

DIRECTOR GENERAL'S CORRESPONDENCE

PRIORITY:

☐

URGENT

Date due: / /

☐

Early (2 weeks)

ACTION REQUIRED:

DRAFT LETTER FOR SIGNATURE BY:

Director General

(Full brief ☐

Short Brief ☐

☐

Deputy Director General

☐

Executive Director

☐

Director

☐

Regional Director

☐

BRIEFING NOTES FOR DIRECTOR GENERAL

☐

DISCUSSION WITH DIRECTOR GENERAL

☐

DEPARTMENTAL ACTION

☒

INFORMATION ONLY

☐

OTHER:

☐

INSTRUCTIONS/COMMENTS

Planning Division

R. Hamner 10/3/14.



City of Canterbury

City of Cultural Diversity

Our Reference: T-29-149

Enquiries: Lisa Ho
Direct Phone: 9789 9377
Direct Fax: 9789 1542

Mr Sam Haddad
Director General
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

RECEIVED
10 MAR 2014
Director-General

Dear Mr Haddad,

Planning Proposal to amend LEP to correct LEP mapping anomaly in relation to property in Trevenar Street Ashbury

I am writing to you to advise that on 13 February 2014, Council resolved that a planning proposal be prepared to make the necessary correction to the CLEP 2012 maps in relation to the error in the zoning (R3 to R2) and floor space amendment created for land in Trevenar Street, Ashbury.

Council has now prepared a Planning Proposal for these amendments and is submitting this for a gateway determination as set out in Sections 55 and 56 of the *Environmental Planning and Assessment Act 1979*.

The intention of the Planning Proposal is to correct an error in a previous LEP amendment.

Attached to this letter is the planning proposal and attachments which include Council reports and mapping

If you require any further assistance please contact our Urban Planner Lisa Ho on 9789 9377.

Yours sincerely

Warren Farleigh
TEAM LEADER URBAN PLANNING

4 March 2014

Enclosure: Planning Proposal

PLANNING PROPOSAL TO AMEND CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (Mapping amendment)

Background

The first set of amendments (Amendment 1) to CLEP 2012 was published on 8 November 2013 and came into effect on that date. The amendments include various mapping changes, allowing medical centres as part of a mixed use development, prohibiting amusement centres in the B6 zone and adding 38 Hampton Street as a heritage item.

As a consequence of the new processes for dealing with LEP amendments, an error on one of the zoning sheets and FSR sheets was detected. The error relates to a draft planning proposal at 30 Trevenar Street, Ashbury (Amendment 2) that had been publicly exhibited but not endorsed by Council. In finalising the maps for Amendment 1, this draft change (zoning from R2 to R3), proposed in a different and separate planning proposal, was inadvertently caught up with the maps sent to the Department of Planning and Infrastructure when Amendment 1 was being finalised. As a result, the draft mapping changes that was the subject of community consultation, but which has not been endorsed by Council, was inadvertently gazetted.

In response, on 28 November 2013, Council resolved that action be undertaken under Section 73A of the EPA Act 1979 to make the necessary correction to the CLEP 2012 zoning (from R3 to R2) and FSR maps for land at 30 Trevenar Street, Ashbury.

A 73A submission was prepared and sent to the Department in December 2013. The Department has subsequently advised that the proposal does not fall under the intended use of S73A particularly as the changes were publicly exhibited and therefore not of a minor nature as specified in the Clause.

The Department has further advised that a Planning Proposal will need to be submitted to correct this error.

On 13 February 2014 Council resolved that a planning proposal be prepared to make the necessary correction to the Canterbury Local Environmental Plan 2012 maps in relation to the error to the zoning (from R3 to R2) and floor space ratio amendment created for land in Trevenar Street, Ashbury.

The planning proposal for Amendment 2 (your REF PP_2013_CANTE_001_00 (13/06390)) is currently with Parliamentary Counsel's Office for finalisation of the plan.

The part of the planning proposal (Amendment 2) that relates to 30 Trevenar Street, Ashbury has been deferred (as per council resolution on 14 November 2013) to allow for further consideration of the issues arising from the public exhibition period which received a very high level of community objection in relation to the proposed R3 zoning, with over 100 submissions received.

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To correct a mapping error on the land zoning map and FSR map that accompanied a previous planning proposal (PP_2012_CANTE_001_00 (12/19839)).

