

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

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Agenda for the

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

**18 July 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 18 July 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**

8 July 2016

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## REPORT SUMMARIES

### **1 17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE**

- The applicant seeks approval for the demolition of the existing garage and associated structures and alterations and additions to the existing building for use as a child care centre.
- The proposal is referred to Independent Hearing and Assessment Panel as it has attracted significant community interest and seeks a departure from the control for side fence heights which is beyond the delegation of our officers. Despite this departure, the proposal has merit.
- The subject site is zoned R3 Medium Density Residential under the provisions of the Canterbury Local Environmental Plan 2012. The proposed child care centre use is permitted within the R3 zone subject to development consent.
- The development application has been assessed against Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and complies with the requirements of these policies with the exception of side fence height, location and corner site controls within Canterbury Development Control Plan 2012. These non-compliances are discussed in the body of the report.
- All adjoining land owners and occupiers were notified of the proposed development in accordance with the requirements of Part 7 of the Canterbury Development Control Plan 2012. Three submissions and one petition from 32 households were received. The submissions raised concern regarding traffic and parking implications, noise generated during construction and ongoing use of the child care centre, the location of the proposed child care centre, inconsistency with the character of the area and that the use will reduce the land value of adjoining properties. These matters are addressed in detail within the report.
- The development application is recommended for approval subject to conditions.

### **2 83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING**

- The applicant seeks approval for the consolidation of existing lots, demolition of existing structures and the construction of a two storey residential building comprising one x one bedroom apartment and eleven x one bedroom plus study apartments with associated basement parking and landscaping.
- The proposal is referred to the Independent Hearing and Assessment Panel as it seeks a departure from the control for building separation which is beyond the delegation of our officers. A minor departure from the building height control is also sought. Despite this departure, the proposal has merit.

- The subject site is zoned R4 High Density Residential under the provisions of the Canterbury Local Environmental Plan 2012. The proposed development, defined as a Residential Flat Building is permissible in the subject zone.
- The development application has been assessed against State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The provisions of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development do not apply as this is not a three storey structure. The development generally complies with the requirements of these policies with the exception of the building separation control within Canterbury Development Control Plan 2012. This non-compliance is discussed in further detail in the body of the report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Canterbury Development Control Plan 2012. Two submissions were received. The submissions raised concern regarding on-site parking, drainage, damage during construction and isolation of 87 Knox Street. These matters are discussed within the body of the report.
- It is recommended the application be approved subject to conditions.

**3 56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE**

- The application is to review the determination of a refused application (DA-39/2013/A) which proposed internal and external alterations to the semi-detached dwelling, including the relocation of vehicular and pedestrian accessways and conversion of attic roof space into bedroom with ensuite.
- The application is referred to the Independent Hearing and Assessment Panel as the proposed design seeks a 44% variation to our minimum light well provisions within Canterbury Development Control Plan 2012.
- The review has considered the reasons for refusal of the original application, including ensuring the attic space cannot be used as a habitable room and by providing revised hydraulic plans.
- The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012, where semi-detached developments are permissible, subject to our consent.
- The proposal has been assessment under Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The proposal achieves a high level of compliance with the exception to the minimum light well dimensions of 1m x 3m. The proposed skylight measures 0.6 x 2.8m and therefore varies the minimum area requirement by 44%. This non-compliance is considered worthy of support and is discussed further in the body of the report.

- The proposal has been notified in accordance with the provisions of our notification policy. One submission was received. Concerns raised related to boundary fence materials and the location of the air conditioning unit. These matters are discussed further within the body of the report.
- As the applicant has amended the design to address the reasons for refusal, it is recommended the application be approved subject to conditions.

