

Attachment 2 – Council reports and Studies

- a. Council report on delisting of state heritage item – Campsie Railway Station Group dated 14 November 2013
- b. Council resolution on Draft Town Centres Parking Strategy dated 24 May 2012
- c. Council report on draft Canterbury Development Contributions Plan 2013 dated 8 August 2013.
- d. Council report on Amendments to Canterbury DCP 2012 dated 28 November 2013
- e. Council report on permissibility of sex services premises in the City of Canterbury dated 14 November 2013.
- f. Council report on Codes SEPP (Floor Area and FSR discussion) dated 14 May 2009.
- g. A disc copy of the Canterbury Residential Development Strategy 2013.
- h. A disc copy of the Town Centres Parking Strategy.
- i. DCP 49 – Single Dwelling House.
- j. DCP 47 – Small Lot Housing in Richmond Grove Estate, Earlwood.
- k. DCP 13 – Multiple Unit Housing Development Code
- l. Development Contributions Plan 2013.
- m. Punchbowl and Campsie town centre expansion maps

4 DELISTING OF STATE HERITAGE ITEM - CAMPSIE RAILWAY STATION GROUP

FILE NO: H-59-1

REPORT BY: DIRECTOR CITY PLANNING

Summary:

- The Heritage Council of NSW has advised that the Campsie Railway Station Group has been removed from the State Heritage Register, and is therefore no longer an item of state heritage significance. It is suggested, however, that the Station Group remains of local heritage significance.
- Our Heritage Adviser concurs that this is an appropriate level of significance for the Station Group.
- As a local item, the Campsie Railway Station Group would still be protected by the heritage provisions in Canterbury Local Environmental Plan (CLEP) 2012.
- It is recommended that the information be noted, and that CLEP 2012 be amended at an appropriate opportunity in the future to show the Campsie Railway Station Group as an item of local significance.

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:

The Heritage Council of NSW has advised that the Campsie Railway Station Group has been removed from the State Heritage Register and it is no longer an item of state heritage significance. This has occurred arising from a recent review of all NSW Rail Heritage items. Items can only be added or removed from the State Heritage Register by the Minister for Heritage.

The Campsie Railway Station Group is still considered to have heritage significance and is retained in the Sydney Trains Heritage (Section 170) Register. There are two levels of heritage significance in NSW, state and local. As such, the item is now of local significance. This has been assessed by our Heritage Adviser, who concurs with the Station Group having this level of significance.

As a local item, the Campsie Railway Station Group would still be protected by the provisions afforded to all other heritage items in Canterbury, as contained in clause 5.10 of CLEP 2012. The main changes that will arise from the loss of state listing are:

- Notification of demolition applications to the Heritage Council is no longer required.
- The Heritage Council would no longer have a role in assessing any applications for this item.
- The item will not benefit from the State Heritage Conservation Fund.
- The minimum standards of maintenance and repair applicable to a state item are no longer required.

DELISTING OF STATE HERITAGE ITEM - CAMPSIE RAILWAY STATION GROUP (CONT.)

The Campsie Railway Station Group is currently included in the CLEP 2012 Environmental Heritage Schedule (Schedule 5) as a State Significant Item, reflecting its previous listing. The Heritage Schedule requires amendment to show this item now being of local significance. The plan requires an appropriate amendment, either through the State Government periodic statutory updating, or if this does not take place, then as part of a future housekeeping amendment to the Local Environmental Plan.

RECOMMENDATION:

THAT Schedule 5 Environmental Heritage of the Canterbury Local Environmental Plan 2012 be appropriately amended to show the Campsie Railway Station Group as now being an item of local heritage significance.

**CITY DEVELOPMENT COMMITTEE
RESOLUTION - 14 NOVEMBER 2013****4 DELISTING OF STATE HERITAGE ITEM - CAMPSIE RAILWAY
STATION GROUP**

FILE NO: H-59-1

Min. No. 403 RESOLVED (Councillors Robson/Eisler)

THAT Schedule 5 Environmental Heritage of the Canterbury Local Environmental Plan 2012 be appropriately amended to show the Campsie Railway Station Group as now being an item of local heritage significance.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Azzi	
Councillor Adler	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Paschalidis-Chilas	
Councillor Saleh	

DRAFT TOWN CENTRES PARKING STRATEGY (CONT.)**4 DRAFT TOWN CENTRES PARKING STRATEGY**
FILE NO: T-17-35 PT2**RECOMMENDATION: (Councillor Adler/Saleh)**
THAT

1. The City of Canterbury Town Centres Parking Strategy be adopted by Council subject to the comments made in the report.
2. The recommendations of the Strategy involving future parking areas be incorporated into a future draft development contributions (Section 94) plan and this be further reported to Council when a draft is prepared.
3. The land involved for future parking be identified on the Land Reservation Acquisition Map as part of a future Local Environmental Plan amendment.
4. The areas recommended as being suitable for resident parking schemes be referred to the Director City Works for further reporting to Council.
5. The parking management measures be referred to the Director City Works for implementation.
6. The new comprehensive Development Control Plan include the proposed car parking rates recommended in the Strategy, and the rates be monitored to assess their effectiveness.
7. A further report be provided outlining the implementation of the Strategy including options for funding the acquisition and development of the properties identified.

ADOPTED BY COUNCIL - 24 MAY 2012

MIN. NO. 152

4 DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013

FILE NO: S-149-3 PT5

Attachments: Draft Plan

REPORT BY: DIRECTOR CITY PLANNING

Summary:

- This matter was deferred by the City Development Committee on 13 June 2013 to allow for a Councillor workshop (see Further Supplementary Information).
- The City Development Committee on 9 May 2013 deferred the matter to allow for further information (see Supplementary Information).
- The City Development Committee on 14 February 2013 resolved to adopt a new Development Contributions Plan for the purposes of public exhibition.
- The draft plan allows for development (or Section 94 and 94A) contributions to be levied on new development to provide services and facilities to meet the demand generated by new dwellings or floor space. It sets out the type of facilities to be levied for contribution rates, and the types of development contributions that may be levied on.
- The plan was placed on public exhibition from Thursday 7 March 2013 until Friday 12 April 2013. Four submissions were received during the exhibition period. Three of these submissions were from owners of land identified for acquisition to create new parking areas. The issues raised in these submissions are examined in this report.
- It is recommended the Canterbury Development Contributions Plan 2013 be adopted.

Council Delivery Program and Budget Implications:

The overall amount of works proposed in the plan over the next 20 years in respect of new open space, recreation and community facilities is in excess of \$106 million. It is projected that Section 94 contributions will provide for over \$86 million of these works, which will form an important part of our finances. There will, however, be approximately \$20 million of community facilities works identified that will not be financed from Section 94 contributions. Section 94A Contributions will fund some of this shortfall.

The plan will also enable partial financing of the Town Centres Improvement Program, and provide for new public car parking in Belmore, Campsie, Lakemba and Punchbowl.

The report supports our Community Strategic Plan long term goals of Balanced Urban Development and Healthy Finances.

Report:

Background

At the City Development Committee meeting on 14 February 2013, a report was considered concerning a new draft Development Contributions Plan for the City of Canterbury. This is with the exception of Canterbury Town Centre, which is subject to a separate Contributions Plan.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

The draft plan allows for development (or Section 94 and 94A) contributions to be levied on new development to provide services and facilities to meet the demand generated by new dwellings or floor space. It sets out the type of facilities to be levied for, contribution rates, and the types of development that contributions may be levied on.

The proposed plan is intended to replace our current Section 94 Contributions Plan, which was originally developed in 2000. In summary the plan proposes the following:

- A continuation of the levying of contributions for:
 - Open space acquisition and embellishment,
 - Community facilities
 - Car parking
 - Administration costs
- In respect of these facilities there are alterations to contribution rates and in some instances the siting of new facilities. Proposed new car parking areas are identified.
- The introduction of contributions for town centre streetscape improvements.
- This discontinuation of levying contributions for Environmental Amenity Improvements and Traffic Control and Management works.
- The introduction of a fixed rate Section 94A levy for other forms of development such as commercial and industrial development, single houses and alterations and additions where the cost exceeds \$100,000.

A copy of the draft plan is included in the Attachments.

At the City Development Committee meeting on 14 February 2013 the following was resolved in respect of the draft plan:

THAT the draft Canterbury Development Contributions Plan 2013 be adopted for public exhibition and placed on exhibition in accordance with the provisions of the Environmental Planning Assessment Act and Regulation.

The plan was subsequently placed on public exhibition from Thursday 7 March 2013 until Friday 12 April 2013. The exhibition was notified in the local newspapers. Owners who were directly affected by proposed new car parking areas were also advised in writing. Four submissions were received during the public exhibition period of the plan.