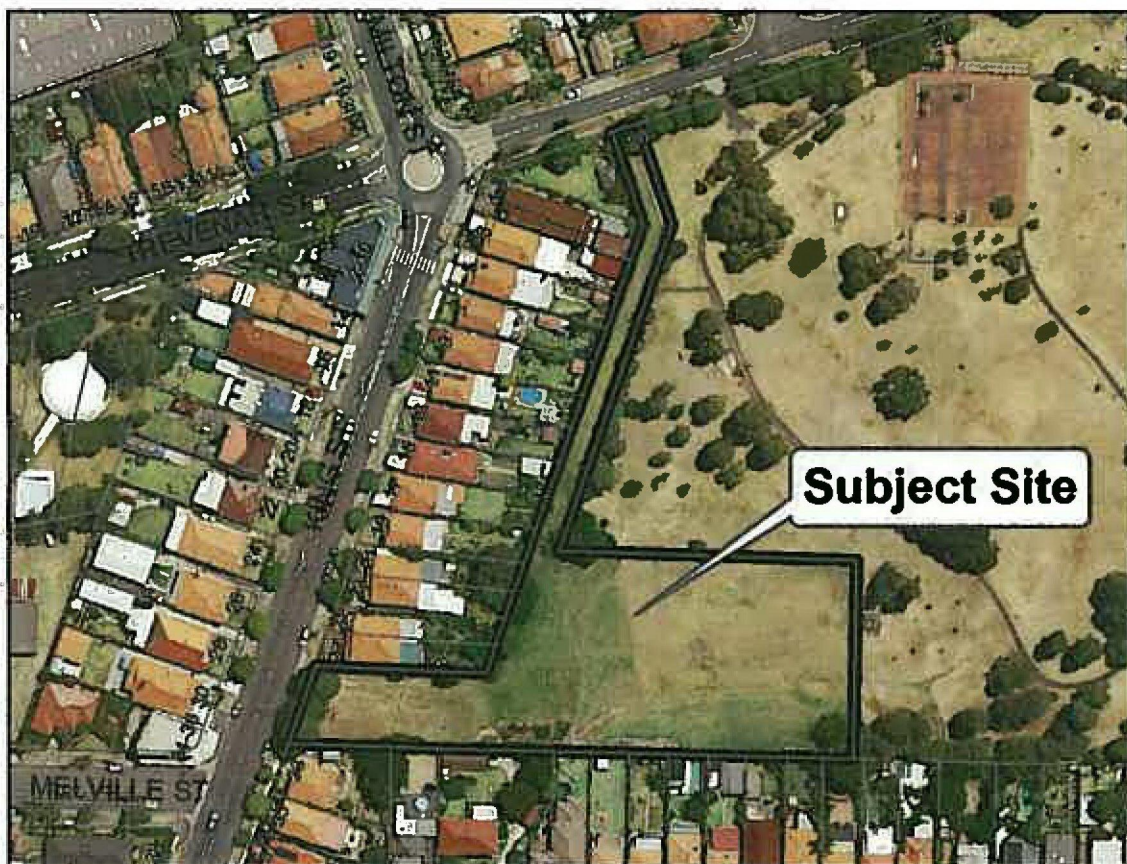
PART 2 EXPLANATION OF PROVISIONS

1. Mapping

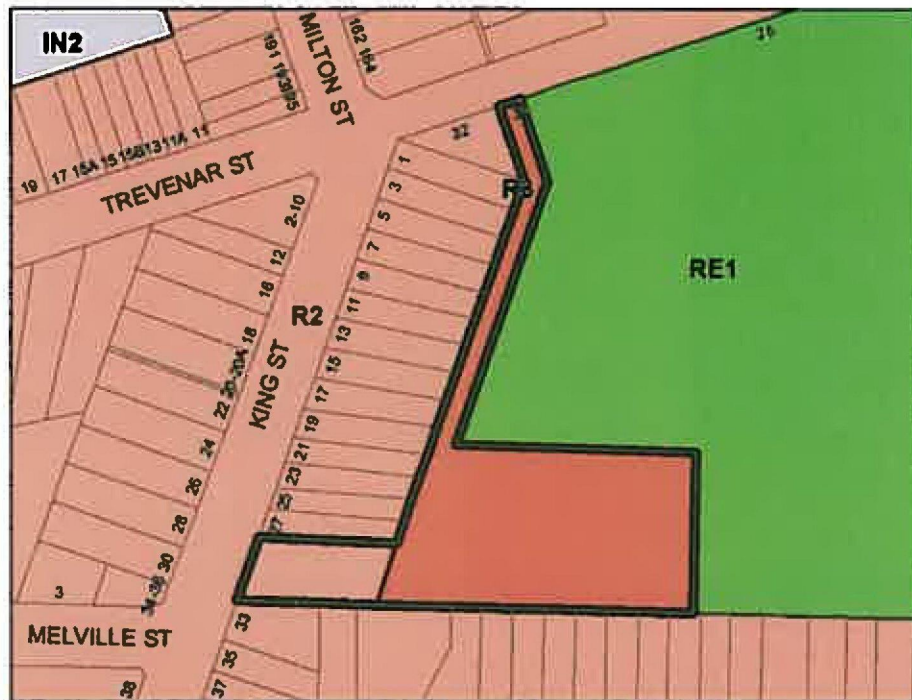
The amendments to CLEP 2012 will involve alterations to the map series in respect of zoning and floor space ratio. It is not intended or necessary to alter the LEP instrument.