**4 56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE**

- The application is to review the determination of a refused application (DA-40/2013/A) which proposed internal and external alterations to the semi-detached dwelling, including the relocation of vehicular and pedestrian accessways and conversion of attic roof space into bedroom with ensuite.
- The application is referred to the Independent Hearing and Assessment Panel as the proposed design seeks a 44% variation to our minimum light well provisions within Canterbury Development Control Plan 2012.
- The review has considered the reasons for refusal of the original application, including ensuring the attic space cannot be used as a habitable room and by providing revised hydraulic plans.
- The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012, where semi-detached developments are permissible, subject to our consent.
- The proposal has been assessment under Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The proposal achieves a high level of compliance with the exception to the minimum light well dimensions of 1m x 3m. The proposed skylight measures 0.6 x 2.8m and therefore varies the minimum area requirement by 44%. This non-compliance is considered worthy of support and is discussed further in the body of the report.
- The proposal has been notified in accordance with the provisions of our notification policy. One submission was received. Concerns raised related to boundary fence materials and the location of the air conditioning unit. These matters are discussed further within the body of the report.
- As the applicant has amended the design to address the reasons for refusal, it is recommended the application be approved subject to conditions.

**5      105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR  
DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING**

- The applicant seeks a review of determination, pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979, of our decision to refuse Development Application DA-324/2015 for the construction of a two storey dwelling, with basement parking and front fence (before being amended this development application sought a two storey dwelling and granny flat with basement parking).
- Development Application DA-324/2015 was refused on grounds of non-complying height, visual privacy, solar access and façade design.
- The applicant has submitted the subject review with some minor changes to the proposal, namely a reduction in height, change in window configuration and increased front setback. The changes also include dedication of the entire basement area for garage/mechanical/storage purposes, whereas the previous basement comprised approximately half this area.
- The Section 82A review includes a re-assessment of the proposal against the relevant objectives and policy requirements and is considered to have not adequately addressed our previous concerns.
- It is recommended the refusal of the application be confirmed.

**CANTERBURY WARD****1 17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE****FILE NO: 431/17D PT2****REPORT BY: DIRECTOR CITY DEVELOPMENT****WARD: CANTERBURY**

<b>D/A No:</b>	<b>DA-26/2016</b>
<b>Applicant:</b>	<b>Artmade Architectural Pty Ltd</b>
<b>Owner:</b>	<b>Q Zhap and Y Cheng</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>29 January 2016. Additional information received 1 April 2016 and 19 May 2016.</b>

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**Summary:**

- The applicant seeks approval for the demolition of the existing garage and associated structures and alterations and additions to the existing building for use as a child care centre.
- The proposal is referred to Independent Hearing and Assessment Panel as it has attracted significant community interest and seeks a departure from the control for side fence heights which is beyond the delegation of our officers. Despite this departure, the proposal has merit.
- The subject site is zoned R3 Medium Density Residential under the provisions of the Canterbury Local Environmental Plan 2012. The proposed child care centre use is permitted within the R3 zone subject to development consent.
- The development application has been assessed against Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and complies with the requirements of these policies with the exception of side fence height, location and corner site controls within Canterbury Development Control Plan 2012. These non-compliances are discussed in the body of the report.
- All adjoining land owners and occupiers were notified of the proposed development in accordance with the requirements of Part 7 of the Canterbury Development Control Plan 2012. Three submissions and one petition from 32 households were received. The submissions raised concern regarding traffic and parking implications, noise generated during construction and ongoing use of the child care centre, the location of the proposed child care centre, inconsistency with the character of the area and that the use will reduce the land value of adjoining properties. These matters are addressed in detail within the report.



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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

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- The development application is recommended for approval 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:****Background**

The proposed application was subject to pre-lodgement advice. A number of design changes were recommended in the advice issued to the applicant on 25 November 2015 to ensure compliance with the relevant controls would be achieved.

The development application was submitted on 29 January 2016. The design submitted addressed the key matters raised in the pre-lodgement advice. Additional information to address concerns raised by our Manager Children Services, Landscape Architect, Waste Coordinator and Traffic Committee was requested in a letter dated 14 March 2015.

The information submitted on 1 April 2016 addressed majority of matters we raised. A further request for information letter was issued on 29 April 2016 seeking information to satisfy our Manager Children Services and Landscape Architect's concerns. The information submitted on 19 May 2016 satisfied the matters raised by our Manager Children Services and Landscape Architect.

**Site Details**

The subject site is legally described as Lot 43 in DP 9484 and Lot 1 in DP 124386. The site is located on the western side of Howard Street and has an overall site area of 973m<sup>2</sup>. The site is rectangular in shape, with a primary frontage to Howard Street of 24.38m and a depth of 39.930m. The site currently consists of a single storey detached dwelling with detached garage located at the rear of the site.

