

# Canterbury Local Environmental Plan No 138—Canterbury Precinct (1994 EPI 603)

[1994-603]



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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New South Wales

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# Canterbury Local Environmental Plan No 138—Canterbury Precinct (1994 EPI 603)



New South Wales

## General provisions

### 1 Name of plan

This plan is called *Canterbury Local Environmental Plan No 138—Canterbury 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 Canterbury 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 throughout the Council area to cater for various life styles and population growth without having adverse effects on the amenity of the area.
- (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 throughout the Council area.
- (e) Recreational opportunities and facilities located throughout the Council area.
- (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 area.

- (i) Public involvement and participation in environmental planning and assessment.

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

- (1) This plan repeals the following environmental planning instruments:
  - (a) *Canterbury Planning Scheme Ordinance* as it applies to land to which this plan applies.
  - (b) Interim Development Orders Nos 40 and 42—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 making this plan, the Governor approved of subclause (2) pursuant to section 28 of the Act.

#### 5 Terms used in the plan

Terms used in the plan are defined as follows:

**advertisement** means the display of symbols, messages or other devices for promotional purposes of 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.

**arterial road** means:

- (a) a road shown on the map with a continuous red line on white between firm black lines, or
- (b) a road declared to be a main road under the [Roads Act 1993](#), or
- (c) a road declared to be a secondary road under the [Roads Act 1993](#), or
- (d) a road declared to be a tollway under the [Roads Act 1993](#).

**arterial road proposed** means a road shown on the map with a broken red line on white between broken black lines.

**auction rooms** means premises used for the storage and display of goods which are then sold at a public sale 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, 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 college, 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, a 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 as a heritage item.

**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 within the allotment of a dwelling-house or a dual occupancy by 1 or more permanent residents of the dwelling-house, 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 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 or grit, 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 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 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 does not include development 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, minor play equipment, picnic equipment and bushfire hazard reduction works, but does not include 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 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 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 with 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 (excepting a light commercial vehicle used by a trades person which is laden with tools of trade only),

- (b) the operation time of 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, 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 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 on land within Zone No 3 (e), 4 (a) or 4 (d) used for the purpose of a chemist shop, dry cleaning shop, fruit shop, hair dressing 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 one or more of the following purposes:

- (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 or displaying for the purpose of selling or hiring of goods or materials.

**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 138—Canterbury Precinct*”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

*Canterbury Local Environmental Plan No 138—Canterbury Precinct (Amendment No 1)*

*Canterbury Local Environmental Plan No 138—Canterbury Precinct (Amendment No 3)*

*Canterbury Local Environmental Plan No 138—Canterbury Precinct (Amendment No 6)*

**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 wholesale to trade services and for other activities which support light industry, including plumbing and electrical supplies, hire equipment, storage and the like, but 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 or 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 within the meaning of the [Telecommunications Act 1997](#) of the Commonwealth, 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**

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.

## **9 Zones indicated on 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 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 within this plan:

Zone No 2 (a)	Residential "A" Zone; coloured light scarlet.
Zone No 2 (c)	Residential "C" Zone; coloured light scarlet with red edging.
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 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 denoting 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:

× means development without consent

o means development only with consent

**Table**

Development	Residential		Commercial		Industrial		Special Uses	Open Space			Roads
	2a	2c	3a	3e	4a	4d	5	6a	6b	6c	9
Advertising structure			o	o	o	o	o	o	o	o	o
Amusement Centre			o								
Auction Rooms			o	o	o	o					
Boarding House		o	o	o							
Bulky Goods Sale			o								
Child Care Centre	o	o	o	o	o	o					
Community Facility			o	o	o	o		o		o	
Dual Occupancy <sup>(5)</sup>	o	o									
Dwelling House	o	o									
Dwelling House with factory			o		o	o					

Dwelling(s) with Office Premises or Shop(s)			o	o							
Educational Establishment	o	o	o	o		o					
Entertainment Facility			o	o	o	o					
Exempt Development	x	x	x	x	x	x	x	x	x	x	x
Exhibition Home	o	o									
Health Consulting Rooms	o	o	o	o							
Home Business	o	o									
Home Occupation	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
Light Industry			o		o	o					
Light Industry (change of use) <sup>(1)</sup>			o		x	x					
Local Shop <sup>(2)</sup>	o	o									
Motel			o	o	o	o					
Multiple Unit Housing		o		o							
Multiple Unit Housing with Office Premises or Shops(s)			o	o							
Office Premises			o	o		o					
Office Premises (change of use) <sup>(3)</sup>			x	x		x					
Place of Worship	o	o	o	o	o	o					