The land the subject of this Planning Proposal is identified part of Lot 1 DP 566982, 30 Trevenar Street, Ashbury.

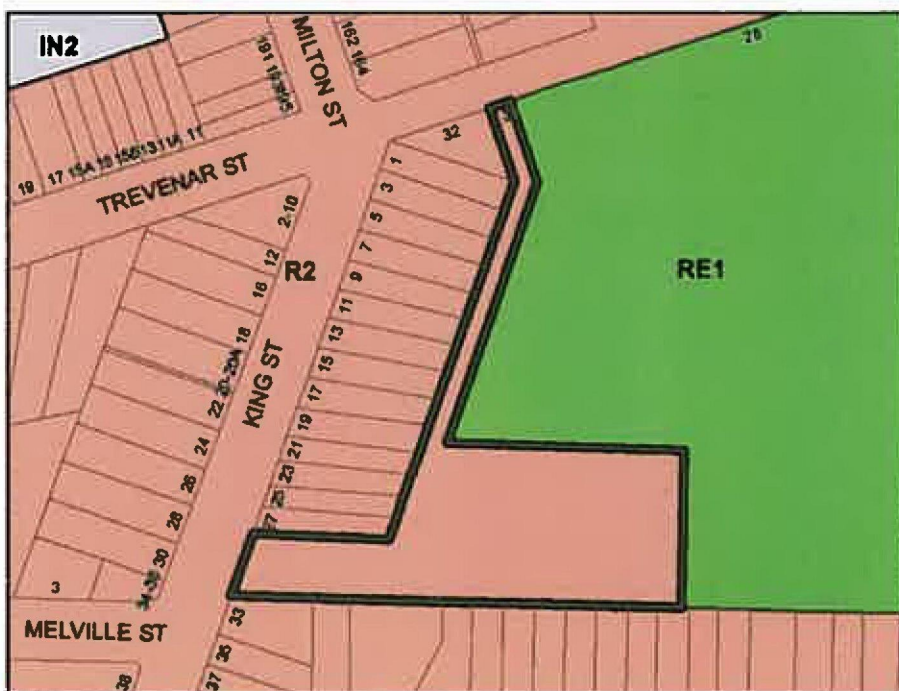
Map 1: Locality Plan



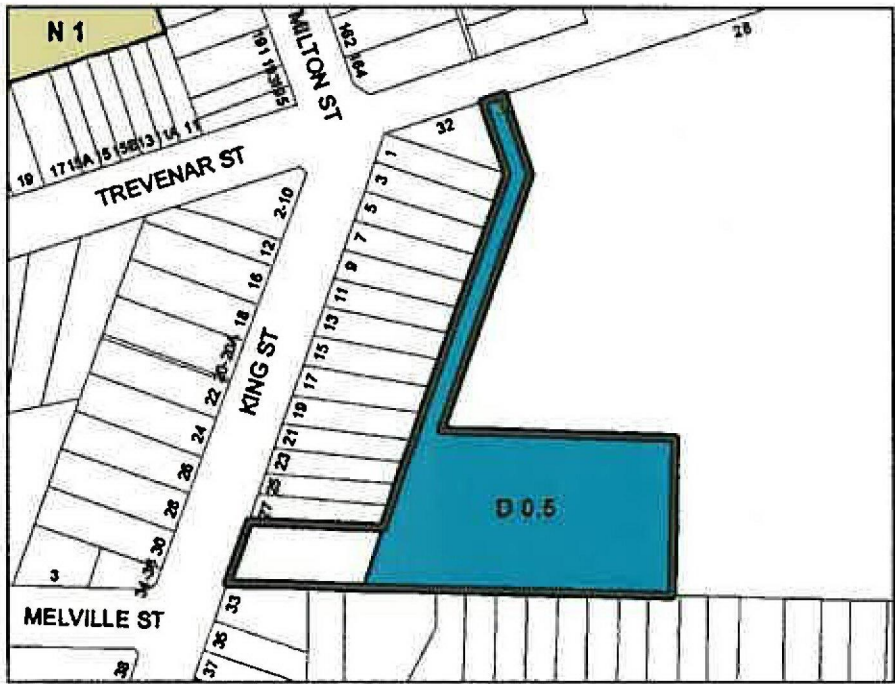
Map 2: Existing Zoning



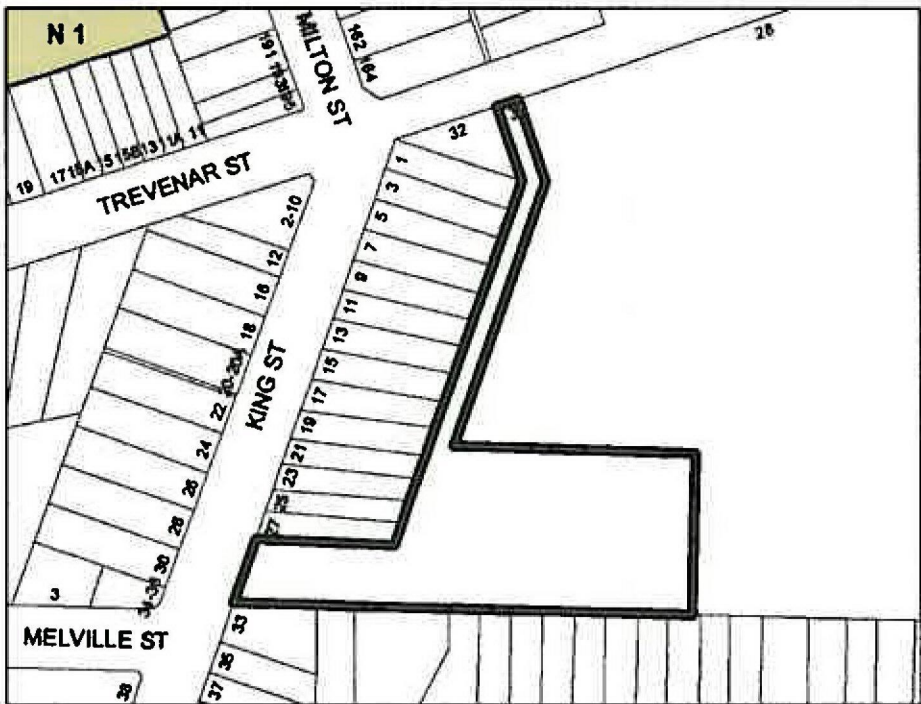
Map 3: Proposed Zoning



Map 4: Existing FSR



Map 5: Proposed FSR



PART 3 JUSTIFICATION

SECTION A: Need for the Planning Proposal

1. Is the planning proposal the result of any strategic study or report?

No. The Planning proposal has been prepared to correct an error in a previous LEP amendment.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The Department has advised that a Planning Proposal will need to be submitted to correct this error.

3. Is there a net Community benefit?

The correction of the error will make the LEP consistent with the exhibited LEP (for Amendment 1) in respect to the FSR and Land Zoning on land at 30 Trevenar Street, Ashbury.

There is a net community benefit in removing errors that would otherwise confuse and complicate future planning actions that would be affected by the errors if they remained.

SECTION B: Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies?

The Planning proposal is consistent with the Draft South Subregion Strategy and the Sydney Metro Strategy.

5. Is the Planning Proposal consistent with the local Council's community strategic plan, or other local strategic plan?

The Planning proposal is consistent with Council's Community Strategic Plan.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with all applicable state environmental planning policies.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

Direction	Title	Consistency with planning proposal
3.1	Residential	The planning proposal makes minor adjustments to the residential zones by correcting mapping anomalies identified in the LEP maps. Accordingly, the planning proposal is considered to be consistent with this direction.
6.1	Approval and Referral requirements	The intent of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development by minimising or not contain provisions requiring concurrence, consultation or referral of development applications to a Minister or public authority. The planning proposal is considered to be consistent with the terms of this direction.