Surrounding development to the north, south, east and west primarily consists of detached single and two storey dwellings. Canterbury Road comprising a mix of commercial, retail and mixed use development is located approximately 150m north of the site. The closest existing child care centre to the subject site is located approximately 350m south-east of the site at Canterbury South Public School and 700m north-west of the site at 8 Messiter Street.

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)



Aerial view of site



Subject Site



Existing development to the south of the site



Existing development to the north of the site



Existing development to the east of the site,  
on the opposite side of Howard Street

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

### Proposal

The applicant seeks development consent for the removal of two existing trees, demolition of existing structures and alterations and additions to the existing building for use as a child care centre. The proposed works are detailed further below:

- Building Works
  - Internal alterations and additions to the existing building to facilitate the child care centre use;
  - Demolition of existing garage at the rear of the site and replaced with car parking facilities and external storage;
  - The new car parking area at the rear of the site will accommodate three car parking spaces. In addition to the parking provided on site, three drop off/pick up spaces are proposed kerbside;
  - Construction of an outdoor play area (290m<sup>2</sup>) at the rear of the site;
  - Construction of a 2.1m high acoustic fence along the rear and part of the side boundaries.
- Number of Children and Staff

The child care centre will care for up to 35 children and five staff at any one time. The breakdown of children is as follows:

  - 15 x children aged between 2-3, with 3 staff; and
  - 20 x children aged between 3-6, with 2 staff.

The above ratio of children to staff is in accordance with the Education and Care Services National Regulations.
- Hours of Operation

The child care centre is proposed to operate between 7am to 7pm Monday to Friday.

### 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:

- Education and Care Services National Regulations
- 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:

- **Education and Care Services National Regulations**

The proposal has been assessed against the updated educator to child ratios which came into force in January 2016 under the Education and Care Services National Regulations. The ratios are now as follows:

  - 1:4 staff for 0-2 year olds;
  - 1:5 staff for 2-3 year olds; and

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- 1:10 staff for 3 year olds and over.

The application was referred to our Manager Children Services for comment and no objection was raised in regard to the proposal. The proposal is satisfactory and consistent with the provisions of the Education and Care Services National Regulations.

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

The site is zoned R3 Medium Density Residential under CLEP 2012. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	The proposed use is classified as a child care centre. Child care centres are permissible within the R3 Zone.	Yes
Building Height	8.5m	N/A - The height of the existing building remains unchanged.	N/A
Floor Space Ratio	0.5:1	0.23:1	Yes
Acid Sulfate Soils	Class 5	The site is identified as comprises Class 5 acid sulfate soils and is located within 500m of Class 1, 2, 3 and 4 acid sulfate soils. The proposal utilises the existing building on site and will not lower the watertable more than 1m below AHD.	Yes

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

The proposal compares to the relevant Parts of CDCP 2012 as follows:

**Part 2 – Residential Neighbourhoods**

The proposed store room is compared to the relevant provisions contained within Part 2 as follows:

Standard	Required	Proposed	Complies
Height	Max Height 4.8m	2.5m	Yes
	Max external wall height 3.5m	2.7m	Yes
Setback	Nil	1m	Yes
Max Floor Area	430sqm	212.7sqm	Yes
Max Floor Area of Outbuildings	60sqm	7.3sqm	Yes
Max Site Coverage	40%	22.6%	Yes
Side Fences	1.8m	2.1m	No -see comment [1] below

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

### Part 5.3 – Children’s Centres

The proposal compares to Part 5.3 of CDCP 2012 as follows:

Standard	Required	Proposed	Complies
Frontage	Minimum 20m	The site has a width of 24.38m.	Yes
Design	Single Storey	Single Storey	Yes
Residential Component	No residential component permitted.	No residential component proposed.	Yes
Design	Residential in external appearance.	Single storey and residential in external appearance.	Yes
No. of children	40 max	35 children max	Yes
Location	To be at least 400m walking distance from another childcare centre.	Located within 400m of Proposed child care centre at 364-374 Canterbury Road, Canterbury (400m north-west) and OSHCare child care centre associated with Canterbury South Public School (approx. 350m south).	No - see comment [2] below
	Corner sites, with longer street frontage for setting down and picking up of children, are preferred.	Not a corner site.	No - see comment [3] below
	To be close to, or adjacent to community focal points such as neighbourhood centres, schools etc.	The subject location is close to Canterbury South Public School (to the south of the site) and Canterbury Road (to the north of the site) which comprises a variety of shops.	Yes
	Not within 30m of a major road.	Approximately 155m walking distance from Canterbury Road.	Yes
Parking (Staff)	One car space per two staff (2.5 car parking spaces for five staff).	3 car spaces are provided.	Yes
	One bicycle space per four staff (one bicycle space required)	One bicycle space is provided.	Yes
	All car parking is to be behind the front building line.	All car parking is behind the front building line.	Yes
	All parking and manoeuvring areas are to be suitably signposted drained and marked.	All parking and manoeuvring areas will be suitably signposted drained and marked.	Yes, condition of consent
Drop off/Pick up	Provide a suitably signposted parking facility on the street immediately in front of the centre. Three drop off/pick up spaces are required.	A suitably signposted parking facility has been provided on the street immediately in front of the centre with three drop off/pick up spaces proposed.	Yes

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

Standard	Required	Proposed	Complies
Facilities and Layout	Provide space and facilities, and design the internal and external layout, in accordance with the National Quality Framework.	This application has been reviewed by the Manager of our Children's Services section and is deemed to comply with the requirements of the National Quality Framework.	Yes
Open Space	Provide external spaces that promote a variety of learning, play and other development experiences.	The application was reviewed by our Landscape Architect who raised no objection to the proposed open space area subject to conditions of consent.	Yes
	Design and construct external spaces that are safe, healthy and attractive, provide visual quality to the development, and screen activities to protect neighbours amenity.		
	Provide a landscape proposal, prepared by a qualified landscape architect or persons with expertise in landscape design for children, that complies with the National Quality Framework for children's centres.		
	The outdoor play space must not be occupied by any motor vehicles during operating hours.		
	Outdoor play areas between the front alignment of the building and the street will not be permitted.		
Landscape requirements	Boundary security fencing minimum 1.8m high and that is non-climbable.	The application was reviewed by our Landscape Architect who raised no objection to the proposed open space area subject to conditions of consent.	Yes
	Covered veranda and 50% of external ground area shaded.		
	Disability access and ease of access from outdoor areas to toilets.		
	An outdoor area for babies, separate from outdoor area for older children.		
	Conceptual delineation of spaces into activity zones.		
	Sandpit and shade structure, and access to sandpit for maintenance vehicles.		

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

Standard	Required	Proposed	Complies
	Outdoor storage areas, shed, waste storage and handling facilities.		
	Garden bed layout with planting details, surface materials and soft fall areas.		
	Water play areas and a tap.		
Staffing	Staff ratios in accordance with the National Quality Framework.	The proposed staffing ratio is compliant with the educator to child ratios that came into force in January 2016 under the Education and Care Services National Regulations.	Yes
Accessibility	The building must provide for access for people with a disability, by continuous path of travel from the street and or parking area into and within every room and outdoor area used by children and staff.	Proposal designed in accordance with AS 1428.1 Design for Access and Mobility and Disability (Access to Premises – Buildings) Standards 2010.	Yes, condition of consent
Operating Hours	Where located in a residential zone, the hours of operation are to be restricted to between 7am-7pm Monday – Friday (excluding public holidays).	Proposed hours of operation are 7am-7pm Monday to Friday (excluding public holidays).	Yes, condition of consent.
Visual and Acoustic Privacy	Locate sleep and play areas away from undesirable noise sources.	Sleep rooms and play areas are located towards the rear of the building, away from Howard Street.	Yes
	Obtain an acoustic report and incorporate measures to minimise noise impacts on neighbouring properties.	The application has been accompanied by an Noise Impact Assessment prepared by Day Design Pty Ltd. The findings and recommendations of this report are discussed below.	Yes

[1] Side Fences

Part 2.2.5(iii) of CDCP 2012 specifies that side fences may be 1.8m high to the prominent building line. The proposal comprises the erection of a 2.1m high acoustic fence from the rear of the building along the side and rear boundaries representing a 16.6% variation to the maximum fence height.

