

# *The NEW* City of **CANTERBURY BANKSTOWN**

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Agenda for the

## **Independent Hearing And Assessment Panel Meeting**

**15 August 2016 – 6.00pm**

**Function Room**

**137 Beamish Street, Campsie**

IHAP Chairperson and Panel Members

Notice is hereby given that a meeting of the Independent Hearing and Assessment Panel will be held in the Function Room, 137 Beamish Street, Campsie on Monday 15 August 2016 at 6.00 P.M.

Disclosure of Interest: Section 451 of the Local Government Act 1993 requires a panel member who has a pecuniary interest in any matter with which the Council is concerned and who is present at the meeting at which the matter is being considered must disclose the interest, and the nature of that interest, to the meeting as soon as practicable. The panel member is required to leave the room while the matter is being discussed and not return until it has been voted on.

Matthew Stewart  
**GENERAL MANAGER**

4 August 2016

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## REPORT SUMMARIES

### **1 42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB**

- Council has received a Development Application (DA-396/2015), seeking consent to make alterations and additions to an existing registered club. The alterations and additions consist of works to the lower ground floor to provide sufficient facilities to cater for members and guests, beyond the principal function space and members lounge within the Club's ground floor.
- Council engaged the services of an independent town planning consultant (Willana Associates Pty Ltd) to assess and prepare a report in respect of the application. The contents of this report have been prepared by the independent consultant.
- The site is known as 42-44 Albert Street Belmore and is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). While a registered club is prohibited within the zone, Council has previously determined the premises retain Existing Use Rights in accordance with Part 3, Division 10 of the Environmental Planning and Assessment Act 1979. Those rights however do not transfer across to the use of the premises for other purposes, including those of a Function Centre.
- This Development Application (DA) has been assessed against the provisions contained in CLEP 2012 and Canterbury Development Control Plan 2012 (CDCP 2012). Despite the documentation supplied by the applicant, Council is concerned that the premises are not being used for the purposes of a registered club. The site has been subject to a number of complaints in the past regarding the use of the premises and the impacts to adjoining residential properties. Investigations by Council Officers indicate that the site has been used as a function centre and accordingly, the proposed works do not demonstrate that the legitimate use of the premises as a registered club would continue as the dominant use.
- The DA was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012. We received six submissions and a petition containing 16 signatures objecting to the plans. Issues raised in the submissions and our responses are provided in the body of this report.
- The development application is recommended for refusal on the basis that the proposal does not demonstrate the use of the premises will be undertaken in a manner that is within the bounds of the Existing Use Rights and is therefore prohibited.

### **2 17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM**

- A Development Application has been received for the construction of a secondary dwelling with an attached store room.

- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX), Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policy controls.
- The proposed development is referred to the Independent Hearing & Assessment Panel (IHAP) for determination as the proposal involves a non-compliance with one control in the CDCP 2012, with respect to minimum frontage.
- In accordance with Part 7 of the CDCP 2012, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended the application be approved subject to conditions.

**3 13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT**

- A Development Application has been received for the demolition of existing dwellings and outbuildings, consolidation of both lots and construction of a new six-storey mixed use development consisting of 29 residential units, two commercial tenancies at ground floor, a two level basement and associated landscaping.
- The application is referred to the Independent Hearing and Assessment Panel (IHAP) because it is outside the delegations of Council officers.
- The proposal relates to a 'mixed use' development which is permissible with Council consent within B5 Business Development zone under Canterbury Local Environmental Plan 2012 (CLEP 2012).
- The application has been assessed against the relevant provisions of State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65), State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policy controls. The proposal seeks variations from controls relating to the overall height of the building, front setback and building separation. These non-compliances are discussed in further detail in the body of this report, and on balance are considered worthy of support.
- The proposal has been notified and advertised in accordance with the provisions of our notification policy. One submission was received raising concerns about noise from construction, privacy, overshadowing, and traffic generation. These issues are addressed within this report.
- It is recommended that the application be approved subject to conditions.

**ROSELANDS WARD****1 42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB****FILE NO:** 10/44D PT3 & 4**REPORT BY:** CITY DEVELOPMENT**WARD:** ROSELANDS

<b>D/A No:</b>	<b>DA-396/2015</b>
<b>Applicant:</b>	<b>C Havas</b>
<b>Owner:</b>	<b>Lemnian Association of NSW</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>1 September 2015</b>

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**Summary:**

- Council has received a Development Application (DA-396/2015), seeking consent to make alterations and additions to an existing registered club. The alterations and additions consist of works to the lower ground floor to provide sufficient facilities to cater for members and guests, beyond the principal function space and members lounge within the Club's ground floor.
- Council engaged the services of an independent town planning consultant (Willana Associates Pty Ltd) to assess and prepare a report in respect of the application. The contents of this report have been prepared by the independent consultant.
- The site is known as 42-44 Albert Street Belmore and is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). While a registered club is prohibited within the zone, Council has previously determined the premises retain Existing Use Rights in accordance with Part 3, Division 10 of the Environmental Planning and Assessment Act 1979. Those rights however do not transfer across to the use of the premises for other purposes, including those of a Function Centre.
- This Development Application (DA) has been assessed against the provisions contained in CLEP 2012 and Canterbury Development Control Plan 2012 (CDCP 2012). Despite the documentation supplied by the applicant, Council is concerned that the premises are not being used for the purposes of a registered club. The site has been subject to a number of complaints in the past regarding the use of the premises and the impacts to adjoining residential properties. Investigations by Council Officers indicate that the site has been used as a function centre and accordingly, the proposed works do not demonstrate that the legitimate use of the premises as a registered club would continue as the dominant use.

42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

- The DA was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012. We received six submissions and a petition containing 16 signatures objecting to the plans. Issues raised in the submissions and our responses are provided in the body of this report.
- The development application is recommended for refusal on the basis that the proposal does not demonstrate the use of the premises will be undertaken in a manner that is within the bounds of the Existing Use Rights and is therefore prohibited.

### **Council Delivery Program and Budget Implications:**

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

### **Report:**

#### **Site Details**

The subject site is located at 42-44 Albert Street, Belmore, which is legally identified as Lot 1 DP 774899 and Lot 5 DP 549655 and has a total site area of 6,134m<sup>2</sup>. The irregular shaped land holding has a frontage to Albert Street of 22m to the north-west. The site adjoins a railway line to the east.

The site currently contains an existing single storey brick building with an iron roof, operating as a registered club under the ownership of the Lemnos Group, with associated car parking comprising of 101 at-grade parking spaces.

With the exception of the railway line which runs along the northeastern boundary of the subject site, the surrounding land uses consist of a mix of single storey residential dwellings and a residential flat building. Two heritage listed items are also located at 52 Albert Street and 2-18 Lakemba Street.



Subject site

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

### Background

Development Application DA-518/2013 sought approval for alterations and additions to the existing registered club. The proposed works included changes to the existing façades, addition of 122.15m<sup>2</sup> of floor area, upgrading of the fire and disabled facilities, internal reconfiguration of the building, upgraded landscaping and improvements to the existing car parking. The DA was approved by Council under delegated authority on 14 May 2014, subject to conditions.

#### DA-518/2013/A

A Section 96 (1A) application was lodged with Council, seeking to modify the consent by the deletion of Condition 23, which states:

*“The building shall be constructed in type A construction under BCA Specification C1.1, inclusive of fire resistance levels required for walls, beams, columns, floors, roofs and lintels or the like.”*

This modification was approved under delegated authority on 19 June 2014.

#### DA-518/2013/B

A second Section 96 application was lodged with Council on 2 November 2014, seeking to amend the design and layout of the premises. This application was subsequently withdrawn on 26 May 2015 following a request for additional information.

#### DA-518/2013/C

A third Section 96 application was lodged with Council on 1 June 2015 seeking consent for modifications to the internal layout and design of the existing premises. The application was subsequently withdrawn on 19 October 2015 following advice from Council that the proposed works were not within the scope of Section 96 of the Environmental Planning and Assessment Act 1979 (EPA Act 1979) and the lodgment of the current DA on 1 September 2015.

A Building Certificate Application (BC-64/2015) was lodged with Council on 10 September 2015 in an attempt to legitimise the unlawful works that have taken place at the premises. The unlawful works include certain unauthorised internal changes to the layout and a minor extension to the rear of the existing building, as follows:

- Large scale internal alterations and additions include the removal of internal walls and partitions that define a service provider’s room, new cloak room, male, female and disabled access toilet facilities. The board room, new chair storage, existing storage area, existing kitchen and adjacent storage have all been removed from the associated plans in the proposed modification. A rear access doorway has also been omitted from the plans and replaced with a fire exit door.
- A 36.8 square metre extension to the South Western portion of the building, termed as a kitchen/back of house area of the building has also been added without consent.

Determination of this application has been held in abeyance pending the determination of the subject DA.



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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

### Proposal

A Development Application (DA-396/2015) has been received that seeks consent to make alterations and additions to an existing registered club. The alterations and additions consist of works to the lower ground floor to provide sufficient facilities to cater for members and guests, beyond the principal function space and members lounge within the Club's ground floor.

Upon consideration of the proposal and having due regard to the relevant statutory matters, it is clear that the proposal is not seeking to retain a bona fide registered club on the subject site, that operates within the confines of its Existing Use Rights. As will be discussed below, the current proposal merely aims to facilitate the separate and dominant use of the premises as a Function Centre, without undergoing the necessary statutory processes.

### Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of the EPA Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

Also relevant to the consideration of this application are the provisions relating to Existing Use Rights. The relevant statutory provisions relating to Existing Use Rights are contained within the Sections 106 to 109B of the Environmental Planning and Assessment Act (EPA Act) 1979 and Sections 39 to 46 of the Environmental Planning and Assessment Regulation 2000 (the Regulations). Further discussion of this element of the application is provided below.

### Assessment

The development application has been assessed under Section 79C of the EPA Act 1979 and the following key issues emerge:

- **Environmental Planning and Assessment Regulation 2000 (The Regulation)**  
Although the Existing Use Rights for the use of the premises as a registered club were established under DA-518/2013, clauses 41, 42, 43 and 44 of the Regulation are of particular relevance to the assessment of the subject DA. These Clauses, with a response on the planning issues, are outlined as follows:

*"41 Certain development allowed*

- (1) *An existing use may, subject to this Division:*
- (a) *be enlarged, expanded or intensified, or*
  - (b) *be altered or extended, or*
  - (c) *be rebuilt, or*
  - (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*
  - (e) *if it is a commercial use...*
  - (f) *if it is a light industrial use...*

- (2) *However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:*
- (a) *involves only alterations or additions that are minor in nature, and*
  - (b) *does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and*
  - (c) *does not involve the rebuilding of the premises associated with the existing use, and*
  - (d) *does not involve a significant intensification of that existing use.*

*42 Development consent required for enlargement, expansion and intensification of existing uses*

- (1) *Development consent is required for any enlargement, expansion or intensification of an existing use.*
- (2) *The enlargement, expansion or intensification:*
- (a) *must be for the existing use and for no other use, and*
  - (b) *must be carried out only on the land on which the existing use was carried out immediately before the relevant date.*

*43 Development consent required for alteration or extension of buildings and works*

- (1) *Development consent is required for any alteration or extension of a building or work used for an existing use.*
- (2) *The alteration or extension:*
- (a) *must be for the existing use of the building or work and for no other use, and*
  - (b) *must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

*44 Development consent required for rebuilding of buildings and works*

- (1) *Development consent is required for any rebuilding of a building or work used for an existing use.*
- (2) *The rebuilding:*
- (a) *must be for the existing use of the building or work and for no other use, and*
  - (b) *must be carried out only on the land on which the building or work was erected or carried out immediately before the relevant date."*

While clause 41(1) allows the proposed building works, the effect of the proposal would be to facilitate a *function centre*. A *function centre* is not permitted within the R3 – Medium Density Residential zone and accordingly, the application would fail on this aspect. Clause 41(2) does not apply as the proposal is not for either a commercial or light industrial use.

Having regard to this, the alleged unauthorised works are subject to separate proceedings by Council and this application seeks the necessary development consent, albeit in retrospect. What has not been sought however is the use of the

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

premises for the purposes of a function centre in accordance with clauses 45 and 46. Investigations by Council in response to complaints from surrounding residents indicate that the site has been used without consent for the purposes of a function centre.

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**

The subject site is zoned R3 - Medium Density Residential under CLEP 2012. The proposed development is defined as a *registered club*. A registered club is prohibited within R3 Medium Residential Zone, however in the assessment and approval of DA-518/2013, Council was satisfied that the premises retained existing use rights as a registered club.

Notwithstanding this, it is Council's contention that the current proposal does not maintain the existing use rights and will, in fact, facilitate the use of the premises for the purposes of a *function centre*. Such a use is also prohibited within a R3 Medium Residential Zone and would not satisfy the relevant provisions around existing use rights.

The Dictionary to the CLEP 2012 defines a registered club as "... a club that holds a club licence under the Liquor Act 2007." It also defines a function centre as "...a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility."

The Liquor Act 2007 accordingly defines a registered club as "...a club that holds a club licence under (the Act)." The different types of licences are defined in Section 10 of the Liquor Act 2007, with a Club Licence and On-premises Licence (Caterer's Licence) being relevant.