Consideration of submissions received during the Public Exhibition period

- **Car Parking**

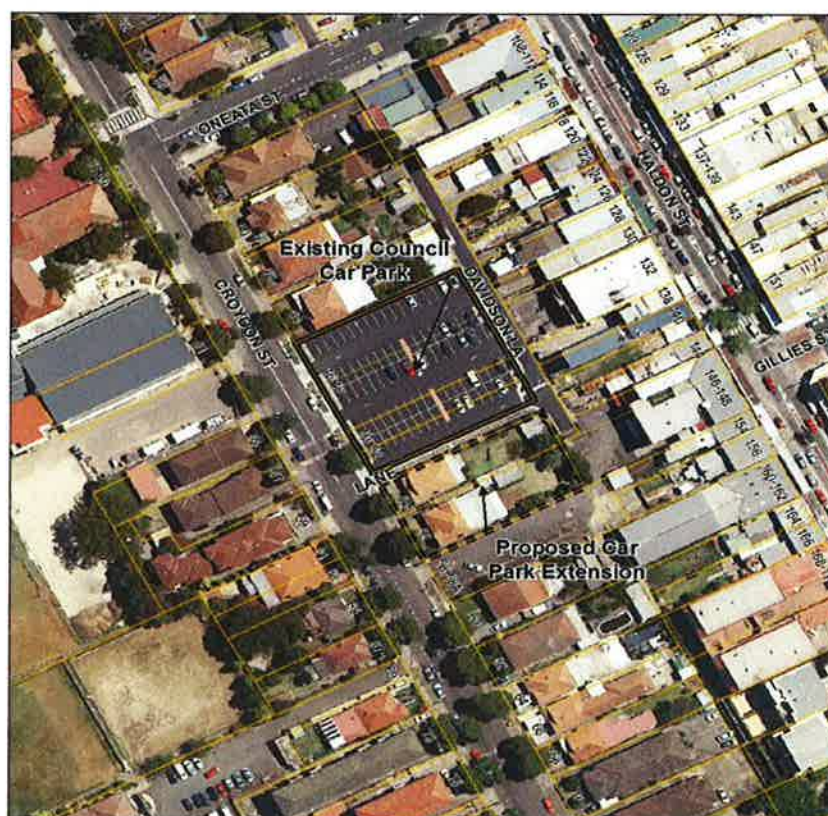
Three submissions were received objecting to sites being identified for additional public car parking at Campsie and Lakemba.

These sites were identified in the Town Centres Car Parking Strategy adopted by Council in 2011 and included in the plan to allow Council to continue levying parking contributions. A further site in Punchbowl was identified but no submissions have been received in relation to this site. They adjoin existing car parks at London Street/Wilfred Avenue, Campsie; and 46-52 Croydon Street, Lakemba, with the intention of the land acquisition to expand these areas.

The location of these areas is shown on the maps below.



Proposed Car Park Extension - Campsie



Proposed Car Park Extension - Lakemba

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

In two of the submissions, the issue raised was predominantly hardship arising from the owner having to relocate from their property. There was also discussion of the range of compensation measures in one submission, should this happen. We have contacted these owners advising that our intention is not to compulsorily acquire land, and that we will only purchase at the owner's request. If acquisition did take place it would be under the Land Acquisition (Just Terms Compensation) Act, 1991, to ensure the owner is fairly compensated for their land value (based on as if the property had not been identified as a car park) and other costs of relocation and disturbance.

One of these owners has further raised the issue that they wish to object if there is any identification of the land that would alert a prospective purchaser through the Section 149 certificate process. This is on the grounds that it would prejudice that owner's rights by way of affectation of the value of the property to which the Council would benefit (in devolution). In other words identification will devalue the property by restricting its future sale, and Council will benefit from a lower price when it acquires.

The Development Contributions Plan is proposing to identify the land through maps, and the plan is identified on the 149 certificate. A further stage in this process can be by reserving the land through the LEP process by rezoning the land and/or identifying for acquisition purposes. This directly alerts any potential purchasers by the notations on the Section 149 certificate should the property be sold, as to Council's intentions for the land. Changing the zoning also restricts the development potential of any land identified so as not to prejudice its future acquisition.

While identification of the land will potentially restrict the sale of a property on the open market, it should not however affect the value of the property. The provisions under the Land Acquisition (Just Terms Compensation) Act, 1991, as discussed above, are to ensure an owner is fairly compensated for their property. If we do not identify the property by some means then it makes the acquisition process of a particular site much more difficult.

The other objection received was also in relation to the extension to the Lakemba car park. The grounds for objection were:

- Adverse impact on the value of the property and surrounding homes
- Is considering redeveloping the property in the near future.

In relation to the first point the property value will not be impacted by the identification of the land as car park, as discussed above. In terms of impact on surrounding homes, the land only directly adjoins one other residential property, which is also identified for car parking. Other surrounding uses include car parking, and business / mixed use development at the rear within Lakemba Town Centre (separated by a laneway). Considering these existing and proposed uses it is unlikely that a car park will impact on the value of these properties.

In relation to redevelopment potential the property has an 11.28m frontage and an area of 562.8m². The frontage and land area is not large enough for redevelopment under existing Council controls. Redevelopment under the State Environmental Planning Policy (Affordable Rental Housing) 2009 is permissible, but subject to restrictions requiring a percentage of the dwellings to be affordable housing.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

The redevelopment potential of the property is restricted. As a reason for objection it is far outweighed by the future community benefits of increased car parking for the users of Lakemba Town Centre.

- **Affordable housing**

One further submission was received from a community housing provider. It raised a number of issues centred around ensuring contributions are affordable, and seeking that the plan either make a general exclusion or allow the possibility of exemption to levying contributions from development by Community Housing Providers.

In relation to the issue of affordability, the Section 94 legislation under the Environmental Planning and Assessment (EPA) Act requires contributions to be reasonable. The draft plan meets this requirement. It complies with the cap imposed on contributions by the Department of Planning and Infrastructure to ensure they are not excessive. It only seeks for legitimate expenditure or cost recovery of new facilities, and where this would result in an excessive contribution rate, the rate has been accordingly modified.

The other main issue in the submission is the levying of contributions on community housing providers. Our current plan levies contributions on this type of affordable housing, and this is carried through into the new draft plan. This is because this form of development generates the need for services and facilities that warrant the levying of contributions. If contributions are not levied then either Council needs to make up the shortfall, or the community will have a lower level of service provision.

It is noted that an agency such as the Department of Housing has accepted the practice of contributions being levied on its development.

The current State Government initiative to encourage affordable housing is by means of State Environmental Planning Policy (Affordable Rental Housing) 2009 rather than through Section 94 contribution reform. This SEPP gives development opportunities and incentives to encourage the provision of affordable housing, especially in relation to private development. In 2012 there have been 21 development applications either approved or received in the City of Canterbury with an affordable housing component under this SEPP, the majority of these applications involving units or town houses and villas. This indicates there is interest in taking up the opportunities that have resulted from the SEPP.

Overall, for these reasons it is recommended that Council should not discriminate against different development types in levying contributions.

- **Transitional Provisions**

The plan represents a significant change in our current approach to Section 94 contributions. For this reason it is desirable to give residents and the development industry a period of time to become aware of the changes. It will also allow time for the review to be incorporated into our processes.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

As such, it is intended that the new plan will come into effect on 1 July 2013, providing a transitional period of over seven weeks. This date also means the plan will align with Council's budgetary process, with which the plan is closely tied.

Supplementary Information:

This matter was deferred by the City Development Committee on 9 May 2013 to allow for further information. The following information is provided in response to comments at the meeting.

Page numbering and cross referencing

- **Comment:** The attachment has the cover page of the plan, and then the next page is iii starting at 2.19. There seems to be two pages missing (page i and ii).

Response: The first page of Contents was missing in the attachment to the previous report, and this has now been included with this report. The first page of the table of contents has been renumbered i, and subsequent pages ii and iii to avoid any confusion.

- **Comment:** There is a reference to Section 2.11.4 on page 4 of the plan. There is no section 2.11.4 in the plan.

Response: This reference was not updated by the consultant when the plan structure was altered when being initially drafted. The reference should be to Section 2.11.3, and this has now been corrected.

Further minor corrections have been made to the plan.

Secondary dwellings

- **Comment:** Secondary dwellings are not a permissible use in our residential zones. How is Council able to approve such developments?

Response: Secondary dwellings are not a permissible use in Canterbury Local Environmental Plan 2012. However State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 makes this type of development permissible in all residential zones in NSW where dwellings are permitted. This SEPP overrides our LEP in terms of the permissibility of this form of development. Under Department of Planning and Infrastructure guidelines, Council is unable to show secondary dwellings as a permitted use in our residential zones in the LEP because of their existing permissibility under this SEPP.

- **Comment:** Council is charging over \$10,000 for a secondary dwelling on properties which have already paid Section 94 because of the primary dwelling. The Act has restrictions with regards to doubling up on section 94 contributions for places like a granny flat which is affordable housing.

Response: Council currently does not charge contributions for secondary dwellings unless they require development consent, which are the minority of such proposals. The contribution rate proposed for a secondary dwelling in the draft plan is \$8,426.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

It is firstly noted that Council does not currently generally charge, or will charge in the future, Section 94 contributions for single dwellings where they are the primary dwelling. This is because most single dwelling proposals either are replacement houses, or already on an established allotment. Council generally has no ability to levy Section 94 contributions in such instances because the new development does not result in a further increase in dwellings beyond which the land is already potentially capable (though a Section 94A contribution might be applicable depending on building costs).

However, the Section 94 credit only applies to that existing dwelling, and not to any further dwellings that may occur on a site. This is the situation whether a site is comprehensively redeveloped, or if an existing dwelling is retained and a further house added either as a dual occupancy or secondary dwelling. The contribution covers the need for services and facilities arising from the increased population that will result from the development.

Council is therefore not 'doubling up' by levying a contribution on a secondary dwelling. The secondary dwelling is introducing an additional dwelling on a site that can be legally occupied by a household unrelated to the occupiers of the primary dwelling. The secondary dwelling can therefore result in a population increase occurring and an increased demand for services and facilities.

In relation to the issue of such development being affordable housing, it is firstly noted that there are no restrictions under the Act in relation to the ability of Council to levy Section 94 contributions on affordable housing. Council is unable to levy Section 94A contributions on affordable housing due to a Ministerial Direction.