Public Building	o	o	o	o	o	o					
Public Parking	o	o	o	o	o	o	o	o	o	o	o
Recreation Area	o	o	o	o	o	o		o	o	o	
Recreation Area Ancillary Works	x	x	x	x	x	x		x	x	x	
Recreation Facility			o	o	o	o					
Registered Club			o	o	o						
Resident Commercial Vehicle Parking	x	x									
Restaurant			o	o	o	o		o	o	o	
Road	o	o	o	o	o	o	o	o	o	o	x
Retail Plant Nursery			o		o	o					
Service Shop			o	o	o	o					
Service Shop on land fronting Canterbury Road			o	o							
Service Station			o	o	o	o					
Shop			o								
Shop (change of use) <sup>(4)</sup>			x								
Subdivision	o	o	o	o	o	o	o	o	o	o	o
Telecommunications Facilities	o	o	o	o	o	o	o	o	o	o	o
Town House Development	o	o									
Town Houses with Office Premises or Shop(s)			o	o							
Trade Services			o		o	o					
Transport Depot					o	o					
Utility Undertaking	x	x	x	x	x	x	x	x	x	x	x



Vehicle Body Repair Workshop					o						
Vehicle Repair Station			o		o						
Vehicle Sales			o		o	o					
Veterinary Hospital			o	o	o	o					
Villa Home Development	o	o									
Villa Homes with Office Premises or Shop(s)			o	o							
Warehouse & Distribution Centre			o		o	o					

**Note—**

- (1) See Clause 21
- (2) See Clause 14
- (3) See Clause 20
- (4) See Clause 19
- (5) See Clause 31

**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 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 of amenity of the area.

### **(2) Zone No 2 (a) (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 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.

**(6) 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.

**(7) 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.

**(8) 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.

**(9) 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.

**(10) 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.

**(11) 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.

## **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 that 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, other than where it can be demonstrated to the satisfaction of the 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 trees required to be trimmed in accordance with the clause 23 of the *Electricity (Overhead Line Safety) Regulation 1991*.

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

The maximum floor space ratio for non-residential development in a residential zone is 0.5:1.0 in the Residential “A” Zone and 0.75:1.0 in the Residential “C” Zone.

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

The Council may consent to the community use of the facilities and sites of schools, colleges and other educational 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 will not consent to the carrying out of development on 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) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

#### **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 water course, or
- (c) which has been reclaimed.

#### **18 Temporary use of land**

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

#### **18A Telecommunications facility on unzoned land**

The consent of the Council is required for all development for the purpose of telecommunications facilities on unzoned land.

#### **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, summer houses, private boat houses, fuel sheds, tool houses, cycle sheds, aviaries, milking bails, hay sheds, stables, fowl houses, pig sties,

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 Program 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 the land if:
  - (a) the land is included in the 5 year Works Program 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 required.

**23 Acquisition of privately owned land zoned 6 (a) (Public Open Space) or zoned 6 (c) (Regional Open Space)**

- (1) Land zoned 6 (a) (Public Open Space) must be acquired by the Council upon request by the owner. The request must be made in writing.
- (2) Before acquisition, any development may be carried out on such land, but only with the consent of the Council.
- (3) Land zoned 6 (c) (Regional Open Space) must be acquired by the Corporation upon request by the owner. The request must be made in writing.

**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 considered 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) The Heritage Council is to be taken as having no objection unless it notifies the Council of its objection not later than 28 days after receiving notice of the Council's intention to grant consent.
- (4) 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, of 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 Development of land for certain additional purposes**

Notwithstanding 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 for a purpose specified in Column 2 of that Schedule, subject to conditions, if any, set out in Column 2 or imposed by the Council under the Act.

## **28A Restrictions on development**

Despite any other provision of this plan, consent must not be granted to development specified in Column 2 of Schedule 4 on land specified in Column 1 of Schedule 4 in relation to that development unless such conditions or other requirements as may be specified in Column 3 of Schedule 4 in relation to that development are complied with.



## 29 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 the design thereof 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 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, that is to say:
  - (i) development of any description at or below the surface of the ground, or
  - (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 or any plant or other structures or erections required in connection with the station or substation, or
  - (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 electricity or pipes above the surface of the ground 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 or stone, concrete or brickworks, or

- (iv) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity, or
- (v) the erection of service reservoirs on land acquired or in process of being acquired for the purpose thereof before the appointed day, provided reasonable notice of the proposed erection is given to the Council, or
- (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 the design or external appearance thereof, 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, or 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 the design or external appearance thereof, 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 the design or external appearance thereof, 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 the design or external appearance thereof, 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 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 the design or external appearance thereof, or
  - (ii) the formation or alteration of any means of access to a road, or
- (i) land zoned Special Uses from being developed, with the consent of the Council, for the purpose denoted in black on the land on the map.