Clause 19 (1)(a) of the Liquor Act states that a Club Licence may only be granted to a club that meets the requirements specified in section 10 of the *Registered Clubs Act 1976*. The applicable provisions of section 10 state:

**10 Requirements to be met by clubs**

**(1) The following requirements apply in relation to a club:**

(a) The club shall be conducted in good faith as a club.

...

(e) The club shall be established:

- (i) for social, literary, political, sporting or athletic purposes or for any other lawful purposes, and
- (ii) for the purpose of providing accommodation for its members and their guests.

...

(f) The club shall have premises of which it is the bona fide occupier for the purposes of the club and which are provided and maintained from the funds of the club.

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

- (g) *The premises of the club shall contain accommodation appropriate for the purposes of the club.*
- ...
- (n) *The business conducted on the premises of the club must not be managed or controlled by any person or body other than:*
  - (i) *the governing body of the club, or*
  - (ii) *the secretary of the club, or*
  - (iii) *the manager (within the meaning of the Liquor Act 2007) of the club premises, or*
  - (iv) *a person acting in a capacity referred to in section 41 (1) in respect of the club, or*
  - (v) *a person appointed under section 41A in respect of the club, or*
  - (vi) *a person who is exercising functions relating to the management of the business or affairs of the club under a management contract within the meaning of section 41O.*
- (2) *For the purposes of determining whether a club is being conducted in good faith as a club, as required by subsection (1) (a), regard is to be had to the following:*
  - (a) *the nature of the premises of the club,*
  - (b) *...*
  - (c) *whether any arrangements relating to the club have resulted in another person or body assuming the effective control of the club and its business,*
  - (d) *such other matters as may be prescribed by the regulations ...*

The letter prepared by Daintry Associates dated 11 August 2015 in support of the DA, states that the proposed works are a consequence of another party who removed Club facilities without authorisation:

*"The contracted manager responsible for the building works and provision of catering and bar services had no authority to remove facilities to service the needs of the Club's members and guest shown DA-518/2013."*

The letter from Daintry Associates goes on to state the proposal will *"... provide sufficient facilities to cater for members and guests, beyond the principal function space and members lounge within the Club's Ground Floor."*

Further, the letter prepared by Daintry Associates dated 11 December 2015, states *"...that the management, catering and bar services of the Club facilities are subject to a commercial agreement."* Despite being referred to by Daintry Associates, a copy of this agreement has not been provided by the applicant to Council. This agreement, which would provide some clarity around the extent of the management of the club facilities vested in the other party and confirm whether the premises and its use would satisfy the provisions of Section 10(2) of the *Registered Clubs Act 1976*, in particular, subsection 10(2)(c)).

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

The statements made by Daintry Associates in the two letters are also in direct contradiction to information obtained during internet searches, which infer, if not clearly demonstrate, an intention and/ or actual use of the premises for the purposes of a function centre. The “Lemnos Club” at the time of writing this report, advertised on the website of Clarence House Weddings ([www.clarencehouseweddings.com.au/venues](http://www.clarencehouseweddings.com.au/venues)) as being a 300-600 seat wedding reception venue, located at 44 Albert Street Belmore, which “...has arrived and has opened it’s (sic) doors, ready to take bookings today.” The website implies that the premises are open to the general public and there is no indication that its use is restricted to members of the Club.

Accordingly, it cannot be stated that the proposed works to the lower ground floor level either in isolation or in the context of the whole building, would facilitate the on-going use of the premises as a registered club. The proposed works and resultant use of the premises will not:

- Facilitate the use of the premises in good faith as a club, given that a commercial contract facilitates significant operational functions that may not be fully or effectively controlled by the Club (i.e. The management, catering and bar service activities).
- The premises, operating as a wedding reception centre for the general public (and not exclusively for genuine existing members of the Club) would no longer be for the social, literary, political, sporting or athletic purposes or for any other lawful purposes of the Club’s members, as a function centre is prohibited within the zone and consent for such a use does not presently exist.

The applicant has not adequately demonstrated that the proposal is consistent with or will maintain the existing use rights provisions in the EPA Act 1979.

Pursuant to Section 108(3) of the EPA Act 1979, there are no other applicable provisions contained within the CLEP 2012.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**

The provisions of Section 108(3) of the EPA Act 1979 also apply to the controls contained in the CDCP 2012. Using the relevant provisions as a guide for a merit assessment of the proposal, the following comments are provided in below.

**Part 2 – Residential Zones**

The requirements of Part 2 – Residential Zones of CDCP 2012 are generally directed toward new residential developments and do not specifically relate to the proposed development. Having regard to the minor nature of the external modifications to the existing doors on the building’s southern side and the existing site context, the proposed works are satisfactory.

In this regard, the proposed development remains in accordance with the aims and objectives of Part 2 of CDCP 2012. Given this compliance, this aspect of the proposal is deemed to be appropriate.

**Part 6 – General Controls****Part 6.1 – Access and Mobility**

Part 6.1 requires certain premises to provide appropriate access for people with a disability. For existing buildings, this involves upgrading access to communal areas where possible and a Compliance Report is required to demonstrate how a premise satisfies the provisions of the Disability (Access to Premises – Buildings) Standards 2010. Other requirements are also specified in Table 6.1.5 of this Part of CDCP 2012. Such a report has not been supplied by the applicant and accordingly, compliance has not been demonstrated.

**Part 6.3 – Crime Prevention Through Environmental Design (CPTED)**

The development has been assessed against the provisions of this Part of the CDCP 2012. The proposal involves alterations and additions to an existing club premises which, in themselves, are unlikely to create any opportunities for additional criminal activity or adversely impact on patron or community safety. In terms of the events detailed in the 2015 Calendar supplied by the applicant, there is no indication that these specific activities cannot be managed in an appropriate way and in accordance with the relevant management plans.

Nonetheless, the issue of the unauthorised use of the premises as a function centre and its separation and concurrent operation with the activities of the registered club remains. This is evident in the existence of a commercial contract that, on the advice of Daintry Associates in their letter dated 11 December 2015, indicates a separate entity has effective control over the management of the premises. Aside from the permissibility issues, there is no indication that size, nature and frequency of the social functions contemplated by the Club (as opposed to commercial weddings) would not be able to achieve a suitable level of patron and community safety and amenity.

**Part 6.8 – Parking and Vehicle Access**

The subject site currently contains 101 off-street parking spaces, as a requirement of DA-518/2013. The application is supported by a Traffic and Parking Study which infers the proposed works will actually reduce the total assessable floor area within the building, resulting in a lower demand for on-site parking. The Traffic and Parking Study also states that in the between the period of 10 January 2015 and 19 April 2015, nine weddings and an ANZAC Day function were held at the premises with patron numbers ranging between 272 and 500 people. The Study, however states *“...it is more appropriate to permit functions in line with the provided on-site car parking.”*

The Study also states that while the overall number of required parking spaces will reduce as a consequence of the proposal from 171 spaces to 118 spaces, a total of 131 parking spaces will be provided. The Study also goes on to state that:

*“based on car driver percentages and car occupancy considerations, the recommended patron level ranges from 280 to 340 persons. Given the*

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

*appropriate patronage range, it is recommended that functions be limited to 340 patrons."*

The calculations and conclusions drawn on the reduction of assessable floor space cannot be supported. This is due to the following reasons:

- The areas identified in the Study were largely included in the alterations and additions approved under DA-518/2013;
- The submitted plans show 135 existing parking spaces (as opposed to 131 spaces); and
- If the claims of the applicant that the new facilities proposed are as a consequence of unauthorised works by other parties which removed these facilities in other parts of the building without their consent, then the additional facilities do in fact generate additional assessable floor area. Consequently, additional parking would be required under the CDCP 2012.

Accordingly, the applicant's Traffic and Parking Assessment is not supported and the proposal does not adequately demonstrate that the facilities and use therein will not adversely affect the surrounding area.

#### **Other Considerations**

- **Canterbury Development Contributions Plan 2013**  
The proposal does not trigger a contribution under the Canterbury Development Contributions Plan 2013 as it has a cost below \$100,000.
- **Acoustics**  
Despite adjoining a railway line, the Club is located within a residential area. Council's records indicate that complaints have been received in the past to noise being generated from events at the premises. While not specifically requested by Council, the applicant has submitted a Mechanical Plant Noise Impact Assessment Report, prepared by Rodney Stevens Acoustics Pty Ltd dated 28 May 2015. This report does not contain any assessment of the potential noise generated by events at the premises, only noise generated by mechanical plant. It does not demonstrate that the noise generated by the existing and likely future events do not have an adverse impact on resident amenity.
- **Fire Safety**  
The development application was referred to our Fire Safety Officer. No objections were raised to the application, however reference was made to the status of the current enforcement actions against the land owner in relation to allegations of the premises being used as a wedding reception centre (Function Centre) without approval. Conditions were included in the response from our Fire Safety Officer.
- **Traffic Management**  
The development application was referred to our Team Leader Traffic and Transportation who has raised a number of concerns, as follows:

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

- i) Car parking is inadequate:
    - a. The eight angled parking spaces located near the entry to the car park, along eastern fence line and along the western fence line near the front of the property do not comply with AS2890.1, which will impact on the width of the access road past these spaces.
    - b. The accessible parking spaces do not comply with AS2890.6.
    - c. A loading /service bay has not been provided.
  - ii) There is no clear pedestrian path from the street to the club entry.
- **Suitability of Site for the Development**

The issue of suitability in the context of a prohibited use enjoying existing use rights is essentially defined by the compliance with the EPA Act 1979 and the Regulations and the level of impact on the surrounding built and/ or natural environment.

The relevant matters relating to existing use rights have already been discussed at length in the preceding sections of this report. The failure of the proposal to satisfy the requirement of the EPA Act 1979 and the Regulations demonstrates that the site is not suitable for a de facto Function Centre.

Council's records indicate noise and traffic-related issues prior to and during the assessment of this application. While the nature of the proposed works themselves would appear at face value to reflect an innocuous proposal, the real effect of an approval would be to facilitate a prohibited use without the benefit of being able to quantify the impact on the surrounding residents or provide accurate information on the true nature of the proposal. Accordingly, it could hardly be held that such a use would be suitable in the context of the surrounding residential buildings.
  - **The Public Interest**

The public interest was taken into consideration whilst assessing this development application. It is considered that application is inadequate and does not demonstrate a genuine intention to continue a registered club operating at the level purported, or that fulfils its statutory obligations to its members and the wider community.

Accordingly, the approval of the application would not be in the wider public interest.

### **Notification**

The development application was advertised in the local newspaper and notified to adjoining and nearby property owners in accordance with Part 7 – Notification of Development Applications of CDCP 2012. We received six submissions and a petition containing 16 signatures objecting to the proposal. The submissions raised issues of concern, which are discussed below:

- **The premises are being operated as a function centre as opposed to a registered club, disrupting the peaceful enjoyment of residents.**

### Comment

It is Council's view that the premises have been used without consent for a function centre and that the proposal would not result in a bona fide registered club operating



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at the site. Council's records indicate several instances where adjoining neighbours have been affected by noise at wedding functions held at the premises, despite there being no valid Occupation Certificate. Inspections by Council staff have also confirmed the operation of the premises despite there being no development consent or Occupation Certificate.

The Statement of Environmental Effects prepared by Daintry Associates and dated 11 August 2015 states that noise attenuation works to the plant and equipment, the adoption of an updated Operational Management Plan, improved on-site parking facilities and further fire safety/ Building Code of Australia upgrades will lessen any environmental harm. While these measures are welcome, they are understood to form part of the conditions imposed on DA-518/2013.

- **Any works should include an acoustic assessment/noise abatement measures**

Comment

An Acoustic Assessment dated 25 January 2016 was supplied in response to a complaint made to the NSW Office of Liquor, Gaming and Racing (OLGR) about noise caused by the PA system during a function at the premises. The acoustic report, prepared by Rodney Stevens Acoustics, notes that during the monitoring undertaken at the premises, the noise criteria were exceeded by up to 6dB. Two measures have been proposed by the acoustic consultant to mitigate the noise impacts. These include keeping external doors shut at all times and installing an electronic frequency dependent limiting device to control the emissions from the PA system.

The assessment does not address noise from patrons entering or exiting the premises, traffic noise or noise from any existing plant. In the context of up to 600 guests, 7 days per week, as purported by Clarence House's website (<http://clarencehouseweddings.com.au/venues/georgian/>) advertising the venue as "The Lemnos Club" wedding reception centre, this will have an unacceptable impact on the surrounding residences.

In addition, functions such as the ANZAC Day Commemorations have in the past attracted up to 500 people. Table 3 of the letter dated 28 May 2015 prepared by McLaren Traffic Engineers notes that between 10 January 2015 and 19 April 2015, there were nine weddings at the subject site, with between 272 and 425 guests. This is quite significant in the context of the 300-600 wedding patrons stated by Clarence House's website that can be "neatly appointed" at a wedding reception in the building and the lack of any holistic assessment by the applicant to demonstrate the proposal will not adversely impact on adjoining properties.

- **The club is rarely open for the enjoyment of members**

Comment

This is purely subjective and has not been quantified.

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42-44 ALBERT STREET, BELMORE: ALTERATIONS TO LOWER GROUND FLOOR LEVEL OF EXISTING REGISTERED CLUB (CONT.)