A discussion on the issues of levying Section 94 contributions on affordable housing is contained earlier in the report. It is worth noting as well that one of the reasons for levying a contribution on privately provided affordable housing is that it reverts to ordinary housing after ten years. In relation to secondary dwellings, there are no restrictions on the income levels of the occupants of the property.

- **Comment:** Why is the contribution for a secondary dwelling much more than for a new dwelling house?

Response: This arises from the fact that an existing dwelling is already given a Section 94 credit (see discussion above). Therefore the plan only allows the levying of Section 94A Contribution if development occurs for a replacement dwelling or very significant extensions to a dwelling. A Section 94A Contribution is set at a much lower rate in recognition that the development does not necessarily result in an increase in demand for services and facilities. The maximum rate for this is fixed by the State Government.

A new secondary dwelling, however, does not benefit from any existing credit. Under the proposed plan, it will pay a proportionate amount to the demand it will create for services and facilities.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

The plan acknowledges that secondary dwellings are generally restricted in size under State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009 and therefore the lowest rate for a dwelling (one bedroom) is charged under the plan.

The purpose of Section 94A levies (as opposed to traditional Section 94 contributions) was to provide councils with an additional income stream from new development which is not required to meet test of “nexus” of population growth to new infrastructure, is not required to be linked to population growth and can be used to contribute to the provision of new infrastructure for existing populations. Section 94A levies are also non appellable. In summary, these levies create an additional income stream sourced from new development, to assist Council in meeting its infrastructure provision obligations.

It is also noted that Section 94A levies will be charged against non-residential development.

Identification of 56 Croydon Street, Lakemba for Car Parking

- **Comment:** Can further investigation occur regarding the issues raised by the owner of 56 Croydon Street regarding the specific identification of her property?

Response: Further investigation has taken place regarding the identification of this land and 54 Croydon Street for future car parking. The specific identification of this land in the Town Centres Car Parking Strategy was on the basis to capitalise on the location of the two sites between an existing public and privately owned car park. There are, however, other sites available in the Croydon Street / Oneata Street area where there is potential to provide additional car parking for this area. Rather than Council locking itself into a location which may not readily occur because of an owner's unwillingness to sell, a more flexible approach can be undertaken by generally identifying this location in the plan for future parking.

As such there will not be any specific identification of 56 Croydon Street or any other land in Lakemba in the plan. If land in the Croydon Street / Oneata Street area comes up for sale, then Council can negotiate for its purchase.

- **Comment:** Future parking in this area could occur by means of a parking structure on the existing car park.

Response: This issue of a parking structure in this area was considered in the Council report of 24 May 2012 regarding the Town Centres Car Parking Strategy, where the following comment was made:

The existing car park could also be potentially decked to also meet future needs, however it is considered that the impact on adjoining properties is not desirable, and it is best in Council's long term strategic interests to expand its land holding which will give it greater flexibility in providing future car parking options such as decking.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)**Secondary Dwellings**

It was established that it was legally possible for Council to levy both Section 94 and 94A contributions on secondary dwellings. It was noted that there is no legislation, regulation or Ministerial direction that specifically limits or restricts development contributions in relation to secondary dwellings. The restriction on levying Section 94A contributions on affordable housing by definition generally does not apply to secondary dwellings.

It was also established that a cross section of Sydney Councils found a wide variety in the rates and methods of levying contributions.

Four contributions options were presented for consideration:

1. **No Contribution or Levy**

This option largely reflects the current situation. It will make secondary dwellings an attractive development form compared to other development types such as dual occupancy which has contributions. Based on recent development rates, Council would forgo a total of approximately \$370,000 worth of contributions per year. Not levying a contribution will mean Council will not regain any cost recovery for the services and facilities that this new development generates. It will then either have to provide this from its own revenue, or accept a further shortfall.

At the workshop, a question was asked if Council levies a waste collection charge on new secondary dwellings. Council does levy a separate waste charge on these dwellings, which is currently \$349.50 per year.

2. **Apply the contribution rate proposed in the draft plan**

This recognises that these new dwellings add local population, and should be levied on a similar basis to other dual occupancies, multi dwelling housing and residential flat buildings. The proposed contribution provides a discount for two or more bedroom dwellings (the most common type of secondary dwelling in Canterbury) by levying at the one bedroom rate. A \$100,000 development cost would represent a levy of about 8.5%.

The disadvantage of this approach is that secondary dwellings may be occupied by family members who may have previously lived in the principle residence, and therefore are not resulting in a further demand for services. There is however no information available to establish the degree to which this happens. Also, there is no restriction on the occupation of a secondary dwelling, so if the family member moves out, people unrelated to the family group could move in. Nonetheless, the occupation of secondary dwellings by family members should be a consideration in setting contributions rates.

3. **Apply a further reduced or discounted contribution**

This option still seeks some degree of cost recovery for service provision, but reflects the issue raised above relating to the occupation of secondary dwellings by family members. A further reduced rate will also provide a greater incentive for this type of housing.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

4. Apply a section 94A levy

The section 94A levy only applies to development greater than \$100,000. Secondary dwellings generally cost less than \$100,000 so the levy is likely to yield little or no contributions - it may cost more to administer than the income received. The contribution amount bears little relationship to the extent of impact on local services, and this option was not recommended.

Conclusion

Option 3 (applying a further contribution reduction) is the most preferable of the options presented. There should be some degree of contribution payable to reflect the demand placed on services. However, a reduction is justified because of the use of secondary dwellings by family members, and also acknowledges the role secondary dwellings play in providing alternative housing especially to lower income earners. On reflection it would be undesirable to discourage this development through having a relatively high contribution rate, and this may also encourage unauthorized development by those seeking to avoid paying a contribution.

Whilst there was some discussion about the possibility of levying different contributions for different sized secondary dwellings, it is important to keep the contributions regime simple. For this reason, and to not overly discourage secondary dwellings, it is proposed to discount the contribution otherwise payable on secondary dwellings by 50%. This will mean that secondary dwellings will be charged \$4,213 in section 94 contributions. This compares favourably with the contribution payable for a one bedroom unit which is \$8,426.

This rate will be subject to ongoing review to ensure it is reasonable. A survey of the usage of secondary dwellings is to be undertaken over the next year to establish characteristics of the occupation of these dwellings, and this will be reported back to Council. This will establish the degree of family usage of secondary dwellings, and the need to review the contribution rate if appropriate.

225-249 Canterbury Road, Canterbury - Roadworks

The proposed plan contains a specific contribution for development occurring on this land. This is to facilitate the widening and extension of Clunes Lane to service this land. Previous advice from the then Roads and Traffic Authority was that it would not permit new development to have access from Canterbury Road.

Since the draft Section 94 contributions plan was exhibited the cost estimates for construction for Clunes Lane have significantly increased from \$400,000 to \$1,000,000. Along with this increase in cost has been an increase from 50 to 93 for the potential dwelling yield within this redevelopment area due to the new LEP and DCP development controls.

A new rate for the laneway construction is now proposed for this area based on this new information. This is as follows:

Dwelling type	Existing proposed rate	New proposed rate
Boarding houses, group homes etc.	\$6,923	\$5,430
1 bedroom dwellings	\$10,622	\$8,331
2 bedroom dwellings	\$16,585	\$13,008
3 bedroom dwellings	\$22,843	\$17,916

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

It should be noted that even though the rate per dwelling will reduce, the combined effects of the increased costs and dwelling yields mean the road costs will still be met.

As this new rate will result in a reduction based on the existing draft plan rate, it is considered that this does not warrant re-exhibition of the plan. New development will also be required to pay the open space and community facilities contributions in the plan (up to an overall cap of \$20,000 per dwelling).

RECOMMENDATION:

THAT

1. The draft Canterbury Development Contributions Plan 2013 be approved and notification of this occur in accordance with the Environmental Planning and Assessment Regulation 2000.
2. A planning proposal be prepared in relation to the land identified for future public car parking at Campsie and Punchbowl in the plan to make any necessary amendments to Canterbury Local Environmental Plan 2012.
3. A survey of the usage of secondary dwellings be undertaken over the next year to establish characteristics of the occupation of these dwellings, and be reported back to Council.

CITY DEVELOPMENT COMMITTEE**RESOLUTION - 08 AUGUST 2013**

- 4 **DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013**
FILE NO: S-149-3 PT5

Min. No. 278 RESOLVED (Councillors Robson/Saleh)

THAT

1. The draft Canterbury Development Contributions Plan 2013 be approved and notification of this occur in accordance with the Environmental Planning and Assessment Regulation 2000.
2. A planning proposal be prepared in relation to the land identified for future public car parking at Campsie and Punchbowl in the plan to make any necessary amendments to Canterbury Local Environmental Plan 2012.
3. A survey of the usage of secondary dwellings be undertaken over the next year to establish characteristics of the occupation of these dwellings, and be reported back to Council.
4. The levy for secondary dwellings be set at \$4,213.

DRAFT CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013 (CONT.)

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Saleh	
Councillor Adler	
Councillor Azzi	
Councillor Eisler	
Councillor Hawatt	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

During discussion on the above item, Councillor Adler vacated the Chair at 8.02 p.m. The Deputy Chairperson, Councillor Hawatt assumed the Chair.

Councillor Adler resumed the Chair at 8.14 p.m.

