

**Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land**

|                    |                                                                                                                                        |               |          |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|
| Proposal Title :   | Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land                      |               |          |
| Proposal Summary : | The intention of the planning proposal is to reclassify seven council-owned drainage reserves from community land to operational land. |               |          |
| PP Number :        | PP_2016_CANTE_002_00                                                                                                                   | Dop File No : | 16/07825 |

**Proposal Details**

|                                   |                       |                      |                         |
|-----------------------------------|-----------------------|----------------------|-------------------------|
| Date Planning Proposal Received : | 16-Jun-2016           | LGA covered :        | Canterbury              |
| Region :                          | Metro(CBD)            | RPA :                | Canterbury City Council |
| State Electorate :                | CANTERBURY<br>LAKEMBA | Section of the Act : | 55 - Planning Proposal  |
| LEP Type :                        | Reclassification      |                      |                         |

**Location Details**

|               |                      |        |                 |
|---------------|----------------------|--------|-----------------|
| Street :      | 13A Denman Avenue    |        |                 |
| Suburb :      | Wiley Park           | City : | Sydney          |
| Land Parcel : | Lot 106 DP 6480      |        | Postcode : 2195 |
| Street :      | 71A Denman Avenue    |        |                 |
| Suburb :      | Wiley Park           | City : | Sydney          |
| Land Parcel : | Lot 107 DP 6480      |        | Postcode : 2195 |
| Street :      | 61A Beauchamp Street |        |                 |
| Suburb :      | Wiley Park           | City : | Sydney          |
| Land Parcel : | Lot 35 DP 10980      |        | Postcode : 2195 |
| Street :      | 66A Beauchamp Street |        |                 |
| Suburb :      | Wiley Park           | City : | Sydney          |
| Land Parcel : | Lot 36 DP 10980      |        | Postcode : 2195 |
| Street :      | 1A Calbina Road      |        |                 |
| Suburb :      | Earlwood             | City : | Sydney          |
| Land Parcel : | Lot 110 DP 10987     |        | Postcode : 2206 |
| Street :      | 13A Ryrie Road       |        |                 |
| Suburb :      | Earlwood             | City : | Sydney          |
| Land Parcel : | Lot 111 DP 10987     |        | Postcode : 2206 |
| Street :      | 44A Cornelia Street  |        |                 |
| Suburb :      | Wiley Park           | City : | Sydney          |
| Land Parcel : | Lot 170 DP 7298      |        | Postcode : 2195 |

## Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land

### DoP Planning Officer Contact Details

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### Land Release Data

|                                       |                                                            |
|---------------------------------------|------------------------------------------------------------|
| Growth Centre :                       | Release Area Name :                                        |
| Regional / Sub<br>Regional Strategy : | Consistent with Strategy :                                 |
| MDP Number :                          | Date of Release :                                          |
| Area of Release (Ha)<br>:             | Type of Release (eg<br>Residential /<br>Employment land) : |
| No. of Lots : <b>0</b>                | No. of Dwellings <b>0</b><br>(where relevant) :            |
| Gross Floor Area : <b>0</b>           | No of Jobs Created : <b>0</b>                              |

The NSW Government **Yes**  
Lobbyists Code of  
Conduct has been  
complied with :

If No, comment : **The Department's Code of Conduct has been complied with.**

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

If Yes, comment : **Sydney Region East Section has not knowingly met with or communicated with any lobbyist in relation to this planning proposal.**

### Supporting notes

Internal Supporting  
Notes : **The planning proposal is seeking to reclassify land at (Attachment A):**  
**1. 13A Denman Avenue, Wiley Park;**  
**2. 71A Denman Avenue, Wiley Park;**  
**3. 61A Beauchamp Street, Wiley Park;**  
**4. 66A Beauchamp Street, Wiley Park;**  
**5. 1A Calbina Road, Earlwood;**  
**6. 13A Ryrie Road, Earlwood; and**  
**7. 44A Cornelia Street, Wiley Park.**

## Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land

The planning proposal has been submitted by Canterbury-Bankstown Council following resolutions by Canterbury Council on:

23 May 2013: adoption of Council's Property Portfolio Policy;

25 July 2013: review of Policy for the Disposal of Council Owned Drainage Reserves;

27 Nov 2014: resolution to seek reclassification of sites 5, 6 and 7; and

25 June 2015: resolution to seek reclassification of sites 1, 2, 3 and 4.

The proposal is supported because it:

- is consistent with the NSW strategic planning framework and Council's strategic plan;
- assists Council with operational objectives to achieve total asset management through better management of Council-owned land; and
- relates to parcels of land that currently provide minimal public benefit and which, due to their size and site configuration, are not suitable for an alternative public use.

The Office of Strategic Lands was consulted and provided the following advice:

Any future change or sale of these lots does not impact the Minister. The Minister has not acquired any of these lots for open space and the sale would not impact any current or future open space acquisitions in these locations.

External Supporting  
Notes :

Council supports this planning proposal because it will provide greater flexibility in dealing with drainage reserve land. The properties are not capable of serving a public benefit and are not suitable for alternative public uses, as they have relatively small areas and frontages, are awkwardly shaped, and do not adjoin properties identified by Council for acquisition to serve public purposes.

### Adequacy Assessment

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

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

Comment : The objective of the planning proposal is to reclassify the land from community land to operational land; remove the interests relating to the drainage reserves; either sell, lease or licence the land to adjoining owners; and retain access to the existing stormwater infrastructure.

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

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

Comment : This planning proposal proposes to list all of the sites to be reclassified in Part 2 of Schedule 4 - Land classified, or reclassified, as operational land—interests changed.

1. 13A Denman Avenue, Wiley Park (Lot 106 DP 6480) – interest 2 to be discharged.
2. 71A Denman Avenue, Wiley Park (Lot 107 DP 6480) – interest 2 to be discharged.
3. 61A Beauchamp Street, Wiley Park (Lot 35 DP 10980) – interest 2 to be discharged.
4. 66A Beauchamp Street, Wiley Park (Lot 36 DP 10980) – interest 2 to be discharged.
5. 1a Calbina Road, Earlwood (Lot 110 DP 10987) – interest 2 to be discharged.
6. 13A Ryrie Road, Earlwood (Lot 111 DP 10987) – interest 2 to be discharged.
7. 44A Cornelia Street, Wiley Park (Lot 170 DP 7298) – interest 3 to be discharged.

The interests all refer to dedication of the subject land as drainage reserves.

#### Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

\* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

7.1 Implementation of A Plan for Growing Sydney

## Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land

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

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

d) Which SEPPs have the RPA identified?

**SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)**  
**SEPP No 55—Remediation of Land**  
**GMREP No. 2 - Georges River Catchment**

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

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

If No, explain :

**The planning proposal is consistent with all SEPPs.**

### **Section 117 Direction 6.2 Reserving Land for Public Purposes**

The Direction requires that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department of Planning (or nominated officer). As the planning proposal seeks to reduce the area of public land, it is inconsistent with this Direction.

Council does not have an open space strategy. The proposal states that it has been prepared in response to a review of Council's property and asset portfolio following adoption of the Property Portfolio Policy by Canterbury Council (23 May 2013). The Policy's stated purpose is to establish parameters for commercial and residential property investment to ensure Council's assets achieve optimum total returns while providing effective platforms for Council functions and to provide an alternative income source for Council. The implementation of the Policy is explained in the Council Report of 25 July 2013. The Report concludes that the disposal of Council owned drainage reserves is appropriate providing that all sales receive Council approval, so that the interests of all parties seeking to purchase/occupy drainage reserves be considered before ownership or occupation rights are determined.