- **The premises are being operated as a function centre with people hiring the venue joining the Club as “members of convenience” to circumvent planning issues**

Comment

This too is subjective and lacking any reasonable proof on the objector’s part. However, based on the evidence available and the submitted Calendar of Events, it is Council’s view that events which promote the use of the building for social, literary, political, sporting or athletic purposes or any other lawful purposes by members of the Club are infrequent when compared to the number of weddings to be held.

- **The premises have not complied with a number of conditions on DA-518/2013, specifically, the unauthorised change of use to a function centre; occupation and use of the premises without an Occupation Certificate being issued by the Private Certifier; noise impacts from the kitchen exhaust plant.**

Comment

These matters are not relevant in terms of the matters that Council is required to consider pursuant to Section 79C of the EPA Act 1979. They are however relevant to the current enforcement and compliance matters under consideration by Council. Enforcement proceedings do not prevent Council from determining this development application.

- **The use of the building has changed from a registered club to a Function Centre and is contrary to Clauses 41, 42 and 43 of the Environmental Planning and Assessment Regulations 2000**

Comment

Generally, Council agrees with the objections. Compliance with these Clauses has been addressed above.

**Conclusion**

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies. The proposal has failed to demonstrate that the proposed works would result in the on-going use of the premises as a registered club that would retain its existing use rights. Investigations by Council have identified the premises has been and is intended to be used for the purposes of a function centre, which is prohibited in the zone and accordingly, it is recommended that the development application be refused for the reasons listed below.

**RECOMMENDATION:**

THAT Development Application DA-396/2015 for alterations to the lower ground floor of an existing registered club be **REFUSED** for the following reasons:

1. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, as it does not demonstrate the premises will remain as a registered club and retain the benefit of its Existing Use Rights.
2. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, due to the likely adverse environmental impacts on the amenity of the surrounding residential neighbourhood. The adverse impacts would occur due to the unacceptable noise levels generated by patrons attending events at the premises and inadequate on-site car parking provided to cater for the size of the intended events, leading to vehicles parking in local streets, obstructing vehicular access for residents.
3. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of Clause 6.8.3, Part 6 of Canterbury Development Control Plan 2012 (CDCP 2012), as the application has not adequately demonstrated the site can cater for the expected and actual demand for car parking.
4. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as the site is not suitable for the development.
5. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as the proposed development is not in the public interest.

**WE ALSO ADVISE:**

6. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
7. If you are not satisfied with this determination, you may:
  - 7.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
  - 7.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.

**2 17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM**

**FILE NO:** 256/17D PT2  
**REPORT BY:** CITY DEVELOPMENT  
**WARD:** ROSELANDS

<b>D/A No:</b>	<b>DA-617/2015</b>
<b>Applicant:</b>	<b>Mr S M A Hasanat</b>
<b>Owner:</b>	<b>Mr M Khan and Mrs M Rahman</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under CLEP 2012</b>
<b>Application Date:</b>	<b>14 December 2015, amended plans received on 4 March 2016</b>

**Summary:**

- A Development Application has been received for the construction of a secondary dwelling with an attached store room.
- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX), Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policy controls.
- The proposed development is referred to the Independent Hearing & Assessment Panel (IHAP) for determination as the proposal involves a non-compliance with one control in the CDCP 2012, with respect to minimum frontage.
- In accordance with Part 7 of the CDCP 2012, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended the application be approved subject to conditions.

**Council Delivery Program and Budget Implications:**

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

**Report:****Site Details**

The subject site, identified as 17 Duncan Street, Punchbowl (Lot 1 DP 317873), is situated on the western side of Duncan Street. The site is a long and narrow rectangular shaped allotment, with an area of 594.6m<sup>2</sup> and a frontage of 10.16 metres to Duncan Street. The site contains an existing single storey dwelling. The surrounding area is characterised by single and double storey residential dwellings.

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)



### Proposal

The proposal seeks consent for the construction of a secondary dwelling to the rear of the site. The proposed secondary dwelling will have a gross floor area of 59.77m<sup>2</sup>, comprising two bedrooms, one bathroom and an open plan living and kitchen area and verandah.

### Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

### Assessment

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and the following key issues emerge:

- **State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)**  
Clause 20 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) stipulates that the controls provided under the ARH SEPP for secondary dwelling apply if development for the purposes of a dwelling house is permissible on the land. Dwellings are permissible within the R3 Zone under the CLEP 2012, and as such, the development standards provided in Clause 22 and Schedule 1 of the ARH SEPP apply to the subject proposal.

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM (CONT.)

An assessment against the provisions of Clause 22 of the ARH SEPP is provided below:

Standard	Required	Proposed	Complies
Number of dwellings on site	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Floor Space Ratio	0.5:1	0.37:1	Yes
Floor Space of Secondary Dwelling	Max 60m <sup>2</sup>	59.77m <sup>2</sup>	Yes
Minimum site area	450m <sup>2</sup>	594.6m <sup>2</sup>	Yes
Required parking for secondary dwelling	No additional parking required	Single car port provided	Yes

An assessment against the provisions of Schedule 1 of the ARH SEPP is provided below for lots of at least 450m<sup>2</sup> but not more than 900m<sup>2</sup> in size have been applied.

Standard	Required	Proposed	Complies
<b>Part 2 Site Requirements</b>			
<b>Lot Requirements</b>			
Number of dwellings	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Boundary with primary road	Site shall have a boundary with a primary road, measured at the building line, of at least 12 metres.	10.16m	No – see comment [1] below
Access to primary road	A lot on which a new secondary dwelling is erected must have lawful access to a public road.	The subject site has lawful access to Duncan Street	Yes
<b>Maximum site coverage of all development</b>			
Site coverage	50% (297.3m <sup>2</sup> )	39% (232.38m <sup>2</sup> )	Yes
<b>Maximum floor area for principal and secondary dwelling</b>			
Maximum floor area	60m <sup>2</sup>	59.77m <sup>2</sup>	Yes
Total floor area	330m <sup>2</sup>	159.5m <sup>2</sup>	Yes
<b>Setbacks and maximum floor area for balconies, decks, patios, terraces and verandahs</b>			
Total floor area	The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12 square metres if: (a) any part of the structure is within 6 metres from a side, or the rear, boundary, and (b) the structure has any point of its finished floor level more than 2 metres above ground level (existing).	The proposed structure is within 6 metres of the rear boundary, however no point of the finished floor level exceeds 2 metres above existing ground level. As such, this control does not apply.	N/A

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

Standard	Required	Proposed	Complies
	The balcony, deck, patio, terrace or verandah must not have any point of its finished floor level: (a) if it is located within 3 metres of a side, or the rear, boundary – more than 2 metres above ground level (existing).	Finished floor level of proposed verandah is 250mm above existing natural ground level	Yes
<b>Part 3 Building heights and setbacks</b>			
<b>Building height</b>			
Building height	8.5 metres	3.8m	Yes
<b>Setbacks from side boundaries</b>			
Side setbacks	0.9 metres	W side: 1.0m E side: 1.42m	Yes Yes
<b>Setbacks from rear boundaries</b>			
Rear setbacks	3 metres	4.15m	Yes
<b>Privacy</b>			
Privacy relating to habitable room windows	A window in a new secondary dwelling, or a new window in any alteration or addition to an existing principal dwelling for the purpose of a new secondary dwelling, must have a privacy screen for any part of the window that is less than 1.5 metres above the finished floor level if: (a) the window: is in a habitable room that has a finished floor level that is more than 1 metre above ground level (existing), and (i) has a sill height that is less than 1.5 metres above that floor level, and (ii) faces a side or rear boundary and is less than 3 metres from that boundary	The proposed finished floor level is a maximum of approximately 250mm above existing ground level. As such, this control does not apply.	N/A
<b>Part 4 Landscaping</b>			
<b>Landscaped area</b>			
Landscaped area	20% or 118.9m <sup>2</sup>	37% (221.70m <sup>2</sup> )	Yes
Landscaped area	50% of landscaped area behind building line	100% of landscaped area is behind the building line	Yes
Landscaped area	The landscaped area must be at least 2.5 metres wide	The landscaped area is at least 4.1m wide	Yes

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

Standard	Required	Proposed	Complies
<b>Principal Private Open Space</b>			
Principal private open space	24m <sup>2</sup>	40m <sup>2</sup>	Yes
Principal private open space	Principal private open space must be: (a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) more than 4 metres wide, and (c) is not steeper than 1:50 gradient.	The principal private open space is directly accessible from the living areas of the principal dwelling and secondary dwelling, exceeds 4m in width and is relatively flat.	Yes

[1] Site frontage

The proposed development complies with the controls contained in the ARH SEPP, with the exception of minimum frontage. Part 2(2)(1)(b) of Schedule 1 of the ARH SEPP stipulates that sites shall have a boundary with a primary road, measured at the building line, of at least 12 metres. The proposed frontage to Duncan Street is 10.16 metres, which does not comply with this control. While no objectives are contained in the ARH SEPP, our DCP states that the aims of the minimum frontage controls are to ensure that land is appropriate in size and dimension for the proposed building, there is adequate garden area and that appropriate vehicle access can be accommodated. The proposed secondary dwelling is modest in scale, provides reasonable separation to adjoining development, whilst providing opportunities for landscaped open space. There are no implications on vehicle access arrangements as no changes have been proposed as part of this application.

The proposed secondary dwelling complies with the required setbacks controls, and is considered to maintain adequate amenity for occupants of the subject site and adjoining properties. Accordingly, despite non-compliance with the controls relating to site width, the site is capable of accommodating the proposed secondary dwelling and the proposal is supported.

- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX) 2004**

The BASIX commitments outlined in Certificate No. 692286S, dated 14 December 2015, include landscaping, installation of water-saving devices, construction of the floor, walls and ceiling/roof in accordance with the specifications, glazing, lighting and ventilation. A condition shall be imposed on the consent requiring compliance with the submitted BASIX certificate.
- Canterbury Local Environmental Plan 2012 (CLEP 2012)**

The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). Secondary dwellings are not a permissible use within the R3 Zone under CLEP 2012. However, secondary dwellings are permissible



17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM (CONT.)

under the State Environmental Planning Policy (Affordable Rental Housing) 2009 which effectively overrides the LEP. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	The proposed secondary dwelling is not a permissible use within the R3 Zone	No *
FSR	0.5:1	0.37:1	Yes
Building height	8.5m	3.8m	Yes

\* Secondary dwellings are permissible in the R3 Zone under the ARH SEPP

The proposal complies with the standards found in CLEP 2012 and is permissible in the R3 zone pursuant to the provisions of the ARH SEPP.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**

The proposal compares to the relevant provisions of Part 2 of the Canterbury Development Control Plan 2012 as follows:

Standard	Required	Proposal	Complies
Streetscape	Compatibility with existing scale, rhythm of built elements, fenestration and building materials, street edge.	The proposed secondary dwelling is situated in the rear setback and shall not be visible from Duncan Street.	Yes
Side setbacks for dwellings on narrow lot	900mm	Eastern side: 1.0m Western side: 1.4m	Yes Yes
Maximum height	Maximum external wall height 7m and two storeys.	2.4m One storey	Yes Yes
Car parking spaces	Two spaces behind building line for principal dwelling, nil required for secondary dwelling.	Single width carport provided on site for the existing dwelling. As no changes are proposed to the façade of the dwelling, no additional car parking is required for the proposed secondary dwelling. On this basis the proposal is deemed acceptable in this regard.	Yes

#### Store Room

In addition to the secondary dwelling, the proposal also seeks consent to construct a 2.09m x 3.26m store room attached to the rear (or northern) elevation of the secondary dwelling. Consideration should be given to the outbuilding controls in our DCP which require a maximum height of 4.8m, a minimum setback of 450mm from the boundary and a maximum floor area of 45m<sup>2</sup>.

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17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM (CONT.)

The proposed attached store room has a maximum height of 3.8m, a minimum setback of 1m and an area of 6.8m<sup>2</sup> and is compliant with our controls. However in order to ensure that the store room is not integrated into the adjoining secondary dwelling (and result in a non-compliant floor area of 66.58m<sup>2</sup>, being the combined floor area of the secondary dwelling and the store room) a condition of consent is recommended that the store room not be accessible from within the secondary dwelling and not be used for habitable purposes.

**Part 6.2 – Climate, energy and resource efficiency**

The proposed secondary dwelling is single storey and as such, is not considered to result in overshadowing on adjoining properties which will receive the required amount of solar access.

**Part 6.4 – Development Engineering, Flooding and Stormwater**

The development application was referred to our Development Engineer, who deemed the proposal satisfactory subject to the review of amended stormwater plans and the imposition of conditions of consent.

**Part 6.6 – Landscape**

The development application was referred to our Landscape Architect, who deemed the proposal satisfactory subject to the imposition of conditions.

- **Canterbury Development Contributions Plan 2013**

Under the Canterbury Development Contributions Plan 2013, the proposed development attracts a development contribution payment of \$4,340.95.

**Other Considerations**

- **Sediment and Erosion Control**

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

- **Health, Safety and Amenity during Construction Phase**

During the construction of the development, the health and amenity of workers, the public and adjoining properties alike need consideration under Section 79C of the Environmental Planning and Assessment Act. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).