As recommended by the Noise Impact Assessment prepared by Day Design Pty Ltd (received by Council on 29 January 2016), the proposed 2.1m high acoustic fence is required to ensure the noise generated by the proposal will meet the acceptable noise level requirements of AAAC's Guideline for Child Care Centre Acoustic Assessment.

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

Detailed solar access requirements were requested from the applicant to include overshadowing created by the 2.1m acoustic fence. The height of the side and rear boundary fences will not reduce solar access to the windows of the adjoining properties to the south or west. Furthermore, the fence will not significantly reduce solar access to the rear private open space of the properties to the south or west of the site as more than 50% of the private open space area associated with these properties will continue to receive solar access for at least two hours between 9am and 3pm in mid-winter.

In light of our assessment of the impacts of the proposal, the variation to the maximum 1.8m fence height is acceptable on planning merit.

[2] Location

Part 5.3.5 of CDCP 2012 specifies that child care centres are not to be located within 400m walking distance of another existing child care centre. The site is located approximately 350m north of the OSHCare Child care centre located at Canterbury South Public School and within 400m south-east of a proposed child care centre currently under assessment (DA-625/2015) at 364-374 Canterbury Road, Canterbury. On this basis, the applicant was required to provide a demand analysis as requested by our Manager Children Services within our letter dated 14 March 2015. A demand analysis prepared by Sarah George Consulting was received by Council on 19 May 2016.

The demand analysis identified that there were no existing child care centres (for the proposed aged group) in the suburb of Canterbury and that existing centres in surrounding suburbs were generally at capacity. Furthermore, the area was identified as undergoing change that will have an increase in population through the change. In light of this, and the lack of existing, available child care centres in the locality, there is a need for a child care centre in the proposed location.

Our Manager Children Services reviewed the demand analysis and had no objection to the findings of the assessment. In light of the findings of the report, the location of the child care centre at the subject site is suitable.

[3] Corner Site

Part 5.3.5(iii) identifies that corner sites are preferred for child care centre developments as they have a longer street frontage for setting down and picking up of children. The subject site is not a corner site and therefore does not comply with this control. The proposal generates a requirement for three pick up/drop off spaces along the street frontage. The site frontage is 24.38m, which exceeds the minimum 20m requirement and therefore three car parking spaces can be accommodated along the Howard Street frontage. This is demonstrated on the proposed site plan (drawing number A02.01).



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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

The proposal satisfies the objective of Part 5.3.5(iii) which is to provide adequate parking along the street frontage to cause less interference for on street parking associated with adjoining residents. On this basis, the variation to Part 5.3.5(iii) is supported.

#### **Part 5.8 – Non-Residential Development in Residential Zones**

The objective of Part 5.8 of CDCP 2012 is to reduce unreasonable amenity impacts on surrounding residents caused by non-residential uses. The key potential amenity impacts resulting from the proposal are increased traffic and acoustic impacts.

In regards to acoustic, the proposal was accompanied by a Noise Impact Assessment prepared by Day Design Pty Ltd. The noise impact report assessed the main noise sources associated with the child care centre use against the relative noise criteria. The results found that the calculated level of noise emission from the proposed child care centre is in excess of the acceptable noise criteria and therefore various noise mitigation measures were recommended within Part 6 of the report to resolve potential noise impacts. Such recommendations will be enforced via condition of consent, should the application be supported. The noise impact assessment was also reviewed by our Senior Environmental Health Officer, who raised no objection to the proposal, subject to conditions of consent.

In terms of traffic impacts, the proposal was accompanied by a Traffic and Parking Assessment Report prepared by Winning Traffic Solutions. The report assessed the existing traffic and parking conditions, the traffic generated impacts of the proposed development and on-site parking conditions associated with the proposal. The report concluded that the proposal will not adversely impact the traffic operations and/or road user safety within the site or on the surrounding road network. The report identified that the number of parking spaces generated by the proposal cannot be accommodated on site. However, based on our assessment of the application, it was found that the proposal complies with the parking generation rates associated with the proposed use as outlined earlier within this report. The assessment was also reviewed by our Team Leader Traffic and Transportation who raised no objection to the proposal, subject to conditions of consent.