OFFICERS REPORTS**8 AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012****FILE NO:** T-20-28**Attachments:** Canterbury Development Control Plan 2012 Part 2**REPORT BY:** DIRECTOR CITY PLANNING

Summary:

- This matter was deferred by the Extraordinary Council meeting on 31 October 2013 for consideration at the Council meeting on 28 November 2013.
- Council at its meeting on 9 May 2013 considered a report foreshadowing changes to be made to the Canterbury Development Control Plan 2012 (CDCP 2012).
- A review of Part 2 Residential Neighbourhood, Part 6 Climate and Resource Efficiency and Part 7 Notification of Development Application has been carried out.
- The amendments seek to refine and clarify those sections of the DCP as well as rectify various anomalies that have been identified.
- It is recommended that the draft amendments to the Development Control Plan 2012 be adopted for purposes of public exhibition.
- It is also recommended that an amendment to CLEP 2012 be prepared to exempt semi-detached dwellings from the CLEP FSR maps.

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**

Council at its meeting on 9 May 2013 considered a report foreshadowing changes to be made to the Canterbury Development Control Plan 2012 (CDCP 2012).

A summary of the proposed changes recommended for endorsement by Council for public exhibition is provided below.

Proposed amendments to CDCP 2012

The following sections of the CDCP 2012 have been reviewed:

- Part 2 Residential Neighbourhood
- Part 6.2 General Controls – Climate and resource efficiency
- Part 7 Notification of Development Application

Some of the key issues that have been identified in this first set of amendments to the CDCP 2012 include:

- Improved consistency with the CLEP 2012.
 - Some information is not always in a logical location within the DCP and can be difficult for applicants to locate and understand within the right context.
-

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

- Some development types have limited or no development controls, which could result in inappropriate development.

Reasons for the amendments:

- To make the controls more workable, correct minor typos and reformat sections for easier reading.
- To overcome discrepancies and clarification of issues

A summary of the proposed changes recommended for endorsement for public exhibition is provided below. Parts 2, 6.2 and 7 have also been provided separately to Councillors.

Section in DCP	Amendment
Throughout Part 2 Residential Neighbourhoods	• Wording changes to ensure consistency with definitions, development standards and provisions of Canterbury LEP 2012. • Re-titling, re-numbering and/or reordering of some sections and sub sections, correcting cross references and typographical errors to improve DCP format.
Part 2 Secondary Dwellings	Secondary dwellings A note has been added to clarify Council's previously adopted position on secondary dwellings by explaining the process involved with secondary dwelling applications. Controls for secondary dwellings are contained in the SEPP (Affordable Rental Housing) 2009. If a secondary dwelling meets the requirements set out in this policy, it can be assessed as a complying development. However, when this is not the case, it must be lodged with Council as a Development Application (DA) and assessed on merit.
2.1.1 Avoid isolating undeveloped sites	Isolation of existing sites A number of controls have been added to address the development of existing isolated sites. One of the controls has been included to address concerns with the streetscape impact of development on existing isolated sites so as to ensure they do not detract from the character of the area. The other control will enable council to consider the development of existing isolated sites in R4 zones where the site width is less than the required 20m frontage. A two storey residential flat building may be considered on sites between 15-20m. This recommendation came from the findings of the Residential Development Strategy.
2.1.2 Site requirements	Dual occupancy – release of subdivision certificate A note has been added to clarify that dual occupancy developments must be completed before the release of a subdivision certificate. This is to ensure the development has been fully built before we release the subdivision certificate.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Section in DCP	Amendment
2.1.4 Maximum Height	Number of storeys An amendment has been made to omit reference to the number of storeys for residential flat buildings (RFB) where a maximum height on the LEP map is 14m, 18m and 21m. This was done to avoid confusion with the statutory LEP controls where the maximum height limit is expressed in metres. The number of storeys for RFBs is still retained in the DCP insofar as it relates to key building envelope (particularly setbacks for base and upper storey elements of the building) controls. A key control in the DCP for RFBs is the design of the building with a base and upper storey element. Additional setbacks are required for buildings 4 storeys and higher. The most suitable way to express this control is in the number of storeys as opposed to providing a metric measurement. For example a 4 storey RFB will need to have a 3 storey base element with the 4th storey, upper storey element setback an additional 3m. A note has been included to allow encroachments to this setback where it is considered that a reduced setback will add architectural interest and articulation to the building.
2.1.5 Depth/footprint	Footprint requirement for attached dwellings and multi dwelling housing The maximum building footprint requirement has been amended for attached dwellings in the R3 and R4 zone and Multi dwelling housing in the R3 zone from 20m to 25m. The increase in depth will bring it into line with other residential developments which have a 25m depth requirement. A 25m building footprint would now apply to all forms of residential development. The amendment is intended to provide a consistent approach to the built form outcomes for residential development in the area as well as facilitating increased flexibility in design solutions.
2.1.7 Minimum setback	Narrow lot definition and setback controls Narrow lots are currently defined as a residential lot with a width of less than 10m. An amendment to the definition of narrow lots is proposed by increasing the width requirement of a narrow lot to 12.5m. For a narrow lot a 1m side setback applies at ground and first floor level and for a regular lot a side setback of 1.5m (at first floor level) applies. Recent feedback suggests the side setback controls for dwelling houses are overly restrictive on sites that are less than 12.19m wide. To address this concern an amendment to the definition of narrow lots is proposed to cover the typical 40 feet (12.19m) lot sizes. Side setbacks for semi-detached dwellings, dwelling houses and dual occupancy have also been amended. The changes revert back to the old setback controls from our former planning controls. An explanatory section on average side setbacks has been included to provide guidance on how these setbacks are to be calculated for multi dwelling housing and residential flat buildings.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Section in DCP	Amendment
2.1.10 Maximum floor area and site coverage	Floor area and site coverage definition for dwelling houses The DCP specifies a maximum floor area rather than a floor space ratio (FSR) for dwelling house developments. The definition of floor area was inadvertently omitted from the DCP when the DCP was consolidated. The definition of floor area and site coverage has been inserted as a note in the DCP to clarify how floor area and site coverage is to be calculated. The definitions come directly from the NSW Housing Code (Codes SEPP 2008) which is consistent with the approach to adopt the built form controls from the SEPP when the residential DCP was prepared and endorsed (for exhibition with the CDCP 2012) at the City Development meeting in February 2012. The definition of Floor Area in the Codes SEPP is different to the Gross Floor Area definition in the CLEP 2012. The key difference is that when calculating floor area for a dwelling house the LEP's definition measures the floor area from the internal face of the walls and excludes the required parking structures whereas the SEPP's definition measures the floor area from the outer faces of the walls and includes all parking structures. By using the floor area definition in the Codes SEPP it would include in its calculation of floor area 2 parking spaces which equates to approximately 45sqm. The maximum floor area for a dwelling house permitted under the DCP has factored this into account by allowing significantly more floor area (330m2 on a lot size of 450m2). The built form outcomes of the proposed floor area controls compare favourably with the total floor area permitted under our existing controls. The inclusion of the floor area definition from the Codes SEPP in the DCP will clarify Council's previous position on adopting the built form controls from the Codes SEPP for dwelling house applications.
2.3.3 Minimum Open Space requirements	Open space and requirements The following amendments have been made to this section: • Removed private courtyard requirements for single dwelling house development. This is an unnecessary control. • Amended private open space requirements for dual occupancy and semi-detached dwellings from 75m2 to 50m2 so that it is consistent with the requirement for villa and town house developments. • Amended the private open space requirements for semi-detached dwellings on sites with a site width less than 7.5m wide from 50m2 to 40m2. • Removed the requirement for communal open space for villa and town house and attached dwellings. These amendments were made to remove restrictions on development where it was considered to be onerous and not workable.
6.2.6 Daylight and sun access	Solar access for dwellings adjoining new residential buildings Controls for solar access requirements have been clarified to ensure they apply to both dwellings adjoining new residential buildings and dwellings adjoining business zones.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Section in DCP	Amendment
	Block overshadowing for dual occupancy development A note has been added in the DCP to provide concessions for dual occupancy development where block overshadowing occurs. The DCP requires a minimum of 2 hours sunlight to be provided to the indoor living areas and at least half of the principal area to each dwelling's private open space in mid-winter. This requirement may not be achievable for the southern side dwelling in a dual occupancy development where the development is on a site with an east-west orientation. Blocks with an east-west orientation are very common in Canterbury and the inclusion of this concession will provide flexibility for dual occupancy applications in circumstances where block overshadowing occurs Block overshadowing is such that at least 80% of the area of dwelling facades from North-East to North-West is overshadowed for at least 4 hours between 9.00 a.m. and 3.00 p.m. between 22 April and 22 August. This concession can only be used if it can be properly justified and demonstrated that "block overshadowing" does occur. A definition of block overshadowing has been included in the note to avoid confusion.
Part 7 Notification of Development Applications	Notification process This section has been rearranged to ensure consistency with the land use definitions in the LEP. The DCP contains a table which lists the land use and whether it be Type "A" or Type "B" notification. The land use in the table does not reflect all the land uses in the LEP. This table has been removed from the DCP. To ensure all land uses in the LEP are covered in the notification process the process for notifying applications has been amended to require all applications to be notified as type "A" unless that application is listed as a type "B" notification. The type or extent of notification has not been altered. Two additional exclusions where notification is not required have been included in the DCP. The first exclusion involves single storey dwelling applications where the proposal complies with all key DCP controls relating to height, setback and density; and the other exclusion involves a change of use in a business or industrial zone where in the opinion of Council the proposed use will have negligible impact on any adjoining residential properties. These exclusions have been added as it reflects current practice with complying development applications which can be approved by private certifiers.