- **Suitability of Site for the Development**

Notwithstanding the sought departure from the relevant site width requirements, the proposed secondary dwelling is compliant with the applicable controls for this type of development, such that it sits 'comfortably' in the site without causing a loss of amenity for either future occupants or neighbours. The width of the site does not

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

prevent the reasonable development for a secondary dwelling and is a suitable use for the subject site.

### Notification

The development application was notified for 14 days in accordance with the provisions of Part 7 of our DCP. No submissions were received.

### Conclusion

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies and has been found to be satisfactory and worthy of support. The proposed development provides good amenity for future occupants of the subject secondary dwelling and minimises impacts onto neighbouring residents. The design of the proposed development is compatible with the future and desired local character of the area will positively contribute to the local built environment. As such, it is recommended that the development application be approved subject to conditions.

### RECOMMENDATION:

THAT Development Application DA-617/2015 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Protection from termites
    - Structural Engineering Plan
    - Building Specifications
    - Hydraulic Plan
    - Soil and Waste Management Plan
    - BASIX Certification
  - 1.2. Evidence of an Owner Builder Permit (Class 1 & 10 buildings only); or Evidence of a Home Building (Private) Insurance Certificate.
  - 1.3. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
  - 1.4. Payment to Council of:
 

Damage Deposit	\$1,814.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$210.00
Section 94 Development Contributions	\$4,340.95
  - 1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
 

Construction Certificate Application Fee	\$874.00
Inspection Fee	\$832.00
Occupation Certificate Fee	\$161.00

Note 1: Long Service Leave is payable where the value is \$25,000 or more under Part

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986.

Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in the fee quote attachment do not apply, however other fees will apply.

Note 3: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 5: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

#### BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
  - 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
  - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
  - 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
    - 2.4.1. The name and contractor or license number of the licensee who has contracted to do or intends to do the work; or
    - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

#### INSURANCE

3. If it is intended to engage a builder or licensed contractor to do the work where it is valued over \$20,000 and is not a multi storey building then this person must take out home building insurance with a private insurer. The builder or person doing the work must also satisfy Council that they have taken out an insurance policy by producing evidence of the insurance certificate or other documentation. Further information on insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

#### SITE SIGNAGE

4. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 4.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 4.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
  - 4.3. That unauthorised entry to the work site is prohibited.

#### GENERAL

5. The development being carried out in accordance with the plans, specifications and details prepared by:

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

Drawing No.	Prepared by	Title	Date received by Council
1	Parshi Management Pty Ltd	Site Plan	04/03/16
3	Parshi Management Pty Ltd	Floor Layout / Roof Plan	04/03/16
4	Parshi Management Pty Ltd	Elevations & Sections	14/12/15
Storm-DA1	MEGA Civil Engineers Pty Ltd	Stormwater Design	04/03/16
-	-	BASIX	14/12/15
-	-	Waste Management Plan	14/12/15
-	-	Schedule of Finishes	14/12/15

6. The store room attached to the rear of the secondary dwelling not be made accessible from within the secondary dwelling and must not be converted or used for habitable purposes.
7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.
- The amount of the contribution (as at the date of this consent) has been assessed as \$4,340.95. The amount payable is based on the following components:

Contribution Element (2013)	Contribution
• Community Facilities	\$392.57
• Open Space and Recreation	\$3,838.13
• Plan Administration	\$110.25

**Note:** The contributions payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have taken place since the development application was determined.

The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

8. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
9. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00a.m.- 5.00p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
10. All building construction work must comply with the National Construction Code.
11. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.
- In this condition:

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17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

- a) relevant BASIX Certificate means:
    - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
  - b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."
12. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.

ENGINEERING

13. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be amended to make provision for the following:
- a) The design must be generally in accordance with the plans, specifications and details received by Council on 13 April 2015; Job number 074, Sheet 03/03, prepared by Moses Chami building designer.
  - b) Charged or pump-out stormwater drainage systems are not permitted.
  - c) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a Reginald Avenue or directly into Council's piped drainage system.
  - d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - e) Overland flowpath must be provided within the setbacks to the side boundaries between the rear of the secondary dwelling and Reginald Avenue frontage.  
A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.
  - f) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage
  - g) Plans must specify that any components of the existing system to be retained must be checked during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development, and be replaced or upgraded if required.
  - h) The existing site drainage must be checked to ensure that it discharges either to the kerb and gutter of Reginald Avenue or to Council's piped drainage system. If the existing site is found not to drain to either the kerb and gutter of Reginald Avenue or to Council's piped drainage system the stormwater drainage concept design must be amended to achieve this.

17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM (CONT.)

- i) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- j) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.

The design must be prepared by a qualified Civil Engineer and be provided to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate.

- 14. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
- 15. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
- 16. The applicant is to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.

#### LANDSCAPING

- 17. The existing property trees identified on the site plan may be removed to accommodate construction.
- 18. The existing street trees, 2 x *Callistemon viminalis* (common name Weeping bottlebrush), growing on the nature strip in front of the property are to be retained and protected during construction. A tree protection zone (TPZ) of 2m radius erected around each of the tree's trunk must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.

#### SYDNEY WATER REQUIREMENTS

- 19. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For help either visit Sydney Water's web site at [www.sydneywater.com.au/SW/plumbing-building-developing](http://www.sydneywater.com.au/SW/plumbing-building-developing), Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

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17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

CRITICAL INSPECTIONS

20. Class 1 and 10 Buildings

The following critical stage inspections **must be** carried out by the Principal Certifying Authority (either Council or the Accredited Certifier):

- 20.1. at the commencement of the building work, and
- 20.2. after excavation for, and prior to the placement of any footings, and
- 20.3. prior to paving any in-situ reinforced concrete building element, and
- 20.4. prior to covering of the framework for any floor, wall, roof or other building element, and
- 20.5. prior to covering waterproofing in any wet areas, and
- 20.6. prior to covering any stormwater drainage connections, and
- 20.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

21. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent.

To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

22. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

WE ALSO ADVISE

23. This application has been assessed in accordance with the National Construction Code.
24. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
25. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Protection from termites
  - Smoke alarms
  - BASIX completion
26. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
27. Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
28. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.



17 DUNCAN STREET, PUNCHBOWL: CONSTRUCTION OF GRANNY FLAT AT REAR OF SITE AND SEPARATE STORE ROOM  
(CONT.)

29. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
30. If you are not satisfied with this determination, you may:
  - 30.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of the receipt of this Notice of Determination; or
  - 30.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.

**3 13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT****FILE NO:** 947/13D PT1 & 2**REPORT BY:** CITY DEVELOPMENT**WARD:** ROSELANDS

<b>D/A No:</b>	<b>DA-263/2015</b>
<b>Applicant:</b>	<b>MacKenzie Architects International</b>
<b>Owner:</b>	<b>Easeform Pty Ltd and Anthony and Constantine Vasiliades</b>
<b>Zoning:</b>	<b>B5 Business Development under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>19 June 2015 (additional information received 27 October 2015 and 7 April 2016)</b>

**Summary:**

- A Development Application has been received for the demolition of existing dwellings and outbuildings, consolidation of both lots and construction of a new six-storey mixed use development consisting of 29 residential units, two commercial tenancies at ground floor, a two level basement and associated landscaping.
- The application is referred to the Independent Hearing and Assessment Panel (IHAP) because it is outside the delegations of Council officers.
- The proposal relates to a 'mixed use' development which is permissible with Council consent within B5 Business Development zone under Canterbury Local Environmental Plan 2012 (CLEP 2012).
- The application has been assessed against the relevant provisions of State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65), State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policy controls. The proposal seeks variations from controls relating to the overall height of the building, front setback and building separation. These non-compliances are discussed in further detail in the body of this report, and on balance are considered worthy of support.
- The proposal has been notified and advertised in accordance with the provisions of our notification policy. One submission was received raising concerns about noise from construction, privacy, overshadowing, and traffic generation. These issues are addressed within this report.
- It is recommended that the application be approved subject to conditions.

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

**Council Delivery Program and Budget Implications:**

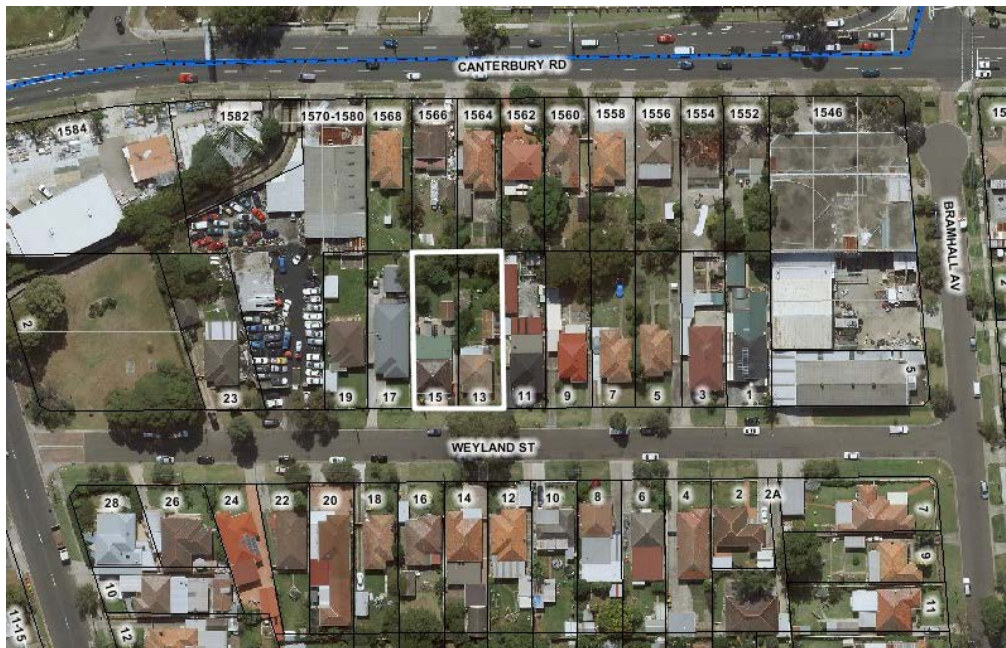
This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

**Report:**

**Site Details**

The subject sites are 13 and 15 Weyland Street in Punchbowl (Lots 336 and 337 in DP 13801) and have a combined frontage of 24.38m. They are rectangular in shape, have a combined area of 1,040.5m<sup>2</sup> and both contain a single storey detached dwelling, outbuildings and trees. It is a flat site, with a minor cross-fall from east to west. The immediate area is generally characterised by single and double storey detached dwellings, some commercial and industrial activities to the north, east and west. The subject site shares a rear boundary with properties fronting Canterbury Road.

The site is identified as a “key site” which permits mixed use development in the B5 Business Development zone as described under Clause 6.7 of our Local Environmental Plan. This matter is further discussed under the sub-heading ‘Canterbury Local Environmental Plan 2012’ in this report.



13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)



### Proposal

The proposal involves the following:

- Demolition of all existing structures at both 13 and 15 Weyland Street;
- Removal of all trees within the property;
- Consolidation of two lots into one;
- Excavation of the site for a two level basement car park for 44 spaces;
- Construction of a six storey mixed use development, configured as two detached buildings, with two commercial tenancies at ground floor level (23.35m<sup>2</sup> and 73.17m<sup>2</sup>) and 29 residential units (4 x 1 bedroom and 25 x 2 bedrooms).

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

No uses are proposed for the commercial tenancies and the first use of these will be subject to separate applications.

### **Background**

On 25 September 2015 we wrote to the applicant requiring additional details for this Development Application. Final amended plans received on 7 April 2016 include a roof top terrace on the northern block.

A six storey development has been approved on the adjoining property at 17-19 Weyland Street. This development approves 29 units in two detached buildings configured in the same manner as the subject application. From a streetscape perspective the first two levels (including ground level) are located at a nil front setback, the next two levels at a 2m setback, and the next two at a 4m to 5m setback.

Three Development Applications, all of them six storey mixed use developments, are currently under assessment along Weyland Street. Two of these applications exhibit the same front setback arrangement as described above. The first two storeys are at a nil front setback, the next two storeys at a 2m front setback and the next two storeys at a 4m to 5m front setback. The exception is a Development Application under assessment at 9-11 Weyland Street, which exhibits four storeys at a nil front setback with the fifth and sixth storey at a front setback ranging from 2.5m, 4m and 5m.

### **Statutory Considerations**

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65)
- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

Any demolition works require specific consideration of the Australian Standards 2601 – 1991 Demolition of Structures as required by Clause 92 of the Environmental Planning and Assessment Regulation 2000.

### **Assessment**

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and the following key issues have emerged:

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

- **State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)**

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of residential apartments in a shop top housing development.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the DA that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. This documentation has been submitted by Mackenzie Architects International.

In addition, SEPP 65 requires the assessment of any DA for residential apartment development against the nine design quality principles and to consider the matters contained in the ADG.

#### Context and Neighbourhood Character

The locality is predominantly occupied by a mixture of single and double storey detached dwellings, with the exception of some industrial and commercial uses nearby. However, this land is zoned B5 Business Development and will ultimately be a mixture of commercial activities and residential dwellings in multi-level developments. As mentioned in the background of this report, the adjacent property 17-19 Weyland has approval for a six-storey mixed use development consisting of residential and commercial units with basement parking (DA-550/2013/A). This proposal will read the same as 17-19 Weyland Street with regard to appearance of bulk. The front setbacks are the same, and the configuration as two separate buildings aligns with this proposal.