In light of the abovementioned comments, the proposal complies with the objective of Part 5.8 of CDCP 2012 as it appropriate mitigation measures have been incorporated within the design (where required) to ensure it will not result in significant adverse amenity impacts on the surrounding residents.

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

The development application was referred to our Disability Access Committee who has raised no objection to the proposal, subject to conditions.

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

### Part 6.2 – Climate and Energy and Resource Efficiency

Part 6.2.6(iii) specifies that new developments shall maintain at least two hours solar access to indoor living areas and at least half of the principle open space of adjoining properties between 9am and 3pm in mid-winter. Detailed solar access requirements were requested from the applicant to include overshadowing created by the 2.1m acoustic fence and proposed shade sails. The height of the side and rear boundary fences and shade sails will not reduce solar access to the windows of the adjoining properties to the south or west. Furthermore, these elements of the development will maintain solar access to at least 50% of the private open space area associated with the dwellings located to the south and west for at least two hours between 9am and 3pm in mid-winter.

The proposal complies with the solar access provisions contained within Part 6.2 of CDCP 2012.

### Part 6.3 – Crime Prevention Through Environmental Design

The proposal compares to Part 6.3 of CDCP 2012 as follows:

Standard	Required	Proposed	Complies
Natural Surveillance	Lighting to be left on after hours, or to be sensor lighting.	Condition to be included requiring external sensor lighting.	Yes, condition of consent
	Main entrances to be located near the street.	Main entrance will be fronting Howard Street.	Yes
	If staff entrance must be separated from main entrance, it must be located to allow maximum surveillance from the street.	Staff entrance is obtained via the front entrance facing Howard Street and the separate entrance at the rear of the building adjoining the parking area. The entrances promote surveillance of the street as well as within the rear parking area.	Yes
	Blank walls not facing the street.	No blank walls will result from the proposal.	Yes
Access Control	Adequate lighting to be provided to entry/exit points.	Adequate lighting and secure measures to be provided to entry points.	Yes, condition of consent
Ownership	Building to project sense of ownership.	Building projects a sense of ownership.	Yes

### Part 6.4 – Development Engineering Flood and Stormwater

The development application was referred to our Development Engineer who has raised no objection to the proposal, subject to conditions.

### Part 6.6 – Landscaping

The development application was referred to our Landscape Architect who has raised no objection to the proposal, subject to conditions.

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

### **Part 6.9 – Waste Management**

The development application was referred to our Waste Services Officer who has raised no objection to the proposal, subject to conditions.

- **Canterbury Development Contributions Plan 2013**

The proposed development attracts a contribution of \$3,788.00 in the event of an approval being issued. This has been included as a condition of development consent.

### **Other Considerations**

- **Likely impacts of the development**

#### Traffic and Parking Considerations

A Traffic and Parking Assessment Report prepared by Winning Traffic Solutions was submitted as part of the DA. The findings of the report identified that the use of the subject site as a child care centre will not adversely impact the traffic operations and/or road user safety within the site or on the surrounding network. The report advised that the site is deficient three on-site parking spaces, however based on our assessment it was found that the three staff parking spaces provided on site and the three pick up/drop off spaces provided along the street frontage comply with the minimum parking requirements specified within Part 5.3.6 of CDCP 2012.

The report was also reviewed by our Team Leader Traffic and Transportation who raised no objection to the proposal, subject to conditions of consent, including a separate application being submitted and approved by the Canterbury Traffic Committee for on-street parking restrictions prior to the issuing of an Occupation Certificate.