Council has more recently developed an Open Space Needs Review (July 2015). Whilst not having been adopted by Council, the Review provides the evidence-base for the development of an open space strategy and is used by Council as an operational guide in determining land acquisition and divestment to meet the open space needs of the Canterbury LGA. The following Review suggestions are relevant to the proposal:

- do not consider land divestment in those suburbs that have a very low provision unless this enables other larger or better located open space to be acquired or upgraded; and
- assess each parcel of land on a 'case by case' basis that considers other factors as well as open space provision in a suburb.

5 of the 7 subject parcels of land are in Wiley Park, which is classified as having a very low provision of open space (Attachment A to this Planning Team Report).

However, the Review also states that consideration should include other factors in addition to the 'overall provision' of open space, such as:

- the usability and value of land, where only land with limited community, recreational or environmental value should be considered for divestment; and
- there are benefits to land divestment, such as the potential to use funds for community benefit, e.g. improved open space, affordable housing or other services to the community.

The proposal states that the intention is to enable the subject sites to be legally sold, leased or licensed to an adjoining owner in the future, whilst retaining access to the existing stormwater infrastructure by way of easements created over the subject land. The subject sites all have relatively small frontages and have either relatively small areas (5 sites in Wiley Park), or are located in suburbs with a good provision of open space (2 sites in Earlwood). The inconsistency with the Direction is therefore considered

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to be minor and justified.

The planning proposal is consistent with all other section 117 Directions.

### Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Mapping is not required.**

### Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Given the nature of the planning proposal, Council's proposed 28 day community consultation period, inclusive of a public hearing, is supported.**

### Additional Director General's requirements

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

If Yes, reasons :

### Overall adequacy of the proposal

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

If No, comment : **The proposed timeline specifies no finalisation date. A total time frame of 12 months is recommended, comprising 9 months with the RPA and 3 months to draft and make the instrument, given that the Governor's approval is required.**

## Proposal Assessment

### Principal LEP:

Due Date :

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

### Assessment Criteria

Need for planning proposal :

**The planning proposal is the only means by which the parcels of land can be reclassified, in order to achieve Council's objectives and intended outcomes of investigating the possibility to sell, lease or license the sites to adjoining owners, whilst retaining access to the existing stormwater infrastructure underground.**

## Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land

Consistency with strategic planning framework :

The planning proposal is consistent with A Plan for Growing Sydney and with Councils' key strategies, plans and studies.

The proposal is consistent with Council's key strategies and studies for dealing with open space and land divestment:

- Property Portfolio Policy (May 2013);
- Operational Plan 2015-16 (Canterbury Council, May 2015), which implements Council's Property Portfolio Policy, as it will facilitate the optimum use of council property assets by continuing the Drainage Reserve Sale Program of land. It would have the following benefits:
  - income from sale, lease or licence;
  - retention of access and drainage rights over the Reserve (by way of easement created over the land sold); and
  - Council are no longer responsible for maintenance, dividing fence contributions and public risk, associated with ownership of the land.
- Open Space Needs Review (July 2015), which states that generally only smaller parcels of land that have little current or future recreational, social or environmental value should be considered for land divestment. The subject sites currently provide minimal public benefit and, due to their size and site configuration, are not suitable for an alternative public use.

It is recommended that the Gateway determination include a condition requiring the Property Portfolio Policy to be publicly exhibited with the planning proposal.

Environmental social economic impacts :

**Environmental:**

The Planning Proposal will not result in any impact on critical habitat or threatened species, populations or ecological communities or their habitats.

The proposal states that Council intends to retain access to the existing stormwater infrastructure. It is recommended that the Gateway determination include a condition requiring consultation with Sydney Water.

**Social and Economic:**

The Council Report of 25 July 2013 provides the operational rationale for Council's management (sale, leasing or licensing) of drainage reserves, subsequent to Council's adoption of its Property Portfolio Policy in May 2013. The interests of all parties seeking to purchase/occupy drainage reserves be considered before ownership or occupation rights are determined.