This is an area that is under transition and the proposal is considered to be consistent with the desired future character. There are other Development Applications proposing the same streetscape treatment, with another seeking four storeys at a nil setback and then setting back the 5<sup>th</sup> and 6<sup>th</sup> storey. Whilst these applications remain undetermined, it is reasonable to suggest that a variety of urban design approaches might be acceptable along Weyland Street, particularly given the lack of clarity provided in the DCP in regard to front setbacks along Weyland Street.

#### Built Form and Scale

The built form of the proposed development will contribute towards the future definition of the streetscape and character, with respect to commercial activities at street level, a zero alignment to the street and manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

opportunities are provided through the location of living areas adjacent to the street to the south and the centralised communal open space in the middle of the site.

It is noted that the proposed bulk is inconsistent with the existing low density nature typified by detached dwellings. However, the future redevelopment intentions along this side of Weyland Street between Moxon Road and Bramhall Avenue as well as to sites to the rear of this site along Canterbury Road will eventually be well integrated, by way of similarly scaled developments.

#### Density

The density is considered acceptable with respect to the bulk and scale of the development, as it is generally (with the exception of the lift well) within the height of building development standard and there is sufficient ground level public and private open space areas. The application of these principles means that it is not an over-development of the site.

#### Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. A total of 79% of the units receive at least two hours of sunlight between 9am and 3pm in mid-winter, and therefore the proposal complies with the minimum 70% requirement. Further, 76% of the units are naturally cross-ventilated, satisfying the minimum control of 60%. Compliance is still achieved with these requirements with the loss of a storey from the rear building.

#### Landscape

Landscape details have been provided, with respect to the communal area as well as the private courtyard areas. This has been reviewed by our Landscape Architect. The proposal satisfies the requirements of Part 3.3.3 and Part 6.6 of the CDCP 2012.

#### Amenity

The design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to the majority of units, natural ventilation through each floor, appropriately sized courtyards and balconies for each residential unit as well as communal open space and ease of access for all age groups and degrees of mobility. The proposal also has adequate regard for its neighbours in that it does not result in detrimental shadow, privacy or visual impacts on adjoining premises, including properties across the road. As the footprint, scale and distribution of bulk of the proposal is congruent with the adjoining approved development at 17-19 Weyland Street, privacy and shadow impacts are satisfactorily minimised.

#### Safety

The proposed development has been reviewed in accordance with Part 6.2 of the CDCP 2012 and it has been determined that it is consistent with these principles.

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STORY MIXED USE DEVELOPMENT (CONT.)

### Housing Diversity and Social Interaction

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs. This will aid in addressing housing affordability.

### Aesthetics

The application has been accompanied by a Design Verification Statement and confirms that the development satisfies the general design principles contained within SEPP 65. The design of the proposal and the incorporated building elements contribute to the desired future character of the area. It generally complies with the relevant controls under Part 3 of the CDCP 2012.

Having regard to the above, the proposal meets the objectives of SEPP 65 by activating an underutilised site and by providing a positive contribution to the locality in terms of design quality and amenity for future occupants without creating an adverse impact on adjoining sensitive land uses.

### **Apartment Design Guide**

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2)(c) of SEPP 65.

An assessment of the proposed development in regard to the following 'Design Criteria' controls of the ADG is demonstrated in the table below:

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site = 260m <sup>2</sup>	The proposed development provides a total of 366.82m <sup>2</sup> of communal open space, located both at ground level and as a rooftop terrace which equals to 35% of the site area.	Yes
	Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter)	130m <sup>2</sup> receives all day sun in mid-winter (roof top terrace). The ground level communal open space receives no direct sun in mid-winter.	Yes – see comment [1] below
Deep Soil Zones	Deep soil zones are to have a minimum dimension of 3m for sites between 650m <sup>2</sup> and 1,500m <sup>2</sup> , with a minimum of 7% site coverage.	Nil	No – see comment [2]



13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

Section	Design Criteria	Proposed	Complies
Visual Privacy (Separation between buildings)	Habitable rooms to habitable rooms Up to 4 storeys: 12m 5 – 6 storeys: 18m	Habitable rooms to habitable rooms Up to 4 storeys: 9m – 12m 5 – 6 storeys: 13m – 14.23m	No – see comment [3]
	Habitable rooms to non-habitable rooms Up to 4 storeys: 9m 5 – 6 storeys: 13.5m	Habitable rooms to non-habitable rooms Up to 4 storeys: 9-10m 5 – 6 storeys: 13m	Yes No – see comment [3]
	Side and rear setback Up to 4 storeys: 6m 5 – 6 storeys: 9m	<u>Side</u> nil setback <u>Rear</u> Up to 4 storeys: 6m 5 and 6 storey: 13m	No - see comment [3] No – see comment [3]
Bicycle and Car Parking	The site is not located within 800m of a railway station and therefore the parking controls outlined within our CDCP 2012 apply. This is assessed under the DCP section of the report.	N/A	N/A
	44 spaces	44 spaces	Yes
<b>Part 4 Designing the Building</b>			
Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at mid-winter.	The living rooms and private open space areas for 23 out of the 29 apartments (79%) receive at least two hours of direct sunlight between 9am and 3pm on 21 June.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Four out of the 29 proposed apartments (14%) do not receive direct solar access between 9am and 3pm on 21 June.	Yes
Natural Ventilation	At least 60% of apartments are naturally cross ventilated	22 of the proposed 29 units (76%) are naturally cross ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No apartment is greater than 18m in depth.	Yes

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

Section	Design Criteria	Proposed	Complies
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> <li>- 2.7m for habitable rooms</li> <li>- 2.4m for non-habitable rooms</li> <li>- 3.3m for ground floor commercial areas</li> </ul>	The ground floor commercial premise has a ceiling height of 3.3m. The ceiling heights of all residential floors are 2.7m.	Yes
Apartment Size and Layout	Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> <li>- 1 bedroom: 50m<sup>2</sup></li> <li>- 2 bedrooms: 70m<sup>2</sup></li> </ul> Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.	All units comply.	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths do not exceed the maximum depths permitted.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposal comprises open plan layouts. Each open plan layout comprises a maximum depth of 8m from a window to the rear pantry of the kitchen.	Yes
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	The master bedrooms and secondary bedrooms of each apartment comprise an area of at least 10m <sup>2</sup> or 9m <sup>2</sup> respectively.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>- 3.6m for studio and 1 bedroom apartments</li> <li>- 4m for 2 and 3 bedroom apartments</li> </ul>	All living/dining rooms in all apartments comprise a minimum width of 4m in one direction.	Yes

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

Section	Design Criteria	Proposed	Complies
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is at least 4m.	Yes
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> <li>- Minimum area of 8m<sup>2</sup> and minimum depth of 2m for 1 bedroom units</li> <li>- Minimum area of 10m<sup>2</sup> and minimum depth of 2m for 2 bedroom units</li> </ul>	All comply	Yes
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	A maximum of three apartments are located off a central circulation core.	Yes
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> <li>- 6m<sup>3</sup> for 1 bedroom units</li> <li>- 8m<sup>3</sup> for 2 bedroom units</li> </ul> At least 50% of the required storage is to be located within the apartment.	The storage areas provided within each unit is at or over 50% the minimum requirement, with the remainder provided in the basement area.	Yes. However a condition will be imposed to ensure that the basement area is split to ensure an equitable distribution of storage space is provided throughout.

**[1] Communal open space sunlight**

Developments are required to achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter). The roof top equates to half of the communal open space requirement and receives all day sun in mid-winter. The ground level communal open space located centrally to the site receives no sun in mid-winter. The ADG requirements are satisfied with respect to sunlight access to communal space.

**[2] Deep Soil Zones**

By definition there is nil deep soil afforded to the site as the 1.5m wide strip at the rear of the site, which equates to approximately 37m<sup>2</sup>, is less than 3m wide and is not calculable as deep soil. The proposal results in the removal of all trees from the site with the exception of the street tree. The Landscape Plan (LPDA15-412/1 issue B) shows the planting of seven Pyrus Calleryana 'Bradford' trees, which are proposed at 100L pot size and 8m. Our Landscape Architect accepts that this planting will thrive in this deep soil zone. It is considered that the objectives for deep soil zones are

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

achieved because healthy plant and tree growth is achieved at the rear of the site and centrally to the site between the two blocks.

[3] Visual Privacy (Separation between buildings)

Part 3F of the Apartment Design Guidelines (ADG) deals with separation of buildings located on the same site as well as side and rear setbacks, and is aimed at visual privacy. In this case building separation will also assist in the provision of ventilation and solar access to units. Part 3F also states that the adjacent context and scale of the development need to be considered.

Separation between buildings on the same site

With regard to the separation between buildings on the same site, the ADG requires 12m between habitable rooms up to four storeys, increasing to 18m for the fifth and sixth storey. The proposal seeks between 9m, 10.25m, 10.33m, and 12m up to four storeys.

The 9 metre separation equates to a departure of 25% and occurs between bedrooms on the southern side of the northern block and the living/dining areas on the northern side of the southern block (with the exception of the ground floor, which is between bedrooms and bedrooms).

The 10.25m separation occurs between the living room balcony and bedroom 2 at the second storey. This equates to a departure of 14.6% to the control. As a means of achieving privacy a high sill window is used to bedroom 2, and a fin blade wall is used to the adjoining bedroom 1 achieve privacy whilst retaining cross through ventilation opportunities.

The 10.33m separation occurs between the living room balcony and bedrooms at first and fourth storey. This equates to a departure of 14% to the control. As a means of achieving privacy a fin blade wall is used to bedroom 1 at the first and fourth storey to achieve privacy, and a high sill window to the adjoining bedroom 2. The fin blade wall is not considered a good design response, and is conditioned to be replaced with a high sill window so that privacy is retained and cross-flow ventilation can be properly achieved.

A compliant 12m setback is proposed between the kitchen and living room balconies up to fourth storey.

For the fifth and sixth storey, where an 18m setback is required between habitable rooms, the proposal seeks 13m between a bedroom and kitchen, and 14.23m between living areas. This non-compliance equates to departures of 27.8% and 21% respectively. High sill windows have been used in the south-facing windows of the northern block to restrict overlooking.

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

In terms of habitable to non-habitable rooms, the proposal complies up to fourth storey and seeks a variation of 0.5m (3.7%) for the fifth and sixth storey. Opaqueness is used for the non-habitable rooms and there is no privacy or overlooking impacts.

The use of high sill windows, where the sill of the window is 1.6m from the floor, is an effective means of reducing privacy impacts. As shown in the southern elevation of the northern block, every window (even where the setback is a compliant 12m) is a high sill window. The Apartment Design Guide contemplates screening devices to increase privacy without compromising access to light and air. The proposed use of high sill windows successfully mitigates privacy impacts whilst maintaining adequate light and air. Therefore, whilst there are departures to the requirements for building separation, this proposal satisfies privacy objectives.

#### Rear setback

The ADG rear setback is required to be 6m up to four storeys and 9m for the fifth and sixth storey. This proposal seeks a rear setback of 6m for the first four storeys (which complies), and the fifth and sixth storey is set back 6m to the balconies, 7m to the bedrooms and 8.4m and 8.6m to the living rooms. As the measurement is taken to the balconies the departures equate to 33%. The non-compliance of the bedrooms with the rear setback requirement at the fifth and sixth storey (which equates to a departure of 22%) is satisfactory and does not compromise the objectives of the ADG as conditions require the windows to be translucent up to a height of 1.6m above the floor. The living room non-compliance equates to a departure of 4% and 6.6% and is acceptable.

#### Side Setbacks

The side setbacks are nil to abut the adjacent approved building at 17 Weyland Street. In accordance with Part 3 of the ADG, consideration has been given to the context of surrounding buildings and takes stock of the desired future character envisaged by the controls.

- **State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)**

State Environmental Planning Policy 55 – Remediation of Land aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. Clause 7 of this Policy states that we must not consent to the carrying out of development unless we have considered whether the land is contaminated. If the land is contaminated, we must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

The applicant states that the site has been historically used for residential purposes and there is no indication on site of any potentially contaminating activities occurring on the site that would warrant further investigations pursuant to this Policy. It is accepted that the site has been historically used for residential purposes and is unlikely to be contaminated.

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

It is considered no further investigations are required to be undertaken and that the subject site is suitable for the proposed end use.

- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**  
Weyland Street is not a road with an annual average daily traffic volume of more than 40,000 vehicles and therefore assessment for noise and vibration is not required under Clause 102 of the Infrastructure SEPP. However, an acoustic report prepared by Acoustic Noise and Vibration Solutions dated 12 June 2015 (Ref: 2015-192) confirms compliance with the minimum noise and vibration requirements of this SEPP based on the method of construction of walls and windows.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**  
BASIX Certificate No. 640125M accompanies this application. The Certificate makes a number of energy and resource commitments in regard to the planting of indigenous or low water use species of vegetation, thermal comfort, natural lighting, minimum 3 star water fixtures and appliances and 5 star instantaneous gas hot water system. These commitments have been shown on the DA plans, and satisfy the requirements of the SEPP.
- Canterbury Local Environmental Plan 2012 (CLEP 2012)**  
The subject site is zoned B5 Business Development under the provisions of the LEP. The site is identified as a 'key site' which makes mixed use development permissible under Clause 6.7 of our Local Environmental Plan. Mixed use developments, which can include both commercial and residential uses on the ground, is permitted.