#### Acoustics

Given the nature of the proposed use and location within an established residential zone, the applicant submitted a Noise Impact Assessment (prepared by Day Design Pty Ltd received by Council on 29 January 2016). The findings of the report identified that the expected noise generated by the indoor and outdoor play areas will exceed the noise criterion, particularly at the residential property located to the north (15 Howard Street). On this basis, the assessment recommends the following:

- A 2.1m acoustic fence be constructed along the boundaries of the outdoor play area;
- A 1.8m fence (colourbond or solid capped and lapped timber or masonry) be constructed along the south-east boundary;
- A detailed analysis be carried out on the mechanical plant prior to the issuing of the Construction Certificate;
- Windows of the playrooms should be closed while children are playing inside;
- A sufficient number of adults should be provided to supervise children playing outside in order to limit the noise emission from children playing; and
- Crying children should be taken inside the centre and be comforted.

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

The recommendations of the noise impact assessment have been incorporated into the design (where applicable) and will be conditioned, should the application be supported.

Further, the development application was referred to our Environmental Health Officer who has raised no objection to the proposal, subject to conditions including, but not limited to, ensuring the design complies with the recommendations of the submitted noise impact assessment prepared by Day Design Pty.

National Construction Code

The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed, including that full compliance with the National Construction Code is to be achieved.

Food Health and Safety

The development application has been reviewed by our Environmental Health Officer who advised that the proposal is satisfactory, subject to conditions of consent.

Sediment and Erosion Control

Standard conditions are 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.

- **Suitability of the site**

The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Section 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 with the exception of our side fence, location and corner site controls. The proposed variations to these controls are acceptable for the reasons outlined above. On this basis, the site is suitable for the proposed development.

- **The public interest**

The public interest is served through the detailed assessment of this development application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments, Development Control Plans and policies. Based on the above assessment, the proposed development is consistent with the public interest.

**Notification**

The development application was publicly exhibited for 21 days to adjoining land owners in accordance with the provisions of Part 7 of the CDCP 2012. Three submissions and one petition (from 32 households) were received. The matters raised within the submissions are discussed below:

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- **The proposal will result in an adverse effect on the availability of parking on Howard Street and surrounding street networks**

Comment

The proposal comprises three car parking spaces at the rear of the site for staff and three pick up/drop off spaces along the Howard Street frontage for parents. The number of parking spaces proposed complies with the car parking generation rates specified within Part 5.3.6 of Canterbury Development Control Plan 2012. Furthermore, our Team Leader Traffic and Transportation reviewed the application, including the traffic and parking and parking assessment report submitted as part of this application and raised no objection to the proposal.

- **The noise generated during construction will result in significant adverse amenity impacts**

Comment

We cannot comment on the noise generation caused during the construction phase of the proposed development as this is not a planning consideration. Notwithstanding this, all building operations for the alteration of the building will be restricted to the hours of 7 am to 5 pm Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12 noon. No work is allowed on Sundays or Public Holidays. This will be enforced via a condition of consent.

- **The noise generated by the child care centre use will result in significant adverse amenity impacts.**

Comment

A noise impact assessment was submitted as part of the application and identified that the proposed child care centre use will exceed some of the relevant noise criteria, particularly at the property to the north as a result of children playing inside and outside. To ensure noise generated by the proposed use will comply with the relevant noise criteria, the report recommends various mitigation measures be incorporated in the design, including a 2.1m high acoustic fence around the perimeters of the outdoor area, a 1.8m fence along the driveway, further analysis of the mechanical plant prior to the issuing of a construction certificate and implementation of a noise management plan. Such measures will be incorporated as a condition of consent, should the application be supported. Furthermore, the application was referred to our Environmental Health Officer who has raised no objection to the proposal, subject to these conditions.

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- **The proposal will result in additional traffic impacts and safety.**

Comment

A traffic and parking assessment report prepared by Winning Traffic Solutions was submitted as part of the assessment. The report concluded that the proposed child care centre use will not adversely impact traffic operations and/or road user safety within the site or the surrounding road network. Our Team Leader Traffic and Transportation reviewed the report and raised no objection to the proposal.

- **The locality is characterised by residential development and therefore the proposed child care centre is incompatible with the character of the locality**

Comment

The proposed child care centre use is permissible within the R3 Medium Density zoning of the site as outlined within Canterbury Local Environmental Plan 2012. The proposal comprises retrofitting the existing residential dwelling and therefore the site will continue to be residential in external appearance as required by Part 5.3.4(ii) of Canterbury Development Control Plan 2012. Notwithstanding the built form, the use of the site as a child care centre is permissible in the zone and the proposal is therefore consistent with the existing and future desired character of the locality as envisioned by Canterbury Local Environmental Plan 2012.