FSR for semi-detached dwellings

Built form controls for dwelling house and semi-detached dwellings are expressed as floor areas in the DCP. The standard Instrument template requires that FSRs are to be contained in the LEP and are to be shown on the floor space ratio map. The LEP contains a clause which exempts dwelling houses from the FSR maps if it is within the residential zones (R2, R3, R4). This exemption does not apply to semi-detached dwellings which will mean that for any semi-detached dwellings the applicable FSR (ranging from 0.5-0.9:1) on the land will apply. This is an unintentional omission. An amendment to the LEP is therefore necessary to resolve this situation.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)**Other matters**

Our recently adopted Development Contributions Plan enables Council to consider waiving contributions where the development involves minor alterations and additions to an existing building or property. The plan defines minor alterations and additions as involving an increase of less than 10m² Gross Floor Area (GFA). An amendment to the DCP is proposed to increase this figure to 25m² as the current GFA permitted is considered too restrictive. A separate report on this matter was considered at the City Development Committee meeting on 10 October 2013. The amendment will still allow for modest extensions to existing business properties, without the need to pay the Town Centre Improvement Program contribution.

It then flows that a corresponding concession be given to the amount of additional floor space that can be proposed before the need to provide additional car parking is triggered. It would be appropriate to use the same figure of 25m² and that it be applied to all business and industrial zones.

Conclusion

The current review of the DCP has been undertaken for the primary purpose of rectifying various issues and anomalies that have been identified as the DCP has been applied and used since coming into force. These amendments represent the first stages of what will be an ongoing process of review and refinement.

Supplementary Information**Background**

This matter was deferred at the Council meeting on 24 October 2013 for consideration at the Extraordinary Council meeting on 31 October 2013.

At that meeting, it was also resolved THAT:

- 4 The following amendments to Canterbury Development Control Plan 2012 be adopted for the purposes of public comment:
 - 4.1 Allow both multi dwelling housing and lower scale residential flat buildings (up to two levels above ground) with basement parking on isolated sites within the R4 zone that have a frontage of between 15 and 20 metres.
 - 4.2 Allow basement parking for multi dwelling housing development in R3 zones in exceptional circumstances and where it will not have an adverse impact on the streetscape.
 - 4.3 A minimum frontage of 30 metres to apply for new development in the new consolidated B5/B6 zone.
 - 4.4 The straight residential development in the new B5/B6 consolidated zone include the following controls:
 - 9 metre minimum front setback for buildings with ground floor residential apartments
 - 4.5m side boundary setback with SEPP 65 separation requirements for height of 4 storeys and above”.

At the meeting it was resolved the matter be deferred to the Council meeting on 28 November 2013.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Amendments to the DCP 2012 – Council resolution 31 October 2013

Council considered the Residential Development Strategy at an extraordinary meeting on 31 October 2013. At that meeting, Council also resolved to make various amendments to the DCP.

The table below outlines the amendments to be made to the DCP 2012 arising from that Council resolution.

Amendments	Comments
Allow both multi dwelling housing and lower scale residential flat buildings (up to two levels above ground) with basement parking on isolated sites within the R4 zone that have a frontage of between 15 and 20 metres.	The amendments to the DCP will allow this form of development. Section 2.1.1 (iv) allows 2 storey RFB or MDH in R4 zones on sites between 15 to 20m.
Allow basement parking for multi dwelling housing development in R3 zones in exceptional circumstances and where it will not have an adverse impact on the streetscape.	The amendments to the DCP have included a control Section 2.1.3 (iv) which permits MDH with basement parking in the R3 zone. The provision reads: <i>“The provision of basement parking may be considered where site constraints warrant and it can be demonstrated that there will be no adverse impacts on amenity or streetscape”.</i>
A minimum frontage of 30 metres to apply for new development in the new consolidated B5/B6 zone. The straight residential development in the new B5/B6 consolidated zone include the following controls: – 9 metre minimum front setback for buildings with ground floor residential apartments – 4.5m side boundary setback with SEPP 65 separation requirements for height of 4 storeys and above.	These requirements will necessitate amendments to be made to the Business centre section of the DCP. Part 3 Business Centre has been amended to include the new provisions. A planning proposal will be prepared to amend the LEP to permit mixed use development and RFB in the new consolidated B5/B6 zone. The controls in the DCP will not become effective until the LEP has been approved.

Additional information

Concerns were expressed that the previously deferred report did not include discussion on all amendments proposed, albeit that they were relatively minor.

The table below identifies all changes proposed to the DCP. Part 2 of the DCP, which includes the proposed amendments, is included in the Attachments.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Section	Amendment
Introduction	- Removed paragraph relating to growth in city etc. This paragraph was removed as it was superfluous information. - Amended dot point 6 to replace Residential Flat Building 2-6 storeys to Residential Flat Building 2 or more storeys to reflect the amended controls on number of storeys for Residential Flat Buildings (P. 2-1).
2.1.1 Avoid isolating undeveloped sites	- A new objective has been included to deal with existing isolated sites to reflect the new controls on existing isolated sites Section 2.1.1 (iii) & (iv). - A note has been added to highlight the development of existing isolated sites may not be able to achieve the maximum potential of the site.
2.1.2 Site requirements	- This section combines Section 2.1.2 Subdivision and Section 2.1.3 Minimum frontage to a single section titled "site requirements". Numerical standards relating to minimum frontage and site requirements for each development type have been combined to remove the duplication of controls. - Objective 02 has been reworded from the original objectives of Section 2.1.1. - Notes have been added to refer to the land subdivision requirements in the LEP. The notes were added to clarify and cross reference the subdivision requirements in the LEP.
2.1.3 Height	- Correction to the basement parking permissibility table Section 2.1.3 (iv). Basements are not permitted for attached dwellings in the R4 zone. This has always been the case. - Note added to allow Multi Dwelling Housing with basements in R3 zones. This recommendation came from the findings of the RDS.
2.1.4 Maximum height	- Control (iv) has been amended to remove the maximum 300mm of fill allowed. This was removed as it conflicted with other controls in the DCP. The 1m maximum finished floor level is maintained and is consistent with the maximum height for cut and fill. - The references to attached dwellings for control vii-ix were removed. The height controls were intended to apply to multi dwelling housing only. Heights for attached dwellings have been moved to Residential Flat Building (x-xi) as they better reflect the heights for attached dwellings. - Included a maximum external wall height of 7m for Residential Flat Building in areas with a maximum height of 8.5m. This reinstates the original intent of the 2 storey height limit for residential flat buildings in areas with an 8.5m height limit. - A note has been added to cross reference the additional setback controls that apply to RFB with a maximum height of 14m, 18m and 21m.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Section	Amendment
2.1.7 Minimum setbacks	- Development types (detached, semi-detached and dual occupancy) for the front setbacks (on a site that has a frontage to a major road) have been removed as the front setback requirement should apply to all types of development. - A new control (xii) has been included to deal with ground floor addition to semi-detached dwellings where the dwelling shares a common wall and allowing the addition to be built to the common boundary. - Deep soil area requirements for semi-detached and dual occupancy dwelling on regular lots have been amended (xxiii). The minimum 5m width of deep soil has been removed and replaced to require deep soil to be provided within the front and rear setbacks. The numerical requirement was removed to avoid confusion. - Setback controls Section 2.1.7 (xxiv) for outbuildings has been included in the DCP as there is currently no setback controls for outbuildings. A minimum setback of 450mm applies if the external wall height is over 2.7m. Encroachments will be permitted into the setback area if the height does not exceed 2.7m. - Removed reference to requiring the additional 2m setback for any third storey or third level mezzanine for multi dwelling housing in R4 zones and Residential Flat Building. - The term 'podium' element has been replaced with 'base' element for Residential Flat Buildings. - A note has been added to clarify that greater building setbacks may be required to satisfy the building separation requirements in the DCP and SEPP 65.
2.1.8 Exceptions to setbacks	- Correction to the reference to 'existing two storey dwelling' (development type for control i) has been replaced with 'existing dwelling'. This was an error. The control was intended to relate to an existing dwelling house. - The control (i) has also been amended to allow a greater building depth for first floor additions to match the side and front setbacks of the existing dwelling. A depth of 10m or 50% of the length of the existing façade, whichever is greater, is proposed. - Control (iv) relating to carport & carport setback for a site that has frontage to a laneway has been amended by relocating the second dot point relating to sites that rise from the street frontage etc, has been moved to Section 2.1.11 (xi). - New control (vii) for existing dwelling has been added to allow a single carport to encroach within the minimum front setback area where it can be demonstrated that the vehicular access cannot be provided behind the building line. - The second paragraph in control (xi) which provides a description of the articulation zone has been removed.
2.1.9 Building separation	- Correction to control (i) which removes reference to dual occupancy. The controls were not intended to apply to dual occupancy developments. - Amended control (viii) to provide clarification on the separation controls and to cross reference the building separation controls in the Residential Flat Design Code.
2.1.11 Required provision of car and bicycle parking, and delivery facilities.	- New objective (04) added which makes reference to visitor parking. The objective reflects the visitor parking controls (iv) which were reinstated back into the DCP from DCP 20. - The maximum width of parking structures for different development type has been made in a table format for ease of reference. - Controls in this section have been generally reformatted for ease of reading. Existing controls remain unchanged.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Section	Amendment
2.2 Design Controls	- General formatting of this section for ease of reading. - Added a new control (vi) to limit a dwelling to one kitchen and laundry. This control was added to discourage the conversion of a dwelling to more than one dwelling ie to a boarding house. The control came from the former DCP 49. - New control 2.2.2 (viii-xii) on the treatment of the front courtyard fencing and landscaping for multi dwelling housing. A note has been added to clarify that setback of Multi Dwelling Housing may need to be increased to accommodate the required private open space. - The controls for panel widths 2.2.3 (viii) of visible facades has been made in a table format for ease of reference. - New controls 2.2.4 (iv) has been added to discourage the use of mansard roofs. The controls were added to prevent the use of a roof space as a habitable level. In preference for more traditional attics which have a lesser visual impact. - New controls 2.2.5 (ii & iv) on fencing added to clarify fencing requirements forward of the building line and on corner sites with a secondary frontage. These controls were added as there were limited controls in the DCP for fencing within the front setback area and on corner sites which were causing issues for our assessment staff. - Fencing controls 2.2.5 (vi) for multi dwelling housing have been added to reflect the new controls 2.2.3 (viii).
2.2.6 Services and Utility	A requirement (xi) that letterboxes be installed to meet Australia post standards has been added to maintain consistency with the Australian Standards.
2.3.2 Acoustic Privacy	Remove reference to “driveways” as a source of noise under section 2.3.2 (i). This was seen to be conflicting in situations with side boundary driveways that are immediately adjacent to bedroom windows.
2.3.3 Min open space requirements	Amended control (xi) dot point one to ensure level access is provided from living areas to principal open space by requiring the indoor areas must not be elevated more than 300mm above the principal open space.
2.3.4 Internal dwelling space and design	The minimum width of primary living areas and principal bedrooms has been reworded from “each living area” to “the primary living area and principal bedroom.” The requirement that all living areas meet this requirement was considered too onerous.