SECTION C: Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. There is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no likelihood of adverse environmental impact as a result of this planning proposal.

10. How has the planning proposal adequately addressed any social and economic effects?

Yes – the only relevant social or economic effects are reducing the potential confusion and inefficiencies that could arise if the errors were allowed to remain.

SECTION D: State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal does not generate any need to upgrade or improve public infrastructure.

12. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

The land at 30 Trevenar Street, Ashbury is currently surplus government agency (Ausgrid) land. Preliminary views in relation to the proposal were not sought from Ausgrid as the planning proposal seeks to correct an error in relation to the land zoning and FSR maps which occurred on the land when the maps for amendment 1 were published.

Ausgrid was consulted during the public exhibition the planning proposal (Amendment 2) and their views will be considered separately by Council.

Part 5: Community Consultation

Council has resolved that given the sole purpose of this planning proposal is to correct a mapping error it is proposed that no further community consultation be required or is necessary. This would also assist in having the correction to occur as quickly as possible.

PART 6: PROJECT TIMELINE

This is outlined in the table below:

Planning proposal stage	Timeframe
Submission to gateway	March 2014
Gateway determination issued by Department of Planning and Infrastructure	April 2014
Report to Council	May 2014
Timeframe for Parliamentary Counsel's Opinion and drafting of LEP	May 2014
Anticipated date RPA will make the plan (under delegation)	Late May 2014
Anticipated date RPA will forward to the Department for notification	Late May 2014

Attachment 1: Council report

Attachments 2: Planning and Infrastructure Attachment sheets

- **Attachment 1 – Information Checklist**
- **Attachment 4 – Evaluation Criteria for the delegation of plan making functions**
- **Attachment 5 – Reporting Template for delegated LEP amendments**

Attachment 1: Council report

4 MAPPING AMENDMENTS TO CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012

FILE NO: T-29-149

REPORT BY: DIRECTOR CITY PLANNING

Summary:

- The first amendments to Canterbury Local Environmental Plan (CLEP) 2012 were published on 8 November 2013 and came into effect on that date.
- The amendments included various mapping changes and other minor changes to the provisions in the LEP which Council previously endorsed.
- As a consequence of the new processes for dealing with CLEP 2012 amendments, an error on one of the land zoning sheets and floor space ratio (FSR) sheets has been detected. The error relates to a draft planning proposal in Ashbury that has not yet been finally endorsed by Council but where draft maps have been prepared in advance.
- On 28 November 2013, Council resolved that corrective action be undertaken under Section 73A of the Environmental Planning and Assessment (EPA) Act 1979 to make the necessary correction to the LEP zoning and FSR maps in response to an error for land in Trevenar Street, Ashbury.
- The Department of Planning and Infrastructure has advised that the proposal does not fall under the intended use of S73A and should instead proceed through the preparation of a Planning Proposal.
- It is recommended that a Planning Proposal be prepared to correct the LEP mapping anomaly in relation to the property in Trevenar Street, Ashbury.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget and supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Background

The first set of amendments to CLEP 2012 was published (gazetted) on 8 November 2013 and came into effect on that date.

The amendments to the LEP included:

- Update maps (zoning, height, FSR) on various parcels of land for which minor mapping corrections are needed due to errors found following the exhibition of Canterbury LEP 2012.
 - Allow 'medical centres' as part of a mixed use development in business centre.
 - Prohibiting 'amusement centres' in the B6 Enterprise Corridor Zone.
 - Adding 38 Hampton Street, Croydon Park in the Heritage Schedule.
- As a consequence of the new processes for dealing with LEP amendments, an error on one of the zoning sheets and FSR sheets was detected. The error relates to a draft planning proposal in Trevenar Street, Ashbury that had been publicly exhibited but not endorsed by Council. In finalising the maps for Amendment 1, this draft change, proposed in a different and separate planning proposal, was inadvertently caught up with the maps sent to the Department of

MAPPING AMENDMENTS TO CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Planning and Infrastructure when Amendment 1 was being finalised. As a result, the draft mapping change that was the subject of community consultation, but which has not been endorsed by Council, was inadvertently gazetted.

In response, on 28 November 2013, Council resolved that action be undertaken under Section 73A of the EPA Act 1979 to make the necessary correction to the CLEP 2012 zoning (from R3 to R2) and FSR maps for land in Trevenar Street, Ashbury.

