - (i) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
  - (ii) the formation or alteration of any means of access to a road, or
- (g) the carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road, or
- (h) the carrying out or causing to be carried out by the Council when engaged in flood mitigation works or by the Water Administration Ministerial Corporation of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the [Water Act 1912](#), the [Irrigation Act 1912](#), the [Farm Water Supplies Act 1946](#) or the [Rivers and Foreshores Improvement Act 1948](#), except:
  - (i) the erection of buildings, the installation or erection of plant or other structures or erection and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
  - (ii) the formation or alteration of any means of access to a road, or
- (i) land within Zone No 5 from being developed, with the consent of the Council, for the purpose denoted in black on the land on the map.

## Schedule 1 Heritage items

(Clause 5)

### Belmore

52 Albert Street	house
Burwood Road	railway station platform, buildings and station master cottage
370 Burwood Road	former post office building (brick), c. 1926
481 Burwood Road	house
35, 37, 39 Isabel Street	houses
2, 4, 6, 8, 10, 12, 14, 16, 18 Lakemba Street	houses
103-105 Lakemba Street	factory known as S.E.C. Plating Pty Ltd
12 Oxford Street	house
Cnr Redman Parade and Burwood Road	community facilities
2 Wilson Avenue	property known as White House Bakery
37 Wilson Avenue	house
43 Wilson Avenue	house

### Lakemba

Dennis Street Park	park
23 McCourt Street	house
78 Quigg Street	house
12 The Boulevarde	house
Part 54 The Boulevarde	brick post office building, c. 1924
24 Willeroo Street	house known as "Hillview"
123 Yangoora Road	house
28, 30, 32 Yerrick Road	houses

## Schedule 2 Additional development of certain land

(Clause 28)

**Column 1**

**Column 2**

### **Schedule 3 Public land classified or reclassified as operational land**

(Clause 29)

#### **Lakemba**

27 The Boulevard      Lot 2 DP 124871

28 The Boulevard      Lot 1 DP 124871

### **Schedule 4 Operational land classified or reclassified as community land**

(Clause 30)