Additional amendments have been made to the DCP as a result of a further review of the DCP. The changes are identified on the following table.

Amendments	Comments/discussion
Removal of section 2.1.10 & replace with old FSR from DCP 49.	- The maximum floor areas used for dwelling house, semi-detached dwelling (section 2.1.10) will be replaced with FSR controls based on those previously applying under DCP 49 and DCP 47 (narrow lots). This used a sliding scale FSR based on the size of the site. - The following FSR are proposed to be applied to all dwelling houses and semi-detached dwellings: 0.65:1 for sites less than 200m² and less than 12.5m wide 0.55:1 for sites greater than 200m² and less than 12.5m wide 0.55:1 for sites greater than 200m² and less than 600m² and greater than 12.5m wide. 0.5:1 for sites greater than 600m² and greater than 12.5m wide

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Amendments	Comments/discussion
	- It is important to note the conversion of the floor area controls to a FSR control will require amendments to be made to our LEP. The maximum FSR applying to a building on any land is expressed in the LEP FSR map. The LEP currently contains a provision (4.4 (2A)) that exempts the FSR from applying to dwelling houses. - A planning proposal will be required to amend the LEP to remove this requirement and new provisions should be included in the LEP to reflect the amended FSR requirements for dwelling houses and semi-detached dwellings. - Given the statutory process needed to amend the LEP the floor areas in the DCP will still need to apply until such time the amendments to the LEP are finalised. Reverting to a FSR control will mean the definition in the LEP will be relied upon for FSR calculation. - In the meantime, the note at the bottom of the table to 2.1.10 which was previously recommended to be inserted, will remain out of the document.
Setback controls (2.1.6)	- The DCP currently uses an average setback for the majority of development types to calculate the setback requirements. The use of an average was intended to facilitate building articulation and to create visual interest in built form. Recent feedback suggests the use of an average setback was difficult to calculate and resulted in different interpretation by applicants, which was not desirable. - The amendments to the DCP will remove many of the the average setbacks and replace it with a minimum setback. - Rear setbacks for dwelling house and semi-detached dwellings (xiv & xx) and have been amended to 6m. - Setback for dwelling house and semi-detached on a regular lot on corner sites a minimum of 3.5m from the longer street boundary will apply (xxii). - A new objective 04 has been added to Section 2.1.6 read: <i>"Provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely impacts of new development"</i>. - A note has been added to clarify that variations to minimum setbacks may be considered (on merit) where it can be demonstrated that the objectives of the DCP can be met.
Amend the depth of the two storey section for MDH	- The DCP currently allows the depth of the two storey component of a Multi Dwelling Housing to extend up to 20m plus the required front setback (min 6m). It is proposed to allow the depth of the two storey section of the building to be increased by allowing the depth of the two storey area to equal the distance of 65% of the total length of the allotment. This will enable deeper sites to be considered more equitably. - The inclusion of this control will enable the two storey section of the building to be proportional to the depth of the site.
Amend rear and side setbacks for Multi Dwelling Housing.	- Amendments are proposed to the setbacks applying to MDH. - The following amendments are proposed: - A minimum of 3m rear setback where the building the subject of the setback, is single storey. This setback is to be increased to 5m where an attic is proposed. - Setbacks of 2.5m for side setbacks other than those "immediately next to the street". - On corner lots a minimum of 5.5m the longer street boundary. - Rear deep soil zone to reflect either the 3m or 5m depending on

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

Amendments	Comments/discussion
	the setback requirements.
Amend the separation distance of 6m to 5m between buildings on detached dual occupancy on corner sites and MDH	It is proposed to amend the building separation controls (between buildings within a site) that currently apply to Multi Dwelling Housing and detached dual occupancies on corner lots from 6m to 5m.
Reduce height limit for 3 storey RFB from 11.5m to 11m	3 storey RFBs currently have an allowable height limit of 11.5m in the LEP. Maximum height in the LEP is expressed as a metric measurement in metres. Number of storeys cannot be included in the LEP but can be included in a DCP. Recent development applications received by Council reveal that a fourth storey can be incorporated within the 11.5m height limit if an element of excavation is included. Given the statutory weight LEPs have over DCPs it is proposed to amend the height in the LEP intended for 3 storey RFBs from 11.5m to 11m. - The amendment would assist in reinforcing the 3 storey limit for RFBs in the R4 zones. - A planning proposal will need to be prepared to amend the height in the LEP for areas with a maximum height limit of 11.5m to be reduced to 11m.
Remove need to avoid flat roofs (2.2.4)	2.2.4 (vi) which discourages the use of flat roof where the majority of dwellings in the street have pitched roofs has been removed. This control is overly restrictive given the modern desire to include flat roof designs.
Private courtyards for MDH	Section 2.2.2 (viii) requires the private courtyard of MDH developments to face the street, driveways and any communal open space on the site. This requirement has been removed.
2.3.3 Minimum open Space requirements.	Section 2.3.3 (xi) dot point 3 requires an additional area of 4m² to be dedicated for clothes drying. The numerical requirement has been removed as it was an error.
Number of storeys in Business Centres	- An amendment has been made to omit reference to number of storeys for residential flat buildings in the residential section of the DCP. This was done to avoid confusion with the statutory LEP controls where the maximum height limit is expressed in metres. - The business section of the DCP (Part 3) contains the number of storey controls. It is also proposed to remove reference to number of storeys in the business section of the DCP.

Conclusion

The report provides additional information in response to council's resolution of 31 October 2013. Additional amendments and information on the DCP has been provided.

It is recommended draft amendments to the DCP be adopted for the purposes of public exhibition.

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

RECOMMENDATION:**THAT**

1. The draft amendments to the Canterbury Development Control Plan 2012 (CDCP 2012) be adopted for purposes of public exhibition.
2. A Planning Proposal be prepared to amend the Canterbury Local Environmental Plan 2012 as follows:
 - exempt semi-detached dwellings from the LEP FSR maps.
 - reduce height limit in the R4 zone from 11.5m to 11m.
 - amend the FSR controls for dwelling houses and semi-detached dwellings as follows:
 - 0.65:1 for sites less than 200m² and less than 12.5m wide
 - 0.55:1 for sites greater than 200m² and less than 12.5m wide
 - 0.55:1 for sites greater than 200m² and less than 600m² and greater than 12.5m wide
 - 0.5:1 for sites greater than 600m² and greater than 12.5m wide.
3. The provisions of CDCP 2012 continue to be reviewed, to identify ways of making the document as user friendly as possible, while continuing the collaboration with Development Assessment to identify issues as they arise.

Note: The sections of the Development Control Plan referred to in the first section of this report are attached to the agenda for the City Development Committee meeting of 10 October 2013 which is available on our website (www.canterbury.nsw.gov.au). The amendments to Part 2 of CDCP referred to in the Supplementary Information section of this report are attached to the report.

COUNCIL MEETING
RESOLUTION - 28 NOVEMBER 2013

8 AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012

FILE NO: T-20-28

Min. No. 425 RESOLVED (Councillors Hawatt/Azzi)

THAT

1. The draft amendments to the Canterbury Development Control Plan 2012 (CDCP 2012) be adopted for purposes of public exhibition.
2. A Planning Proposal be prepared to amend the Canterbury Local Environmental Plan 2012 as follows:
 - exempt semi-detached dwellings from the LEP FSR maps.
 - reduce height limit in the R4 zone from 11.5m to 11m.
 - amend the FSR controls for dwelling houses and semi-detached dwellings as follows:
 - 0.65:1 for sites less than 200m² and less than 12.5m wide
 - 0.55:1 for sites greater than 200m² and less than 12.5m wide

AMENDMENTS TO CANTERBURY DEVELOPMENT CONTROL PLAN 2012 (CONT.)

- 0.55:1 for sites greater than 200m² and less than 600m² and greater than 12.5m wide
 - 0.5:1 for sites greater than 600m² and greater than 12.5m wide.
- 3. The provisions of CDCP 2012 continue to be reviewed, to identify ways of making the document as user friendly as possible, while continuing the collaboration with Development Assessment to identify issues as they arise.

5 PERMISSIBILITY OF SEX SERVICES PREMISES IN THE CITY OF CANTERBURY

FILE NO: T-29-64

REPORT BY: DIRECTOR CITY PLANNING

Summary:

- A report was requested on the possibility of not allowing brothels in the City Of Canterbury.
- The matter has been raised with the Department of Planning and Infrastructure as a planning proposal would need to be prepared to do this.
- Advice is that the Department's position is, in accordance with a long standing policy, Councils are to provide for sex services premises somewhere in the local government area and there is a standard local provision relating to sex services premises that can also be used.
- On the basis of this advice, it is most unlikely that a planning proposal seeking to prohibit sex services premises across the City would pass through the LEP Gateway.
- We could, however, introduce the standard local provision which contains locational criteria for sex services premises into our LEP.
- It is recommended that a planning proposal to amend Canterbury LEP 2012 to insert the standard local provision in relation to sex services premises be initiated.

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:

A report was requested on the possibility of not allowing brothels in the City Of Canterbury. Under the provisions of our Local Environment Plan (LEP) sex services premises are permissible only in B2 zones.

The concept of initiating a planning proposal to prohibit sex services premises throughout the City of Canterbury has been raised with the Department of Planning and Infrastructure. Advice received suggests that such a planning proposal would be unlikely to be viewed favourably. The Department has had a long standing policy that sex services premises are to be provided for within each local government area and that a blanket prohibition would not be entertained. This view has not changed.

There is, however, a local provision which has been developed for sex services premises. It restricts the location of sex services premises based on proximity to low density residential areas, schools, community uses and places of worship. The wording of the local provision appears below.

PERMISSIBILITY OF SEX SERVICES PREMISES IN THE CITY OF CANTERBURY (CONT.)

General Information

LEPs should provide for sex services premises somewhere in the LGA and the zone/s selected need to reflect how the Council will adequately provide for this use.

6.6 Restriction on consent for particular sex services premises [local]

- (1) *Development consent must not be granted for development for the purposes of sex services premises if the premises will be located on land that adjoins, or that is separated only by a road from, land:*
 - (a) *in Zone R1 General Residential, Zone R2 Low Density Residential or Zone R3 Medium Density Residential, or*
 - (b) *used as a place of public worship or for community or school uses, or*
 - (c) *in Zone RE1 Public Recreation.*
- (2) *In deciding whether to grant consent to any such development, the consent authority must take into account the impact that the proposed development would have on children who use the land.*

While permissibility of a sex services premises in our LEP would not be affected, the locational criteria in the standard local provision would have the effect of significantly limiting the potential locations where a sex services premises could possibly be located.

An initial assessment of the impact of this provision suggests that a significant proportion of our B2 zones would be unable to meet the locational criteria contained in the standard local provision. In any case, a merit assessment of any DA would also be required.

Our Development Control Plan (DCP) contains provisions against which applications for sex services premises and restricted premises are to be assessed. It is likely that if the standard local provision is inserted into the LEP, some of our DCP provisions (as they relate to locational criteria), will effectively become at odds with the relevant LEP provision and will need to be revised so that any direct conflict is removed. This can happen when the chapters in the DCP on Business Centres are reviewed.

It is therefore considered appropriate to initiate the preparation of a planning proposal to introduce the standard local provision into our LEP.

RECOMMENDATION:

THAT a planning proposal to amend Canterbury LEP 2012 to insert the standard local provision relation to sex services premises be initiated.

**CITY DEVELOPMENT COMMITTEE
RESOLUTION - 14 NOVEMBER 2013**

- 5** **PERMISSIBILITY OF SEX SERVICES PREMISES IN THE CITY OF CANTERBURY**
FILE NO: T-29-64

Min. No. 404 RESOLVED (Councillors Robson/Azzi)

THAT a planning proposal to amend Canterbury LEP 2012 to insert the standard local provision relation to sex services premises be initiated.

5 STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

FILE NO: B-60-1 PT2

Attachments: 1) Exempt Development Comparison Table
2) Complying Development Comparison Table

REPORT BY: DIRECTOR CITY PLANNING

Summary:

- A new State Environmental Planning Policy (SEPP) for Exempt and Complying Development has been gazetted by the NSW Government.
- The SEPP introduces Exempt Development provisions for housing generally and Complying Development provisions for detached housing (including alterations and additions to existing dwellings) on allotments of land with an area of greater than 450m².
- These 2 components are to be known as the NSW Housing Code.
- The SEPP became effective on 27 February 2009.
- Where there are comparable controls in our existing DCPs and the SEPP, the controls in the SEPP will prevail. There are some circumstances however where either set of controls can be used. In any case, after the end of February 2010, only the SEPP will apply.
- Overall the controls in the SEPP are acceptable and not substantially different from our DCP 31 – Exempt and Complying Development and DCP 49 – Single Dwelling House Code.
- There are some concerns about the potential impacts on the Ashbury Special Character area and it is recommended that a request for a variation to the SEPP in respect of Ashbury be made.

City Plan and Budget Implications:

The recommendation in this report has no City Plan implication on the Budget and supports our long term goal of Sustainable Urban Development.

Report:

The NSW Government has gazetted a new State Environmental Planning Policy (SEPP) for Exempt and Complying Development. The SEPP introduces Exempt Development provisions for housing generally and Complying Development provisions for detached housing (including alterations and additions to existing dwellings) on allotments of land with an area of greater than 450 m². These two components are to be known as the NSW Housing Code.

The SEPP was gazetted on 12 December 2008 and came into effect on 27 February 2009.

**STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)**

The SEPP is set up to provide for the progressive extension of the types of development that will eventually be included as either exempt development or complying development. This was a feature of the draft housing code proposed in 2008. However with the current SEPP it is not known what types of development or what timing for implementation might be envisaged.

Background and History

In 2008 the Department of Planning released a draft NSW Housing Code for Exempt and Complying Development and a draft NSW Commercial Building Code for Exempt and Complying Development. These draft Codes were integral parts of the Department's ongoing planning reform program.

A detailed report on the content and implications of these draft Codes was presented to the 26 June 2008 Council Meeting where it was resolved to make a submission to the Department of Planning expressing our concerns.

Amid considerable objection and concern over the potential impacts of the initial versions of these Codes, they were effectively scrapped late in 2008 to be replaced by revised codes. This new State Environmental Planning Policy (SEPP) for Exempt and Complying Development represents the first stage of implementation of the planning reform program.

Relationships to our Existing DCPs

The new SEPP will effectively override any comparable or similar controls in our existing DCP 31 – Exempt and Complying Development.

It is intended to operate in the following manner:

- If a type of development is listed in the SEPP as Exempt Development, and the same type of development is in our DCP as Exempt Development, then the standards contained in the SEPP will prevail and our DCP will not apply.
- If a type of development is listed in the SEPP as Complying Development but is Exempt Development in our DCP, the SEPP will prevail and our DCP will not apply.
- If a type of development is listed in the SEPP as Complying development and is also in our DCP as Complying Development, then our DCP will cease to apply 12 months after the commencement of the SEPP.
- If a type of development is listed in the SEPP as Exempt development but is listed in our DCP as Complying Development, then our DCP will cease to apply 12 months after the commencement of the SEPP. Within that time period either the SEPP or our DCP can be used.

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)

In those situations where either set of controls can be used (until February 2010), only one set can be used each time. The mixing or combining of different controls from each is not permitted. That is, you can use either the SEPP or our DCP; not a combination of both.

Importantly, the SEPP is set up to be able to be expanded to apply to additional types of development or situations. This was a key feature of the exhibited draft Housing Code earlier this year

For the remainder of this report, I will separate discussion of the two central elements of the SEPP; Exempt Development and Complying Development.

Exempt Development

The new exempt development code lists 41 types of development that may be carried out. Our DCP currently lists 63 types of development (Note that 23 of these are for different types of advertising signs)

While the Exempt Development Code part of the SEPP is intended to apply in all circumstances, it is clearly designed to be primarily relevant to residential situations.

Table 1 provides a summary of the new standards and requirements of the SEPP compared to our current controls in DCP 31 and is included in the Attachments.

In summary, the Exempt Development Code introduces the following new categories of Exempt Development.

- Bed & breakfast accommodation, but only where it is permissible in the zone
 - We currently identify this as complying development.
- Carports
 - We currently identify this as complying development.
- Home businesses, home industries and home occupations
 - We currently only identify home occupations as exempt development and require council approval for Home business/Home Industries.
- Portable swimming pools and spas and child resistant barriers
- Scaffolding (where needed in order to carry out other development which is categorised as exempt development)
- Screen enclosures for balconies, decks etc
- Shade structures (fabric, mesh etc)
- Temporary builders structures (building site sheds, offices, associated amenities, etc).

Of the development currently listed in DCP 31 as Exempt Development, the following will remain as “active” and continue to be subject to the requirements of our DCP 31.

- Emergency works and building repairs
- Water heaters (other than solar systems)

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)

- Change of use – shop to shop
- Change of use – office to office
- Change of use – light industry to light industry
- Subdivision (for boundary adjustments, rectification of encroachments, lot consolidation, easements)
- Signs and advertising
- Public meetings.

The Infrastructure SEPP 2007 picks up those works conducted by or for Council in parks and sporting fields etc.

- **Planning Comment**

Generally, the new Exempt Development provisions are not likely to cause significant local amenity impacts however there are some provisions that are of concern. The categories defined and the standards applied to those categories are generally comparable to our existing standards and are supported. In a number of cases the standards and requirements imposed are actually more stringent than our DCP 31 requirements.