Department's response

A 73A submission was prepared and sent to the Department in December 2013. The Department has subsequently advised that the proposal does not fall under the intended use of S73A particularly as the changes (for the proposal at Trevenar Street) were publicly exhibited and therefore not of a minor nature as specified in the clause.

The Department has further advised that a Planning Proposal will need to be submitted to correct this error. It is recommended that a planning proposal be prepared to make the necessary correction to the CLEP 2012 zoning (from R3 to R2) and FSR maps for land in Trevenar Street, Ashbury. Given the circumstances of the anomaly, it will be recommended that the amendments not be exhibited for public comment and that the changes to the planning controls occur as quickly as possible to enable the continued consideration of the proposal previously before Council.

RECOMMENDATION:

THAT a Planning Proposal be prepared to make the necessary correction to the Canterbury Local Environmental Plan 2012 maps in relation to the error in the zoning (from R3 to R2) and floor space ratio amendment created for land in Trevenar Street, Ashbury.

**CITY DEVELOPMENT COMMITTEE
RESOLUTION - 13 FEBRUARY 2014**

**4 MAPPING AMENDMENTS TO CANTERBURY LOCAL
ENVIRONMENTAL PLAN 2012**
FILE NO: T-29-149

Min. No. 10 RESOLVED (Councillors Hawatt/Kebbe)

THAT a Planning Proposal be prepared to make the necessary correction to the Canterbury Local Environmental Plan 2012 maps in relation to the error in the zoning (from R3 to R2) and floor space ratio amendment created for land in Trevenar Street, Ashbury.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Azzi	
Councillor Adler	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	

MAPPING AMENDMENTS TO CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012 (CONT.)

Councillor Paschalidis-Chilas	
Councillor Saleh	
Councillor Vasiliades	

Attachments 2: Planning and Infrastructure Attachment sheets

- **Attachment 1 – Information Checklist**
- **Attachment 4 – Evaluation Criteria for the delegation of plan making functions**
- **Attachment 5 – Reporting Template for delegated LEP amendments**

INFORMATION CHECKLIST

Attachment 1

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- Objectives and intended outcome
- Mapping (including current and proposed zones)
- Community consultation (agencies to be consulted)
- Explanation of provisions
- Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	☐	☒	• Existing site plan (buildings vegetation, roads, etc)	☐	☒
• Demonstrated consistency with relevant sub-regional strategy	☐	☒	• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☐	☒	• Lighting impact	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☐	☒	• Development yield analysis (potential yield of lots, houses, employment generation)	☐	☒
Site Description/Context			Economic Considerations		
• Aerial photographs	☒	☐	• Economic impact assessment	☐	☒
• Site photos/photomontage	☐	☒	• Retail centres hierarchy	☐	☒
Traffic and Transport Considerations			• Employment land	☐	☒
• Local traffic and transport	☐	☒	Social and Cultural Considerations		
• TMAP	☐	☒	• Heritage impact	☐	☒
• Public transport	☐	☒	• Aboriginal archaeology	☐	☒
• Cycle and pedestrian movement	☐	☒	• Open space management	☐	☒
Environmental Considerations			• European archaeology	☐	☒
• Bushfire hazard	☐	☒	• Social and cultural impacts	☐	☒
• Acid Sulphate Soil	☐	☒	• Stakeholder engagement	☐	☒
• Noise impact	☐	☒	Infrastructure Considerations		
• Flora and/or fauna	☐	☒	• Infrastructure servicing and potential funding arrangements	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒	Miscellaneous/Additional Considerations		
• Water quality	☐	☒	List any additional studies		
• Stormwater management	☐	☒			
• Flooding	☐	☒			
• Land/site contamination (SEPP55)	☐	☒			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒			
• Sea level rise	☐	☒			

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:Canterbury

Name of draft LEP:Mapping amendment

Address of Land (if applicable):30 Trevenar Street, Ashbury

Intent of draft LEP: Correct land zoning and FSR map

Additional Supporting Points/Information: N/A

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?		N/A		
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?		N/A		
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?		N/A		
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?	N			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?	N/A			
Is the planning proposal proposed to rectify an anomaly in a classification?	N/A			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?	N/A			
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?	N/A			
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?	N/A			
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?	N/A			
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	N/A			
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	N/A			

Does the planning proposal create an exception to a mapped development standard?	N/A			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	N/A			

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	
Date Sent to Department under s56	
Date considered at LEP Review Panel	
Gateway determination date	

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: