

Planning proposal to clarify permissible uses in business zones

Proposal Title : **Planning proposal to clarify permissible uses in business zones**

Proposal Summary : **The intention of the planning proposal is to amend clause 6.7 of the Canterbury LEP 2012, which was introduced to permit medical centres within mixed use development in B1, B2 and B5 business zones. The application of clause 6.7 has inadvertently led to development applications for ground level residential development in the business zones, where only shop top residential accommodation is intended.**

PP Number : **PP_2015_CANTE_003_00** Dop File No : **15/02972**

Proposal Details

Date Planning Proposal Received :	04-Feb-2015	LGA covered :	Canterbury
Region :	Metro(CBD)	RPA :	Canterbury City Council
State Electorate :	CANTERBURY LAKEMBA	Section of the Act :	55 - Planning Proposal
LEP Type :	Precinct		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **Applies to all B1, B2 and B5 business zones in Canterbury LGA**

DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre : Release Area Name :
 Regional / Sub Consistent with Strategy :
 Regional Strategy :

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government **Yes**

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

The planning proposal seeks to correct the unintended consequence of Clause 6.7 - Mixed use development in business zones of CLEP 2012. The clause was introduced to permit medical centres as part of mixed use developments in B1, B2 and B5 business zones to enable them to be developed in conjunction with residential accommodation, rather than as stand-alone facilities. It has, however, had the unintended consequence of permitting developments that include a substantial component of ground level residential accommodation, where none was intended. It is also likely to result in the production of redundant medical centres, because developers are incorporating medical centres in developments to enable ground floor residential development, rather than in response to market demand for medical centres, because residential floorspace attracts greater financial returns than commercial floorspace. The cost of including a potentially redundant medical centre is presumably offset by the greater financial return for ground floor residential property, as indicated by the disproportionate number of DAs of this type lodged with Council since the introduction of Clause 6.7.

The planning proposal is supported with conditions because it:

- ensures medical centres are able to be developed with residential accommodation above, rather than as stand-alone facilities;
- is consistent with Council's intention to limit residential development in business zones to shop top housing;
- is consistent with the definition of shop top housing, which does not permit ground level residential uses; and
- prevents the unintended potential oversupply of medical centres within Canterbury business centres.

External Supporting
Notes :

Council supports this planning proposal because it:

- is consistent with Council's intention to limit ground level development in business zones to business and commercial uses.

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment :

The objective of the planning proposal is to amend Clause 6.7 - Mixed use development in business zones, of CLEP 2012 to clarify that residential accommodation at ground level is prohibited in B1, B2 and B5 zones.

This is considered adequate.

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

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

Comment : The planning proposal intends to introduce the following amendment to clause 6.7 of Canterbury LEP 2012:
• addition of sub-clause (3),
(3) Development consent must not be granted for residential accommodation, as part of a mixed use development, with dwellings at the ground level.

The final wording will be subject to parliamentary counsel drafting.

This is considered adequate.

Draft maps have not been provided and are not required.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA : **1.1 Business and Industrial Zones**
3.1 Residential Zones
* May need the Director General's agreement **3.4 Integrating Land Use and Transport**
7.1 Implementation of A Plan for Growing Sydney

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)**
SEPP No 65—Design Quality of Residential Flat Development
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007

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

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **The planning proposal is consistent with all SEPPs.**

Direction 1.1 Business and Industrial Zones

This Direction seeks to encourage employment growth in suitable locations and protect employment land in business zones. Planning proposals must retain areas and locations of existing business zones, and not reduce the total potential floor space area for employment and related public services in business zones.

The proposal is consistent with this Direction. The proposal seeks to ensure that land zoned for business uses is reserved for business uses. Since the making of Amendment 1 of CLEP 2012 Council has received, and been required to grant consent for, developments that have sought to maximise residential development over retail or business development, as residential floorspace is now able to be developed at ground floor in place of commercial floorspace. Should this continue, the loss of retail and business floor area to residential, and the potential over-supply of medical centres, could jeopardise the viability of existing business centres as business agglomeration is eroded due to the progressive replacement of commercial floorspace with residential floorspace and superfluous medical centres.