The one category with potential to cause some concern in the future is that home businesses and home industries can now be carried out as Exempt development. We currently only allow home occupations as exempt development. As home occupations only permit the use of a room or rooms within a dwelling for office/administrative type activities this has no impact on local amenity. The use of a property for home business or home industrial purposes has potential for greater local amenity impacts, particularly in the form of noise.

- **What to do with our existing DCPs**

We do not necessarily need to formally amend our current DCP 31 straight away. It would however be appropriate for “notes” to be inserted into it indicating where the SEPP prevails and we have done this. As the SEPP is capable of expansion to include additional development types, we will monitor this situation over the next 12 months or so and then carry out any necessary amendments to DCP 31 when we have a much clearer indication of the full extent of planning reforms proposed in relation to exempt and complying development.

Complying Development

The Complying Development Code for Housing will apply to new detached dwelling houses and alteration and additions to existing detached dwelling houses on allotments of land with an area of greater than 450 m². It will permit new 2 storey dwelling houses, 2nd storey additions and alterations to existing 2 storey houses.

Table 2 provides a summary of the new standards and requirements of the SEPP compared to our current controls in DCP 49 and is included in the Attachments.

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)

In summary, the Housing Code contains controls for:

- maximum floor space for dwellings
 - building heights
 - setbacks from front, side and rear boundaries
 - controls for outbuildings
 - controls for balconies, decks etc
 - requirements for an articulation zone in the front elevation
 - privacy
 - landscaping and private open space
 - car parking and access
 - earthworks.
- **Key features and impacts of the Housing Code for Complying Development**

Basements

The Code does not permit basements to be constructed, either as part of a new dwelling house or as part of an alteration to an existing dwelling house and council approval would therefore be required where basements are proposed.

Heritage

The Code does not apply to any building or place identified as a heritage item or within a heritage conservation area. It also does not apply to any draft heritage items or draft heritage conservation areas (which have been publicly exhibited). It is noted that there are a number of proposed heritage items and heritage conservation areas in the City which have not yet been formally advertised. This is scheduled to occur as part of our comprehensive LEP.

Building Height

This is measured to the highest point on the building, such as the ridge of a pitched roof. This is the one area where there is some real concern about potential adverse impacts. The Code allows a building height of up to 8.5 metres. While this may not appear to be an issue, this maximum overall building height is not supplemented with an equivalent external wall height. Our DCP has a maximum wall height of 7 metres. The implication being that a 8.5 metre high dwelling house with a flat roof could theoretically be built to the specified side boundary setback (which would be 2.08 metres). This has implications for bulk & scale of the building as well as overshadowing, as overshadowing impacts generally come from wall heights and not the ridge of a roof.

The other issue here is that there is no control on the number of storeys allowable so again in theory a 3 storey dwelling house could be constructed as complying development. This concern however needs to be tempered by the fact that **all** requirements of the Housing Code need to be met in order for complying development to be able to be carried out.

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)Floor area & floor space ratios

The Code will permit floor space of up to 330 m² on a lot size of 450 m², the represents an equivalent floor space ratio of approx 0.73:1. While this obviously appears to be much greater than the current 0.55:1 we allow under DCP 49, the State Housing Code uses a different method to calculate floor space. Under the State Code, floor space includes garages, carports, certain balconies and decks etc, which are not included as floor area under DCP 49.

To put this in perspective, a recently approved DA was reviewed. The site had an area of approximately 610 m². As assessed under DCP 49, the dwelling had a floor area of 329m² (equivalent to a floor space ratio of 0.54:1). As reviewed under the new Housing Code, the same dwelling had a floor area of 398 m² (or an equivalent floor space ratio of 0.65:1). It is interesting to note that this dwelling would not have been able to be processed as complying development as the floor area involved (398m²) exceeds the 380 m² threshold in the Code.

Building setbacks

Building setbacks, particularly for two storey dwellings or second storey additions, can be a little complex to understand and calculate. In simple terms, a single storey dwelling will require a side boundary setback of 900mm (no change), but this increases as building height increases. For example, if a wall height along a side boundary is proposed at 6.8 metres (2 storey) then the wall must be set back 1.65 metres from the boundary. So therefore anyone wanting to build a two storey dwelling closer to a side boundary will need to submit a DA under DCP 49.

Front boundary setbacks work in a similar fashion to our current DCP. An average of the setbacks of the adjoining dwelling on each side is taken or where there are no dwellings adjoining, the front setback is to be a minimum of 4.5 metres (for lots between 450 m² and 900 m²).

The Code also introduces minimum setbacks from rear boundaries. Again the required setbacks relate to wall height and the theoretical maximum that will need to be provided on a typical block of land in Canterbury City will be no more than 8 metres. This is a reasonable control and ensures that adequate backyards are provided.

Car parking

The Code only requires the provision of one car parking space for a new dwelling. While this is less than what we currently require, there is nothing to stop someone providing 2 spaces if they wish. Although, a double garage on a narrow lot is likely to trigger a DA as other controls relate to the presentation to the street (garages can not be more than 50% of the width of the building). It is also worth noting that garages must be set back behind the building line of the dwelling,

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)

meaning there is sufficient driveway space to park a second car in the driveway. Under our DCP two spaces would be required behind the building line.

Neighbour notification

There are no requirements in the State Code for neighbours to be notified of proposals for Complying Development. Once a Complying Development Certificate has been issued, the issuer of the Certificate (either Council or an accredited private certifier) will need to notify all neighbours within 40 metres of the subject property within 2 days of the determination. In addition neighbours are to be notified two days prior to the imminent commencement of any works on site.

- **Ashbury Special Character Area**

The Ashbury Special Character area is a matter for some concern. We have been through a thorough process of preparing a new set of development controls for this area culminating in the adoption of DCP 50.

The new Housing Code will override these controls and permit new dwellings and alterations to existing dwellings, including 2nd floor additions. It will also permit the demolition of any existing buildings not identified as heritage items.

There is provision however for exclusions from the operation of the Code to be granted.

It is proposed that we prepare and provide a submission to the Minister seeking the exclusion of the Ashbury Special Character area from the operation of the Housing Code.

- **Planning Comment**

In many instances the requirements of the Housing Code are more stringent, or more difficult to achieve, than our current controls in DCP 49. The real implication of this is that where a proposed new dwelling house or alterations to an existing dwelling house can not meet the standards in the Code (or where an applicant does not want to comply with any of those standards) then the need for a Development Application is triggered. Where a DA is triggered, our DCP then becomes the principal assessment and determination tool.

What this new Code does is give people a choice. The choice being either to design and construct a development which complies with all aspects of the Housing Code and can be approved to obtain a Complying Development Certificate, or for potential applicants who wish or who may need to because of individual site characteristics, to step outside of the Housing Code.

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES)
2008 (CONT.)

While the State Code is a significant improvement over the draft released for comment in 2008, it can still be a complex document to navigate, understand and interpret. Particularly in the case of proposed second floor additions to existing houses, merit based DAs will remain a significant process of choice for many applicants.

- **What to do with our existing DCPs**

There is no need to amend or rescind DCP 49. It will continue to remain a relevant and important document for development control, as will its replacement DCP which is currently being prepared as an outcome of our residential code review project.

Overall Conclusions and actions

The important aspect of the SEPP is that it sets the parameters within which certain types of development may potentially be carried out as either exempt or complying development. As soon as any proposal for work falls outside any of the nominated criteria, the need for a development application is triggered and the proposal goes through the normal merit based assessment against our development controls, which in the case of a detached dwelling house will be DCP 49.

As a general comment and observation, the new Housing Code is a significantly improved document over the draft codes that were released for comment in 2008. Overall, the forms of development that will likely result from its use should be acceptable. The built form guidelines and controls are generally reasonable.

With regard to the Exempt Development the provisions in the SEPP are not that different to our current DCP. This report highlights where we have concerns, in particular the measurement of building heights and provision of off street parking. Otherwise, where there are differences, the impacts are considered acceptable or insubstantial.

It is important to remember that Exempt Development relies on self assessment. We have no formal role in the assessment or “approval” of this type of development.

The Complying Development standards and controls imposed by the Housing Code are also acceptable. A well designed house which complies with the parameters set should not impact adversely on its immediate neighbours. The safety net of DCP 49 comes into play as soon as someone wishes to go outside of the parameters of the Housing code or if individual site characteristics preclude full compliance with all of the Codes standards.

Whether this new Housing Code achieves the Government’s stated objective of reducing DA numbers remains to be seen. It is clearly aimed at greenfield development in newer release areas so any impacts on Canterbury City are not expected to be great.

STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008 (CONT.)

RECOMMENDATION:

THAT

1. The information be noted.
2. A submission to the Minister be prepared and provided seeking the exclusion of the Ashbury Special Character Area from the application of the SEPP (Exempt and Complying Development Codes) 2008.

CITY DEVELOPMENT COMMITTEE'S RESOLUTION - 14 MAY 2009

5 STATE ENVIRONMENTAL PLANNING POLICY - (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

FILE NO: B-60-1 PT2

Min. No. 117 RESOLVED (Councillors Hawatt/Favorito)

THAT

1. The information be noted.
2. A submission to the Minister be prepared and provided:
 - (a) Seeking the exclusion of the Ashbury Special Character Area from the application of the SEPP (Exempt and Complying Development Codes) 2008.
 - (b) Seeking an amendment to the SEPP to include a maximum wall height of 7 metres regardless of roof height; and clarification with regard to the maximum number of levels in a dwelling.
 - (c) Noting our concerns over lack of legislation in the SEPP for overshadowing effects on solar photovoltaic panels and solar hot water systems and that the SEPP be amended to take this into account.