The Council Report states that:

- in relation to the sale of land, individual parcels of drainage reserve land are too small to be capable of being developed in their own right. Therefore, they can only be sold to an adjoining landowner who must then consolidate the drainage reserve land with their land; and
- in relation to leasing and licensing of land, Council has a longstanding practice of licensing drainage reserves to adjoining owners to use as yard space. Similarly to sale of the land, Council only allows adjoining owners to licence the land, as it would be impractical to licence the land to a non-adjoining owner. These licence agreements are beneficial to residents as they are given the benefit of low cost additional land for enjoyment in conjunction with their property. The practice also means that Council saves the expense of ongoing maintenance and dividing fence costs with respect to the drainage reserve land. This practice provides mutual benefit to both Council and the drainage reserve occupants, and enables Council to avoid the expense of the land's upkeep.

The subject land parcels are all currently being actively used by the adjoining residential properties as: unsealed car parking (Sites 1, 3 and 4); sealed car parking (site 7); bin storage (Site 2); infringing private built structures (site 3); and subsumed into private back yards and containing private built structures (Sites 5 and 6). The reclassification of the parcels of land will therefore have a positive social and economic impact as it will permit the orderly and economic use and development of underutilised sites in an existing urban area, facilitate more efficient use of existing Council assets, and enable Council to

## Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land

formalise informal and unauthorised uses on Council land.

It is recommended that the Gateway determination include a condition requiring the Report and Resolution for the Council meeting of 25 July 2013 (Review of Policy for the Disposal of Council Owned Drainage Reserves) to be publicly exhibited with the planning proposal.

### Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **DG**

Public Authority Consultation - 56(2)(d) : **Sydney Water**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

**No internal consultation required**

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

If Yes, reasons :

### Documents

| Document File Name                                                           | DocumentType Name               | Is Public  |
|------------------------------------------------------------------------------|---------------------------------|------------|
| <b>Covering letter.pdf</b>                                                   | <b>Proposal Covering Letter</b> | <b>Yes</b> |
| <b>Planning Proposal.pdf</b>                                                 | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Appendix A_Property Information and Compliance with Practice Note.pdf</b> | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Appendix B_Council Report and Resolution - 25 June 2015.pdf</b>           | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Appendix B_Council Report and Resolution - 27 Nov 2014 .pdf</b>           | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Appendix C_Schedule 4 to LEP_1.pdf</b>                                    | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Appendix E_Planning Proposal Timeline_1.pdf</b>                           | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Attachment 1 - Information checklist.pdf</b>                              | <b>Proposal</b>                 | <b>No</b>  |

## Planning proposal to reclassify seven parcels of land (drainage reserves) from community land to operational land

### Planning Team Recommendation

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

S.117 directions:      **3.1 Residential Zones**  
                                 **3.4 Integrating Land Use and Transport**  
                                 **6.1 Approval and Referral Requirements**  
                                 **6.2 Reserving Land for Public Purposes**  
                                 **7.1 Implementation of A Plan for Growing Sydney**

Additional Information :      **The proposal cannot be delegated to Council as it is seeking to reclassify land from community land to operational land, and remove interests on two of the parcels of land. Consequently the Governor's approval is required.**

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

**1. Prior to public exhibition, the planning proposal is to be updated to include:**

- a. Council's Property Portfolio Policy;**
- b. Council's Report and Resolution of 25 July 2013 on the Review of Policy for the Disposal of Council Owned Drainage Reserves; and**
- c. additional maps in accordance with the Standard Technical Requirements for LEP Mapping.**

**2. The planning proposal is exhibited for a minimum of 28 days, consistent with Council's intentions.**

**3. The planning proposal be completed within 12 months.**

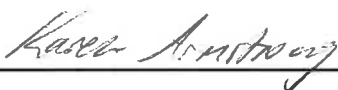
**4. A public hearing is required to be held on the reclassification of the subject land.**

Supporting Reasons :      **Delegation of this planning proposal has not been requested by Council. The proposal cannot be delegated as it relates to a 'suspension of covenants clause' under section 28 of the Environmental Planning and Assessment Act 1979 and discharge of interests in public land under section 30 of the Local Government Act 1993.**