#### Part 4 – Principal Development Standards

Standard	Requirement	Provided	Complies
Zoning	B5 – Business Development	The proposed development is located on a 'key site'. The proposed development is defined as a 'mixed use development' and is permissible with consent.	Yes
Clause 4.3 Height of Buildings	18m	18.21m both buildings 21m for the rear building	No – see comment [1] below

As demonstrated in the above table, the proposed development seeks a departure from the numerical control regarding building height.

#### [1] Height

The proposal exceeds the development standard for building height by 210mm for the western lengths of both buildings, and 3 metres for the rear building caused by the roof top terrace and associated lift, stairwell and balustrading.

As such, the development seeks a variation to Clause 4.3 of CLEP 2012 relating to the height of buildings. The applicant has submitted a justification in accordance with

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Clause 4.6 of CLEP 2012 regarding the non-compliance with the development standard. Clause 4.6 of the LEP states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The objectives for variations to the development standard are to provide flexibility in applying certain development standard to development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The applicant argues that the part of the building exceeding the 18m height control does not generate additional overshadowing or create visual impacts to the street.

#### Comment

The two buildings mostly comply except for its western length, where it exceeds the 18m standard by 210mm or 1%. This departure is considered satisfactory, and a product of the slight topography at this side of the site. The non-compliance does not diminish the proposal's performance against the objectives of our control, and strict numerical compliance would not result in a far greater design response.

The rear building seeks a 3m (a 16.7% variation) departure from the maximum building height standard of 18m. This is mostly due to the proposed roof top pergola and associated balustrade, lift and stair enclosure. The rooftop terrace has been introduced to achieve a better design outcome as it provides excellent accessibility to sunlight and significantly improves the residential amenity of its occupants with no detrimental impacts on adjoining properties. As it is located at the rear there are no streetscape impacts.

In the decision of *Four2Five Pty Ltd v Ashfield Council*, the Land and Environment Court highlighted that merely showing that a development achieves the objectives of the development standard (which was the previous test) will be insufficient to justify that a development standard is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6.

In establishing sufficient environmental grounds for the variation, identification of grounds particular to the circumstances of the proposed development are more effective than grounds that would apply to any similar development on the site or in the vicinity.

In the circumstances of this case the proposal abuts development along Canterbury Road, where the controls envisage bulk and scale not dissimilar to this proposal. It is

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congruent with the type, scale and form of development envisaged by the controls and satisfies the desired future character of the area. The north-south orientation of the site increases the difficulty with which communal open space can be provided with excellent access to sun. The roof top terrace is a necessary departure to meet the standards sought by the Apartment Design Guide. It is considered the Clause 4.6 Variation adequately demonstrates the uniqueness of the situation to permit the 3m departure to the development standard.

- Canterbury Development Control Plan 2012 (CDCP 2012)**

The proposed development has been compared to the requirements of CDCP 2012 as follows. The only controls considered below are those that have not been assessed earlier in this report under the provisions of the ADG.

Control	Requirement	Proposed	Complies
<b>Envelope Controls</b>			
Height	Floor to ceiling heights Ground Floor: 3.3m Residential Floors: 2.7m Basement Car Park: 2.8m	Ground Floor: 3.3m Residential Floors: 2.7m Basement Car Park: 2.8m	Yes
Depth/ Footprint	Maximum 18m - residential	The front building has a depth of 13m and the rear building has a depth of 14m	Yes
	10m-24m - commercial	6m and 12m	No – see comment [1] below
Front setback	1-4 storeys nil setback on street Above 4 storeys 5m setback	Up to 2 storeys - zero setback 3 and 4 storeys - 2m setback 5 and 6 storeys - 4m and 5m	No – see comment [2]
Building Separation	The minimum distance between habitable room to habitable room up to 3 storeys is to be 6m	9m	Yes
	The minimum distance between habitable room to habitable room on the fourth storey is to be 12m	The minimum distances are 9m, 10.33m and 12m	No – see comment [3]
	The minimum distance between habitable room to habitable room on the fifth and sixth storeys is to be 18m	The minimum distance is 13m and 14.23m	No – see comment [3]
Car Parking	Commercial = 4 spaces Residential = 40 spaces	44 spaces	Yes
	Bicycle spaces = 9	Ten bicycle spaces	Yes
	Car parking, ramps, driveways and entries are to be integrated into design	Car parking, ramps, driveways and entries are integrated into the design.	Yes
Basement parking	The basement is to be restricted to the footprint of the building	Basement is restricted to the footprint of building	Yes



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(CONT.)

Control	Requirement	Proposed	Complies
	The basement is to protrude a maximum 1m above the existing ground level	Basement is located entirely below the existing ground level	Yes
	The access driveway is to be a maximum width of 6m	The width of the driveway crossing is 6m	Yes
	Minimise impacts from vehicles on neighbouring residential properties	All vehicular access will be concentrated to the one entry / exit point, which is considered will minimise impacts.	Yes
	Parking and loading bays are to be located in the basement	Parking and loading bays are located in the basement area	Yes
	Secure bicycle parking is to be provided	Bicycle parking is provided	Yes
	Parking spaces are to be limited on small developments where there is an impact on landscape / deep soil areas	All parking is provided in the basement	Yes
	Safe access to the car park is to be provided	Safe access is provided via lifts to the basement	Yes
	The car park entry is to be recessed from the main building façade	The car park entry is appropriately recessed from main façade	Yes
	Avoid black holes in the façade with security doors and decorative grills	Appropriate security door provided to avoid black holes in façade	Yes
<b>Design Controls</b>			
Context	Building form and design does not have to mimic traditional features, but should reflect these in a contemporary design	It is considered that the proposed development demonstrates a contemporary design	Yes
Street Address	Entries are to be located where they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network	Entries to the building are located on the street frontage	Yes
	Awning to be provided over the entry to contribute to the legibility of the development and the public domain	A cantilevered awning is provided	Yes
	Accessible entries to be provided for all potential uses	Accessible entries are provided	Yes
	Entries are to be provided to upper levels from the front façade to encourage activities on the ground floor and service activities to rear of the buildings	A centralised entry point is provided which is both for the commercial units as well into the residential dwellings across both buildings	Yes

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(CONT.)

Control	Requirement	Proposed	Complies
	Habitable rooms to face towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety	Habitable rooms are facing Weyland Street as well as the ground level communal open space between the two buildings	Yes
Façade Design	Long spans of blank walls are to be avoided along street frontages. Address the street frontages with façade treatment with articulation of elevations on corner sites	Long spans of blank walls along street frontages have been avoided	Yes
	Contrasting elements are to be incorporated in the façade, using a harmonious range of high quality materials.	Contrasting elements incorporated into the street frontages and a harmonious range of high quality materials used	Yes
	Building layout or structure is to be expressed in the façade, with architectural features such as columns, beams, floor slabs, balconies, wall opening and fenestration, doors, balustrades, roof forms and parapets are elements that can be revealed or concealed and organised into simple or complex patterns.	Building layout is suitably expressed through use of a variety of architectural features, such as recessed balconies, balustrades different window sizes and the roof form	Yes
	Design façades are to reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows	Façade design reflects the orientation of the site by using sun shading devices	Yes
	Wall alignment is to be modulated, with a step in of at least 1m.	Wall alignment adequately modulated by at least 1m, with respect to courtyards, balconies and the like	Yes
Façade details	Balconies and voids are to not dominate publicly visible façades	Balconies and voids are integrated into the building footprint along the Weyland Street frontage	Yes
	Solid to void ratio to be in the vicinity of 50%, with each façade measured independently	It is considered that there is an acceptable ratio of solid to void within the façade of the street frontage	Yes
	Balconies are to be used in moderation and to be integrated within the overall composition of the façade	Balconies used in moderation and adequately integrated into the overall composition of public façades	Yes
Shopfront	External solid roller shutters or brick walls on are to not be placed on shopfronts	No external solid roller shutters or brick walls proposed on shopfronts	Yes

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(CONT.)

Control	Requirement	Proposed	Complies
Frontage types	Provide the frontage type identified on the relevant diagram	A cantilevered awning overhanging the footpath area is proposed	Yes
Roof Design	Building articulation is to be emphasised with the shape and alignment of the roof	The roof is appropriate to the design of the buildings.	Yes
	Roof design is to relate to the size and scale of the building, the building elevations and three-dimensional building form	The roof design is adequately related to the size and scale of the building, the building elevations and three-dimensional building form	Yes
Services and Utility Areas	Discretely locate mailboxes at the front of the property in accordance with Australia Post standards	Mailboxes are located internally within the building, adjacent to the westernmost commercial unit	Yes
<b>Performance controls</b>			
Visual Privacy	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications. Section 3.3.1 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG.		
Open Space	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications. Section 3.3.3 of CDCP is therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG .		
Internal Dwelling Space and Design (Including storage)	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to apartment size and layouts have no effect in the assessment of residential apartment development applications. Section 3.3.4 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to part 4D of the ADG.		
Housing Choice	Include a mix of unit sizes, such as studio, one, two, three and three plus bedroom apartments	A mix is provided, by way of 4x1 bedroom unit and 25x2 bedroom units	Yes

[1] Depth/Footprint

Our controls stipulate a minimum 10m and maximum 24m depth for commercial components, and one of the two commercial spaces is proposed at 6m depth. The objective for this section is to create viable building spaces for retail and commercial use. The depth of this commercial part has been constrained by the location of the lift. Whilst this is not considered a superior outcome, on balance it is a satisfactory outcome and still enhances the vibrancy of the streetfront.

### [2] Front setback

Our controls seek the first four storeys to be set at a nil setback to the street, with any storey above achieving a 5 metre setback. It also requires a 3 metre setback from the street, but the objectives suggest this requirement applies only to sites along Canterbury Road. As Weyland Street is captured by the same controls that apply to Canterbury Road, a four storey street wall has been set for Weyland Street.

In this proposal the first two storeys are located at a nil setback, and the third and fourth storeys have a 2m setback. The fifth and sixth storeys are mostly set back at 5m but do have a section of wall (bedroom 2) on both floors located at a 4m setback. This proposal is consistent with the adjoining approved development at 17-19 Weyland Street with respect to front setbacks.

The proposed 2m 'step' at the third and fourth storey, whilst a variation to the control, actually modulates the building horizontally and creates visual relief and interest. This variation (which has also been approved on the adjoining site at 17-19 Weyland Street) may actually serve to enhance visual interest by breaking the continuity of the future street wall. Given the R3 residential zone across the road, some visual relief is considered a good design response.

### [3] Building Separation

The setback between habitable rooms facing each other at the fourth storey is required to be 12 metres, but varying setbacks of 9m, 10.33m and 12m are proposed. The departures, varying from 14% to 25% of the control, have been addressed with measures to reduce privacy impacts.

High sill windows are proposed in the southern elevation of the northern building. The window serving bedroom 1 in Unit 21 uses a fin blade wall to achieve privacy, but this is required by condition to be replaced with a high sill window to achieve privacy and a better design response.

The setback between habitable rooms facing each other at the fifth and sixth storey is required to be 18m but varying setbacks of 13m and 14.23m are proposed, representing departures of 21% and 27.8%. In order to mitigate privacy impacts a combination of high sill windows and opaqueness is used in the southern elevation of the northern building, and is repeated in the northern elevation of the southern building for ensuite and bathroom windows. These measures are considered to successfully mitigate privacy impacts, whilst retaining the internal residential amenity of the units.

### **Part 6.1 – Access and Mobility**

The development must be designed and constructed to comply with the Disability Discrimination Act, 1992, Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code. This can be imposed as a condition of consent.

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### Part 6.2 – Climate, and energy and resource efficiency

Standard	Requirement	Proposal	Complies
Daylight and Sun access (proposed development)	At least 70% of the proposed apartments living area windows and private open space (balconies) receive at least two hours sunlight between 9am and 3pm in mid-winter	23 units (79%) will receive at least two hours sunlight between 9am and 3pm in mid-winter	Yes
	At least 50% of communal open space receives two hours sunlight between 9am and 3pm in mid-winter	All of the communal open space will receive two hours sunlight between 9am and 3pm in mid-winter	Yes
Daylight and Sun access (Existing dwellings)	Living room and principle area of private open space receive at least two hours sunlight daily between 9.00am and 3.00pm in mid-winter	All properties adjoining the subject site receives in excess of two hours sunlight daily between 9.00am and 3.00pm in mid-winter	Yes
Ventilation	Provide natural cross ventilation to at least 60% of dwellings, and natural ventilation to 25% of kitchens in a multiple unit development	22 of the proposed 29 units (76%) are naturally cross ventilated. 100% of kitchens have natural ventilation where 22 of the proposed 29 kitchens enjoy good cross ventilation (75%).	Yes
	Use the entranceway as a ventilation pathway to individual units	Entranceway used as ventilation pathway to individual units	Yes
	Limit residential building depth to 18m glass line to glass line to support natural ventilation	Units do not exceed 18m in depth	Yes

### Part 6.3 – Crime Prevention

The proposed development will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles relating to natural surveillance, access control and ownership. Conditions can be imposed on any consent issued relating to crime prevention and community safety matters.