### 30 Classification and reclassification of public land as operational

The public land described in Schedule 3 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.

### 31 Subdivision of dual occupancies

The Council must not consent to the subdivision of land on which a dual occupancy is situated where it results in the street frontage of either allotment on which a dwelling is situated being less than 7.5 metres.

## Schedule 1 Heritage items

(Clause 5)

Name	Address	Suburb
Second St Group	5-15 Second St	Canterbury
Canterbury Park Racecourse	King St	Canterbury
Timothy Daniel's House	5-7-9 Canterbury Rd	Canterbury
Scout Hall	47-49 Canterbury Rd	Canterbury
Brick Paving	Church St (west side adjacent to school)	Canterbury
Beulah Vista	Church St	Canterbury

St Paul's Church & Churchyard	Church St	Canterbury
Canterbury Public School	Church St	Canterbury
House	59 Minter St	Canterbury
Canterbury Post Office	193 Canterbury Rd	Canterbury
Canterbury Sugar Works	Hutton St	Canterbury
Service Station	184 Canterbury Rd	Canterbury
Hotel Canterbury	208 Canterbury Rd	Canterbury
Brighton Avenue Palm Trees	Brighton Ave	Croydon Park
"But-Har-Gra"	106-24 Georges River Rd	Croydon Park
Shop & Residence	60 Balmoral Ave	Croydon Park
Shop	63 Balmoral Ave	Croydon Park
Houses	53-55 Windsor Ave	Croydon Park
Houses	60-62 Windsor Ave	Croydon Park
Houses (Garnet St Group)	12, 14, 15, 16 Garnet St	Hurlstone Park
House "Jessamine"	20 Garnet St	Hurlstone Park
Houses	24 & 30 Garnet St	Hurlstone Park
Houses	58-60 Garnet St	Hurlstone Park
Houses (Hopetoun St Group)	19, 23, 25, 27 Hopetoun St	Hurlstone Park
Highway Patrol Office	Church St & Canterbury Rd Cnr	Canterbury
Euston Rd Group	1, 3, 7, 9, 11, 13, 15, 21 Euston Rd	Canterbury
Euston House	67 Floss Street	Hurlstone Park
Montrose House	128 Croydon Avenue	Croydon Park

## Schedule 2 Development of land for certain additional purposes

(Clause 28)

### Column 1

Land known as Nos 120-126 Crinan Street,  
Hurlstone Park

### Column 2

Youth Centre

The land and building known as former ASC Sugar Mill, in the vicinity of Church and Hutton Streets, Canterbury, subject to *Permanent Conservation Order No 290* published in Gazette No 143 of 18 October 1985 at page 5451, as shown edged heavy black on plan catalogued HC 714 in the Office of Heritage Council of New South Wales.

Any purpose which does not contravene the *Heritage Act 1977* and *Permanent Conservation Order No 290* published in Gazette No 143 of 18 October 1985 at page 5451 and which, in the opinion of the Council, is compatible with the land and building.

Land known as No 121 Crinan Street, Hurlstone Park and 12 The Avenue, Hurlstone Park, as shown edged heavy black on the map marked “*Canterbury Local Environmental Plan No 138—Canterbury Precinct (Amendment No 3)*”.

Registered club.

Land known as 67 Floss Street, Hurlstone Park, as shown edged heavy black on the map marked “*Canterbury Local Environmental Plan No 138—Canterbury Precinct (Amendment No 7)*” deposited in the office of the Council.

Multiple unit housing, but only where:  
 (a) the existing 2-storey former nursing home building on the site is substantially retained, and  
 (b) the dwellings created are as a result of the conversion and adaptive re-use of that building.

### Schedule 3 Classification and reclassification of public land as operational

(Clause 30)

#### Ashbury

32 Trevenar Street — Lot 2, DP 566982

#### Canterbury

73-87 Jeffrey Street — Lots 1 and 2, DP 570785  
 Lots 1 and 2, DP 216228  
 Lots 5 and 6, DP 8308  
 Lot 1, DP 963239

### Schedule 4 Restrictions on development

(Clause 28A)

Column 1

Column 2

Column 3

20 Close Street Canterbury,  
shown edged heavy black on the  
map marked "*Canterbury Local  
Environmental Plan No  
138—Canterbury Precinct  
(Amendment No 6)*"

Any development

The Council:

- (a) has considered a report by a qualified acoustic engineer that analyses noise levels on the land and their effect on the amenity and acoustic privacy of the proposed development, and
- (b) has considered whether or not, and (if so) the extent to which, the proposed development should provide for noise mitigation measures