**The planning proposal is supported for the following reasons:**

- consistency with the NSW strategic planning framework;**
- consistency with Councils' key strategies, plans and studies;**
- facilitation of Council's operational objectives to achieve total asset management;**
- formalisation of unregulated use of Council-owned land that is not suitable for an alternative public uses.**

Signature:

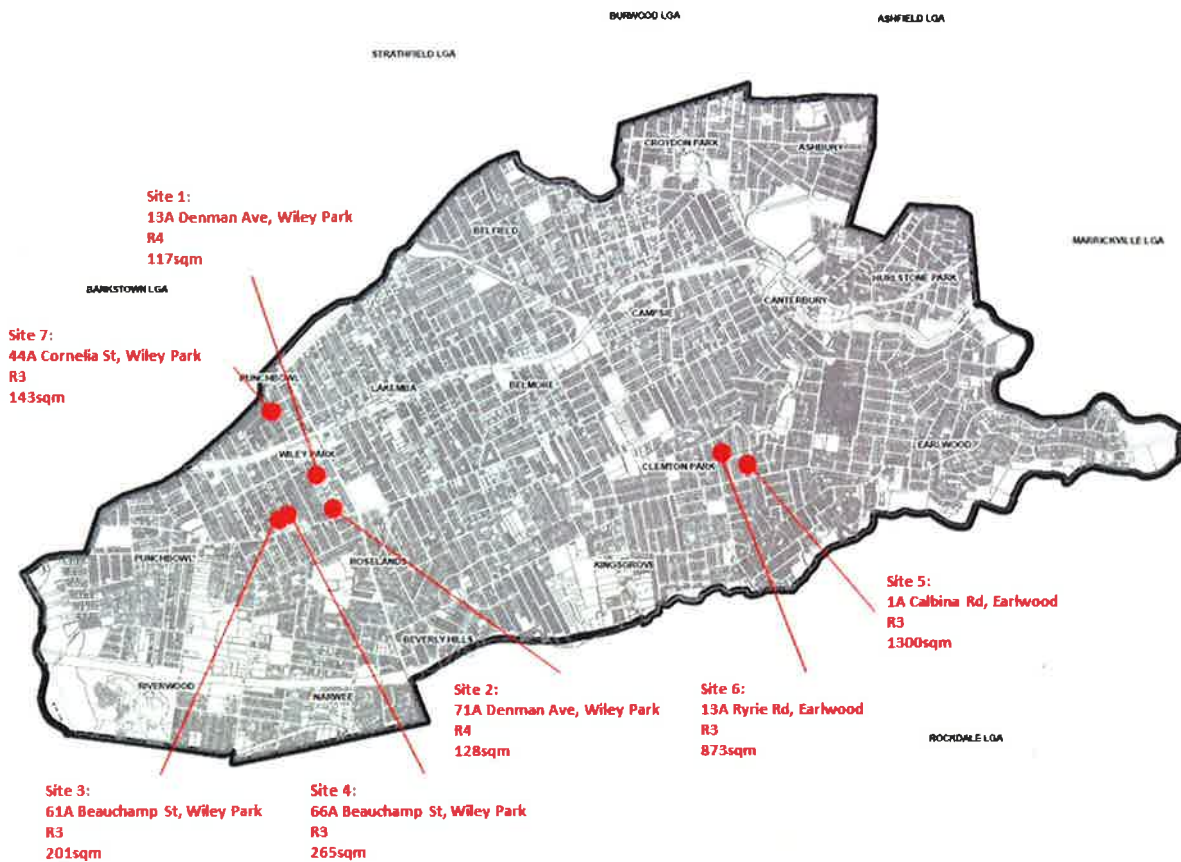


Printed Name:

KAREN ARMSTRONG

Date:

12/7/16



Canterbury LEP Land Application Map - Location of subject site