### Part 6.4 – Development Engineering Flood and Stormwater

The stormwater plan submitted with the application has been assessed by our Development Engineer and no objection was raised subject to conditions being attached to any consent granted.

### Part 6.6 – Landscaping

The application has been reviewed by our Landscape Architect and was found to satisfy the relevant requirements, with both tree removal and tree planting. Conditions relating to tree removal and the landscaping can be imposed, where relevant by conditions of consent.

**Part 6.8 – Vehicle access and parking**

For this proposed development, the commercial floor space is calculated at the rate of one space per 40m<sup>2</sup>. The total number of spaces required is 2.41. The residential units require one space per one bedroom dwelling, 1.2 spaces per two bedroom dwelling, and one visitor space per five dwellings. The total number of spaces required is 42.41, rounded to 43. A courier bay is also required, resulting in a 44 car space requirement. In total, 44 spaces are provided, and adequate provision is achieved.

With respect to bicycle spaces, a minimum of one per five dwellings or part thereof is required for residents, and one per ten dwellings of part thereof for visitors. Based on that, a total of nine spaces are required. Ten spaces are provided on basement level 1.

A Traffic and Parking Assessment Report was provided in support of the application. It has concluded that the additional traffic generation as a result of this development will be approximately eleven vehicle trips per hour during commuter peak periods. In these circumstances, it can be concluded that the proposed development has no unacceptable traffic implications.

Our Team Leader Traffic and Transportation has reviewed the report, and agrees with the above assessment.

**Part 6.9 – Waste Management**

The application has been reviewed by our Waste Services Coordinator and was found to satisfy the requirements of this part, with respect to waste management during the demolition / construction phase, as well as ongoing management once the store is trading. Conditions relating to management during all of these phases can be imposed as a condition on any consent that is issued.

- **Canterbury Development Contributions Plan 2013**

The provisions of our Section 94 Contribution Plan apply to the proposed development in that it will provide residential dwellings on the subject site. The proposed development attracts a contribution of \$341,336.65 in the event of an approval being issued. This has been included as a condition of development consent.

**Other Considerations**

- **Proposed excavation works**

The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. It has been recommended that a condition be imposed that requires the submission of a report by an accredited Engineer detailing the structural adequacy of the adjoining properties to withstand the excavation works proposed.

Further, an additional condition requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate is also recommended. Should any damage to adjoining properties result from the

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proposed excavation works at the subject site, the applicant will be required to rectify all damages.

- **Sediment and Erosion Control**

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

- **Health, Safety and Amenity during Construction Phase**

During the construction of the development, the health and amenity of workers, the public and adjoining properties alike need consideration under Section 79C of the Environmental Planning and Assessment Act. Accordingly, all works associated with the subject development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).

- **Suitability of Site for the development**

The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and, as demonstrated throughout the body of this report, the proposal generally complies with the provisions of all relevant state environmental planning policies, development control plans, codes and policies.

### **Notification**

The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Part 7 of CDCP 2012. During this time, Council received one submission. It must be noted that the amended plans lodged on 7 April 2016 were notified and no submissions were received. For the purposes of thoroughness, the original concerns are discussed as follows:

- **Noise levels from construction**

Comment

A condition will restrict construction hours and noise so that it complies with relevant legislation.

- **Overshadowing**

Comment

The shadow diagrams lodged in support of this application demonstrate properties on the opposite side of the road do not have sunlight reduced to less than the minimum required by our Development Control Plan.

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- **There is significant overlooking opportunities into adjoining properties**

Comment

It is considered that visual privacy between this building and properties across the road is satisfactorily achieved by virtue of spatial separation. Further, most rooms facing the street are bedrooms, which are not typically used with the same frequency as living spaces and tend not to pose the same degree of privacy impact. Some use of solid balustrading on the third storey also assists with improving privacy. The uppermost levels are set back further to minimise visual impacts and also privacy. As a result of all these factors the proposal has an acceptable impact on properties located opposite with respect to privacy.

- **It will result in parking problems, both during construction and when completed and occupied.**

Comment

The proposed development fully complies with the car parking requirements of the Apartment Design Guide and our Development Control Plan for this type of development. During construction, any vehicles parked on Weyland Street will be required to observe the parking rules as all other residents and visitors in the area.

- **Inconsistent with the existing character of the area**

Comment

This proposal is consistent with building controls for mixed-use development, except that a 210mm (1%) departure occurs along the western side of the building, and the lift overrun, stair enclosure and pergola will exceed the height restriction. Similar scaled developments have already been approved or are under assessment on Weyland Street and to the rear on Canterbury Road.

- **Impacts on the quality of life**

Comment

The proposal complies with all the relevant controls relating to privacy and overshadowing, therefore it is considered that it will ensure that the amenity of the neighbouring residential dwellings is not unfairly compromised.

**Conclusion**

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies and has been found to be satisfactory and worthy of support.

The design of the proposed development is compatible with the future and desired local character of the area and represents a development that will positively contribute to the Weyland Street streetscape and indeed the local built environment. Furthermore, it will have positive impacts by providing commercial opportunities to the area. As such, it is



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recommended that despite a minor departure to building height along the western length, and the lift overrun, stair enclosure, balustrade and pergola associated with the roof top terrace on the rear building exceeding the maximum height restrictions, the development application be approved subject to conditions.

### RECOMMENDATION:

THAT Development Application DA-263/2015 be **APPROVED** subject to the following:  
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Structural Engineering Plan excavation
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Soil and Waste Management Plan
    - BASIX Certification
    - Ventilation of basement in accordance with AS 1668.2
    - Disability (Access to premises buildings) Standard 2010
  - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
  - 1.3. Payment to Council of:
 

Damage Deposit	\$6,790.00
Development Contributions	\$341,336.65
Certificate Registration Fee	\$36.00
Long Service Levy	\$24,012.95
Long Service Levy Commission	\$19.80
  - 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
 

Construction Certificate Application Fee	\$21,803.00
Inspection Fee	\$4,651.00
Occupation Certificate Fee	\$1,558.00

Note 1: Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986).

Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

Note 3: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 4: Development Contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 5: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

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BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent:
  - 2.1. Detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 2.2. You must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
  - 2.3. You must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).

DEMOLITION

3. Demolition must be carried out in accordance with the following:
    - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
    - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
    - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
    - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
    - (e) Demolition of buildings is only permitted during the following hours:  
7.00 a.m. – 5.00 p.m. Mondays to Fridays  
7.00 a.m. – 12.00 noon Saturdays  
No demolition is to be carried out on Sundays or Public Holidays.
    - (f) Burning of demolished building materials is prohibited.
    - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
    - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
    - (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
    - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
    - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
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- (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](http://www.lead.org.au).
- (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- (p) Any existing accumulations of dust (eg. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

#### SITE SIGNAGE

4. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 4.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 4.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
  - 4.3. That unauthorised entry to the work site is prohibited.

#### GENERAL

5. The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the conditions contained in this Notice and the following specific conditions:

Drawing No.	Drawing Title	Prepared by	Received by Council on
A100 (issue D)	Roof/site plan	Mackenzie Architects	7/4/16
A101 (issue D)	Basement levels 1 and 2	Mackenzie Architects	7/4/16
A102 (issue D)	Ground and first floor plan	Mackenzie Architects	7/4/16
A103 (issue D)	Second and third floor plan	Mackenzie Architects	7/4/16
A104 (issue D)	Fourth floor and fifth floor plan	Mackenzie Architects	7/4/16
A200 (issue D)	Elevations 1	Mackenzie Architects	7/4/16
A201 (issue D)	Elevations 2	Mackenzie Architects	7/4/16
A300 (issue D)	Sections	Mackenzie Architects	7/4/16
D01 & D02 (rev B)	Drainage plans	Leo Carboni & Associates	8/12/15

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(CONT.)

LPDA15-412/1 (issue B) and LPDA15-412/2 (issue A)	Landscape Plans	Concept Landscape Architects	27/10/15
Ref:204221	Site survey	W. Buxton Pty Ltd	3/9/14

- 5.1. For the purposes of achieving a better design response, the fin blade wall shown at bedroom 1 of unit 9, 15, and 21 must be deleted and replaced with an openable high sill window so that privacy is retained and cross-flow ventilation can be properly achieved. Details must be shown on the Construction Certificate plans.
- 5.2. For the purposes of ensuring privacy in accordance with the Apartment Design Guidelines the north-facing bedroom windows located at the fifth and sixth storey of the northern block must be translucent glazing to any part of a window between the floor and a point 1.6m above the floor. Details must be shown on the Construction Certificate plans.
- 5.3. For the purposes of ensuring compliance with Part 3D of the Apartment Design Guidelines which requires that communal open spaces be easily identified for all users, a sign must be erected at the ground level communal open space clearly indicating the direction and means of accessing the roof top terrace communal open space. The wording of the sign, and its location, must be clearly shown on the Construction Certificate plans.
- 5.4. In order to comply with Objective 4G-1 of the Apartment Design Guide, at least 50% of the required storage is to be located within the apartment, with the remainder being accommodated in the basement. This shall be notated on the Construction Certificate plans.
6. Finishes and materials including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the approved External Finishes prepared by Mackenzie Architects, Drawing No. DA507, dated 23 April 2015 and received by Council on 19 June 2015.  
The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
7. The site's boundary fencing is to be retained, or replaced (if damaged during the construction process) at the applicant's expense. Any repairs or replacement must be made before the issue of any occupation certificate. Any damage caused during the works period is to be made good within 24 hours of damage.
8. A Dilapidation Report/photographic survey prepared by an appropriately qualified engineer is to be undertaken of the adjoining properties being 9-11 Weyland Street detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. On completion of the excavation and building works and prior to occupation of the building, a certificate by an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STORY MIXED USE DEVELOPMENT (CONT.)

agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this consent.

9. Forty-four (44) off street car parking spaces being provided within the two basement levels and the ground floor level of the development. The driveways and car parking areas must be designed in accordance with AS2890.1-1993 (Off-street car parking).
10. A separate consent is required for the use of the commercial tenancy.
11. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The monetary contribution of \$341,336.65 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$30,874.69
• Open Space and Recreation	\$301,771.65
• Plan Administration	\$8,690.31

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2013 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

12. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
13. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays. Remediation work shall comply with the requirement of the NSW Industrial Noise Policy and the Environment Protection Authority's Environmental Noise Manual for the control of construction site noise.
14. All building construction work must comply with the National Construction Code.
15. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
16. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at all levels and roof indicating the finished level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.

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17. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
- i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and

BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

18. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
19. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
20. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
21. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
22. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
23. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
24. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
25. The construction certificate plans must show the provision of one master TV antenna, to prevent numerous smaller antennas being installed on the roof or balconies.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

26. The basement car park is to be painted the colour 'white'. This measure will increase lux levels and light reflection.
27. The basement car park structures such as concrete columns, solid internal walls, and service rooms are to contain portholes (cut outs). This measure will open sightlines, increase natural surveillance and assist with light distribution.
28. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

29. All access points to the building (including lifts and stairwells) should be restricted to residents only through a security system. Visitors to the residential complex should be provided with access via the intercom.
30. Residential parking should be separate to commercial and visitor parking with either a bollard gate or roller door. This will increase security and reduce unauthorised persons accessing restricted areas of the building.
31. In addition to existing lighting, sensor spot lights are to be strategically placed in high pedestrian areas to increase natural surveillance and enhance feelings of personal safety.
32. Mirrors are to be strategically erected around the site to assist with blind corners and increase natural surveillance.
33. There is to be a presence of proactive security such as CCTV cameras. This measure will ensure that the site is monitored at all times.
34. Directional signage is to be provided throughout the development. The signage should be clear, legible and useful, to aid people in finding their way throughout the area.
35. All residents should be made aware of Council's Home and Street Safety Kit which provides practical tips on how to increase community safety for our residents.

#### LANDSCAPING

36. All existing property trees may be removed to accommodate construction. This is conditional on their replacement with tree plantings as shown on the submitted landscape plan.
37. The existing street tree, 1 x *Corymbia maculata*. (common name Spotted Gum), growing on the nature strip in front of the property, must be retained and protected during demolition and construction. The tree is to be protected in accordance with all advice, recommendations and guidelines provided in the Arboricultural Impact Assessment (prepared by Hayden Coulter of The Ents Tree Consultancy and submitted to council 27<sup>th</sup> October 2015).
38. An AQF level 5 project arborist to be employed by the applicant to carry out at minimum the following for the street tree:
  - Establishment of the tree protection zone and erection of fencing and signage for the street tree as well as for any pruning required.
  - Provision of advice for the redesign of the street awning.
  - Attendance on site regularly in accordance with section 5.4.1 of AS 4970 -2009. Particularly, during the construction of the proposed basement car park.
  - Any roots greater than 25mm in diameter that is exposed within 1m of the TPZ must be cleanly cut and kept moist.
  - Any remedial works that might be required for the tree, should these conditions and the tree protection plan have not be complied with.
  - Provide a final assessment of the tree condition, details of any works conducted to the tree and provision of certification that the tree protection works have been carried out in accordance with the requirements listed above at minimum as set out in Section 5.5.2 of AS 4970-2009. This certification is to be provided to the principle certifying authority and council at practical completion.
39. The street awning is to be redesigned to the approval of the consulting Arborist so that it does not impact on the existing street tree *Corymbia maculata* (common name

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

Spotted gum) nominated to be retained. **The amended awning design is to be submitted to the Council or certifier prior to the issue of the Construction Certificate.**

40. The proposed planting to all podium levels shall comply with the following as required in the CDCP 2012 Part 6.6: Landscape:
- Raised planters:
- Use masonry or concrete construction;
  - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
  - Provide waterproofing to each planter box.
- Minimum soil depth:
- 100-300mm for turf
  - 300-450mm for groundcovers;
  - 500-600mm for small shrubs;
  - 600-750mm for medium shrubs;
  - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
  - 1000mm for medium trees with approximate soil area of 6m x 6m; and
  - 1300mm depth for large trees with approximate soil area of 10m x 10m.
41. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
42. All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
43. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.