Direction 3.1 Residential Zones

The Direction encourages a variety and choice of housing types, making use of existing infrastructure and services, ensuring new housing has appropriate access to

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infrastructure and services, and minimises impact of residential development on environment and land resources, and is of good design.

The proposal is not consistent with this Direction. However, permitting ground level residential uses in the B1, B2 and B4 zones was not Council's intention and the planning proposal is seeking to correct the unforeseen consequence of the unintended permissibility. Council intended to permit medical centres in conjunction with shop top housing, but the definition of shop top housing does not include medical centres as a permissible use. This was recently confirmed by the Land and Environment Court (*Hsro v Canterbury Council No 2* [2014/NSWLEC 121]). Amendment 1 to the CLEP 2012 therefore made medical centres permissible as part of mixed use development, which had the unforeseen consequence of permitting residential uses at ground level, which is consistent with the definition of mixed use development.

The inconsistency is therefore of minor significance and justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Draft maps are not required.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has not suggested a community consultation period. The planning proposal is a 'low' impact proposal as it is consistent with the pattern of surrounding land use zones and land uses, is consistent with the strategic planning framework, and presents no issues with regard to infrastructure planning. A community consultation period of 14 days is therefore appropriate.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Canterbury LEP 2012 was published on 21 December 2012.**

Assessment Criteria

Need for planning proposal :

The planning proposal is required to correct the unintended consequence of clause 6.7 of CLEP 2012, introduced to permit medical centres within mixed use developments in B1, B2 and B5 business zones. The standard instrument permits only shop top residential accommodation and stand-alone medical centres. However, the application of clause 6.7 has inadvertently led to development applications for ground floor residential development in the business zones where only shoptop housing with medical centres permissible at ground floor is intended. This has arisen because the clause, which permits 'mixed use development, incorporating residential accommodation and a medical centre', has been

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Consistency with strategic planning framework :

interpreted as permitting residential developments that include ground floor residential development, but only if a medical centre is also included.

The planning proposal is consistent with A Plan for Growing Sydney.

• Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs;
Action 2.2.2: Undertake urban renewal in transport corridors. The proposal facilitates urban infill and ensures that new housing will be supported by viable business centres on the Bankstown to Sydenham Urban Renewal Corridor.

The planning proposal is consistent with the priorities for the South Subregion, in A Plan for Growing Sydney, as it supports Council's intention to maintain employment agglomerations in existing business centres.

The planning proposal is consistent with Council's Community Strategic Plan, Imagine Canterbury, which seeks to prioritise:

• Vibrant town centres – people space - a meeting point, a hub, where people can interact, relax, and shop.

Environmental social economic impacts :

Environmental:

The planning proposal will not result in any impact on critical habitat or threatened species.

Social:

The planning proposal will have a positive social effect as it ensures an adequate and intended supply of retail and employment opportunities within close proximity to good public transport and within an Urban Renewal Corridor.

Economic:

The planning proposal will have a positive economic effect as it ensures that business centres are financially viable and cohesive, by encouraging sufficient retail and commercial floor space to create business hubs, thereby improving the local economy.

Assessment Process

Proposal type : **Precinct** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

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

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover letter from Council - 4.2.15.pdf	Proposal Covering Letter	Yes
Planning proposal.pdf	Proposal	Yes
Council report & resolution - 27.11.15.pdf	Proposal	Yes
Attachment 1 - Information checklist.pdf	Proposal	No
Attachment 4 - Evaluation criteria.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

- 1. The planning proposal is to be exhibited for 14 days.**
- 2. A public hearing is not required.**
- 3. The timeframe for completing the Local Environmental Plan is to be 6 months.**

Supporting Reasons : **The planning proposal is supported with conditions because it:**
 • **corrects the unintended consequence of Clause 6.7 - Mixed use development in business zones;**
 • **is consistent with the definition of shop top housing, which does not permit ground floor residential uses;**
 • **is consistent with Council's intention to limit residential development in business zones to shop top housing;**
 • **ensures medical centres are able to be developed with residential accommodation above, rather than as stand-alone facilities; and**
 • **prevents the unintended potential oversupply of medical centres within Canterbury business centres, as developers are incorporating medical centres in developments to enable ground floor residential development, rather than in response to market demand for medical centres.**

Signature:



Printed Name:

Diane Sarkies

Date:

5/3/15