#### ACOUSTICS

44. The building is to be constructed as per the recommendations of the Acoustic Report (Ref: 2015-192) for proposed mixed use development at 13-15 Weyland Street, Punchbowl, prepared by Acoustic Noise and Vibration Solutions P/L, dated 12 June 2015.

#### WASTE MANAGEMENT

45. Unobstructed and unrestricted access to the waste bin storage areas shall be provided for servicing from 5.00am on collection days.
46. Bins must not be presented on the road for collection. Instead, they will be collected and returned to the waste bin storage rooms by Council's waste collection contractor.
47. The waste bin storage areas are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
48. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.



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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT  
(CONT.)

ENGINEERING

49. That the stormwater system be designed in general, in accordance with the plans, specifications and details received by Council on 8<sup>th</sup> December 2015; Project Number 389 sheet number D01 of 1 revision B and D02 revision B dated 7/12/15 prepared by Leo Carbone and Associates .
50. All stormwater must pass through a silt arrestor pit prior to discharge to kerb and gutter. Silt arrestor pit is to be sized in accordance with Canterbury Councils DCP 2012. Sump depth is to be a minimum of 300mm deep.
51. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
52. The design of the pipe line from the silt arrestor to a legal point of discharge must drain by gravity with a minimum 1% grade, connection details to be provided to council prior to Construction Certificate this is to include long section and HGL analysis. and comply with council stormwater DCP "Specification 9 "A Guide for Stormwater Drainage Design"
53. Stormwater management plans must be certified by an appropriately qualified and practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's Stormwater Management Manual Specification 9.  
An appropriately qualified and practising Civil Engineer is to be registered on the NER of Engineers Australia or be appropriately qualified to be on the register and be experienced in the design of stormwater drainage.
54. All guttering are to be sized according to AS/NZS3500.3 2015. Roof area and Rainwater tank size equivalent to that noted on the Basix certificate to be included. All water reuse is to comply with said Basix certificate.
55. All external surfaces to be graded so as to facilitate excess surface waters to the overland flow path(s).
56. The stormwater management plan is to capture flows from upstream properties that are currently draining through the site and convey them generally to the pre development location , a clear flowpath is to be designed and maintained to route overland flow from upstream properties across the site
57. A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.
58. A minimum 300 mm step up freeboard must be provided between all 1:100 ARI event water surfaces and adjacent internal floor areas,
59. All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
60. All pits to be minimum 600 x 600 with childproof lockable grated lids.
61. The covered basin is to comply with relevant Australian standards for access, egress, etc. and be constructed of durable and low maintenance materials,
62. Grated trench drain to be min 200mm wide.
63. The overflow is to be directed to the street and away from the entry driveway and

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(CONT.)

- other places where it could cause damage or nuisance.
64. The proposed cover of the OSD basin is to be adequately anchored and secured to prevent it from being displaced.
65. The proposed cover of the OSD basin is to be certified as structurally adequate in particular to withstand hydrostatic uplift, dead and live load combinations etc. and be suited for the purpose. This is to be certified by a qualified and practising Structural Engineer who is listed on the NER of Engineers Australia.
66. OSD sign to be detailed and specified to be installed in the common area to be clearly visible and is to be placed permanently notifying that the common area is a below ground detention basin, and will fill with stormwater after storms.
67. A maintenance schedule for the OSD facility (including the covering platform), orifice plate, screen, Pipework, and waterproofing etc. to be provided and recorded with the new strata plan with an appropriate instrument. This should include periodic inspections, cleaning and a preventative maintenance regime. This is to be submitted to Canterbury City Council, if Council is not the PCA, this is to be approved by council prior to issuing the construction certificate.
68. The overflow capacity of the proposed channel is to be (2x) two times the 1:100 ARI peak flow rate. This is to include a HGL for the discharge to demonstrate adequate flow to a free outlet.
69. Pump-out drainage system is to be designed and certified to comply with Council's DCP 2012, Part 6.4.11 . All waters pumped from the site must only be those generated by rainfall and seepage. If a groundwater table is present, the pit must be tanked and structurally designed to cater for hydrostatic forces and to prevent the ingress of water from the ground table. Pumped waters from the pit are to be directed to the Silt arrestor pit prior to connection to the legal point of discharge.
70. Details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
- 70.1. The street awning(s) must be setback 600mm from the kerb line.
- 70.2. The awnings must be entirely self-supporting; posts are not permitted.
- 70.3. The person or company carrying out the works will be required to carry public liability insurance to a value of ten million dollars. In this regard a Certificate of Currency must be submitted to the Principal Certifying Authority.
- 70.4. All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
- 70.5. The awning(s) must be approved by the relevant Road Authority pursuant to Section 138 of the Roads Act. Note that this Consent does not give approval to construct an awning in the road.
- 70.6. The applicant must indicate the extent of any service adjustments necessary, and submit with the design, proof of approval by the relevant service authorities. The applicant shall bear all responsibility and costs associated with the proposed relocation of services.
- 70.7. The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS
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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STORY MIXED USE DEVELOPMENT (CONT.)

- 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
- 70.8. If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
- 70.9. Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.
- 70.10. A maintenance plan must be provided in respect of the awing(s) to address the following issues at a minimum:
- (a) Inspection schedule of structural members, connections, and supports covering the life of the awing(s).
  - (b) Inspection schedule of non-structural components.
  - (c) Schedule of maintenance actions and maintenance frequency including cleaning, replacement of lighting based on expected operational life, replacement of protective coatings, and cleaning/maintenance of guttering and downpipes.
  - (d) The plans and details of the awing(s) must be certified by a Structural Engineer and be provided prior to the issue of a Construction Certificate.
71. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
72. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Car parking Facilities". In this regard the submitted design must be amended to address the following issues:
- 72.1. The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
  - 72.2. The gradient of the access driveway must not exceed 5% (1 in 20) for the first six metres inside the front boundary of the site in accordance with Clause 3.3(a) of AS/NZS 2890.1: 2004.
  - 72.3. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 – Car parking Facilities".
  - 72.4. A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as structural beams all pipes, lighting fixtures, the garage door housing, door motor, and to open garage doors to provide for the door hang down. In this regard the submitted plans do not comply with these requirements and must be amended, in particular to disabled parking.
73. The applicant is to ensure that landscaping and hydraulic plans are co-ordinated. Hydraulic details such as pits, stormwater lines, detention tanks and retaining walls are to be shown on the Landscape Plan as these can effect layout of garden beds and plantings.

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

74. Retaining walls greater than 1000 mm high or retaining more than 600 mm of cut or fill proposed to be located within one metre of a boundary are to be designed by a Structural Engineer and must have subsoil drainage connected to the site stormwater system. Design plans prepared by an appropriately qualified and practising structural engineer must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
75. The works propose a basement construction, there may be an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury City Council prior to the issue of a Construction Certificate.
- 75.1. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.
- 75.2. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
- 75.3. Where temporary anchors are proposed to be used in council roadways an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
- 75.4. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
- 75.5. Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
- 75.6. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
76. As the proposed development includes significant excavation within the zone of influence of adjacent road reserves, an integrated Structural and Geotechnical Engineering report must be submitted prior to the issue of a Construction Certificate. The report must address the following issues at a minimum:
- 76.1. The type and extent of substrata formations by the provision of representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
- 76.2. The appropriate means of excavation/shoring in light of the point above and proximity to adjacent property and structures.
- 76.3. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be
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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT  
(CONT.)

discussed and ameliorated.

- 76.4. The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby.
- 76.5. Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
- 76.6. Should a ground water table be present within 0.5 metres below the basement level. The basement must be of fully tanked construction such that pump-out systems are not required to drain the subsurface drainage system.
- 76.7. The basement must be tanked to at least 1000 mm above measured groundwater levels.
- 76.8. The Basement pump out system is to drain the driveway component reaching the basement and seepage entering after rainfall. The pumps are not to drain any groundwater table encountered on the site.
- 76.9. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.  
Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment. The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting. Groundwater must not be captured by the drainage system of the basement. The Report must be prepared by suitably qualified Structural and Geotechnical Engineers and be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
77. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. In this regard a copy of the owner's consent for private property and Section 138 Approval pursuant to the Roads Act for roads must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
78. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council for a Road Opening Permit under Section 138 of the Roads Act 1993 for approval to undertake works on council roads. The Road Opening Permit must be obtained prior to commencement of works on the road reserve.  
These works must be constructed in accordance with the conditions of the Road Opening Permit and be completed prior to the issue of an Occupation Certificate.  
Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant

Prior to issuing the Occupation Certificate

79. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of all pervious and impervious areas, as well as, the site drainage and the OSD system where applicable. The plan shall be prepared by a registered surveyor or an engineer. The plan shall record all the relevant site geometry and design levels and dimensions of the OSD system where applicable.
- OSD sign to be installed in the common area to be clearly visible and is to be placed permanently notifying that the common area is a below ground detention basin, and will fill with stormwater after storms.
- An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in appendix 7.5 of Council's Stormwater Management Manual – Specification 9.
80. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
81. The reconstruction of any cracked or damaged sections of the concrete footpath paving and associated works along all areas of the site fronting the site is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
82. The nature strip outside the property shall be repaired as necessary. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with AUS-SPEC #1 Specification C273-Landscaping.
83. Certification from an appropriately qualified and practising Civil Engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
84. The Principal Certifying Authority must ensure that the awing(s) have been constructed in accordance with this Consent and the relevant standards. Prior to the issue of an Occupation Certificate certification must be provided by a Structural Engineer that the awing(s) have been constructed in accordance with the design submitted with the Construction Certificate and National Construction Code.
- Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the [on site detention / on-site retention/re-use] facilities. The Plan must set out the following at a minimum:
- (a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
  - (b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

#### DISABILITY ACCESS

85. A continuous accessible path of travel is to be provided from the street alignment to the building entries, through the communal space to the rear block and from the underground car park to each of the adaptable units, and to and within all common areas of the buildings, including landscaped areas and the residential garbage room. It shall not contain a step or other impediment, and shall have an unobstructed width of at least 1000mm, and vertical clearance of 2000mm.
86. The minimum vertical clearance in the accessible parking spaces and adjacent shared areas is to be 2500mm, and the path of travel from the building entry to accessible parking spaces is to have a minimum vertical clearance of 2200mm.
87. Paving in the entry foyers and the common areas is to be non-slip in wet and dry conditions.
88. All glazed doors and side panels on a continuous accessible path of travel are required to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to be at least 75 mm wide for the full width of the door or side panel and provide a luminance contrast of at least 30% to its surroundings, when viewed from either the inside or the outside the door.
89. Entry doorways are to provide a minimum clear width of 850 mm, when the door, or a single leaf, is fully open.
90. Directional TGSIs are required at the street frontage.

#### SYDNEY WATER REQUIREMENTS

91. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For help either visit Sydney Water's web site at [www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand](http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand) , Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

#### CRITICAL INSPECTIONS

92. Class 2, 3 or 4 Buildings  
The following critical stage inspections **must be** carried out by the Principal Certifying Authority (either Council or the Accredited Certifier)
  - 92.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
  - 92.2. prior to covering any stormwater drainage connections, and
  - 92.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT (CONT.)

Class 5, 6, 7, 8 or 9 Buildings

- 92.4. prior to covering any stormwater drainage connections, and
- 92.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
93. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, **must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work**, as nominated in this development consent.
- To arrange an inspection by Council please phone 9789-9300 during normal office hours.

CONSOLIDATION OF LOTS

94. The site is to be consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the release of the Occupation Certificate.

COMPLETION OF DEVELOPMENT

95. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

WE ALSO ADVISE:

96. This application has been assessed in accordance with the National Construction Code.
97. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
98. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Air handling systems
  - Final fire safety certificate
  - BASIX completion
  - Waterproofing
  - Glazing
  - Section J of the NCC
99. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
100. Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
101. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
102. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021



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13-15 WEYLAND STREET, PUNCHBOWL: DEMOLITION AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT  
(CONT.)

- 199.
103. The drawings and documentation submitted with this development application do not appear to indicate the location of air conditioning units. You are asked to note that the provision of AC units can be carried out through exempt development, however should you not be able to comply with the exempt development provisions a full development application may be required for the provision of AC units.
104. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
105. If you are not satisfied with this determination, you may:
- 105.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of this Notice of Determination and be accompanied by the relevant fee; or
- 105.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.