- **The child care centre is located within 400m of existing child care centres and therefore does not comply with Part 5.3.5 of Canterbury Development Control Plan 2012**

Comment

It is acknowledged that the proposed child care centre is located within 350m of the existing OSHCare child care centre associated with Canterbury South Public School to the south of the site and 400m south-east of a proposed child care centre currently under assessment (DA-625/2015) at 364-374 Canterbury Road, Canterbury. On this basis, the applicant was required to provide a demand analysis. A demand analysis prepared by Sarah George Consulting was received by Council on 19 May 2016.

Our Manager Children Services reviewed the demand analysis and had no objection to the findings of the assessment. In light of the findings of the report, the location of the child care centre at the subject site is suitable.

- **The proposed child care centre will operate between 7am to 7pm which is inconsistent with nearby existing centres**

Comment

For child care centres located within a residential zone, Part 5.3.12 of Canterbury Development 2012 restricts the hours of operation to 7am to 7pm Monday to Friday. The proposed hours of operation, being 7am to 7pm Monday to Friday, comply with Part 5.3.12 of Canterbury Development Control 2012.

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- **The site does not comprise sufficient parking to accommodate the proposed use and will therefore result in significant traffic and parking impacts**

Comment

The proposal comprises three car parking spaces at the rear of the site for staff and three pick up/drop off spaces along the Howard Street frontage for parents. The number of parking spaces proposed complies with the car parking generation rates specified within Part 5.3.6 of Canterbury Development Control Plan 2012 and is therefore acceptable. Furthermore, our Team Leader Traffic and Transportation reviewed the application, including the traffic and parking and parking assessment report submitted as part of the DA, and raised no objection.

- **The proposal will reduce land value of adjoining and nearby existing residential properties**

Comment

There is no scope within Section 79C of the Environmental Planning and Assessment Act 1979 to consider the impact of development on the value of adjoining or nearby properties. Subsequently, this matter has not been considered as part of our assessment.

**Conclusion**

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and has been found to be satisfactory and worthy of support. The proposed variations to side fence height, location and corner site controls will not result in any significant adverse environmental impacts on adjoining properties nor the wider locality. The proposal results in providing a community facility that meets the day to day needs of surrounding residents. As such, it is recommended that the development application be approved subject to conditions.

**RECOMMENDATION:**

THAT Development Application DA-26/2016 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:
    - Structural Engineering Plan
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Soil and Waste Management Plan

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- Mechanical ventilation
- 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
- 1.3. Payment to Council of:
 

Kerb and Gutter Damage Deposit	\$6,656.00
Development Contributions	\$3,788.00
Certificate Registration Fee	\$36.00
Long Service Levy Fee	\$1,306.00
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	\$2,300.00
Inspection Fee	\$864.00
Occupation Certificate Fee	\$206.00

Note 1: Long Service Leave Levy payment; (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.

#### 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).

#### SITE SIGNAGE

3. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 3.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 3.2. 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
  - 3.3. That unauthorised entry to the work site is prohibited.

#### DEMOLITION

4. Demolition must be carried out in accordance with the following:



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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- (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.
- (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

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

[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.

#### GENERAL

5. The development being carried out in accordance with the plans, specifications and details outlined within the table below:

Drawing No./Rev	Drawing Title	Prepared By	Received by Council on
A01.01, Rev A	Demolition Site Plan	Artmade Architects	29 January 2016
A01.02, Rev A	Demolition Floor Plan	Artmade Architects	29 January 2016
A02.01, Rev B	Proposed Site Plan	Artmade Architects	1 April 2016
A03.01, Rev B	Proposed Ground Floor Plan	Artmade Architects	1 April 2016
A03.02, Rev A	Outdoor Play Area	Artmade Architects	1 April 2016
A04.01, Rev A	Proposed External Elevations – Sheet 1	Artmade Architects	29 January 2016
A04.02, Rev A	Proposed External Elevations – Sheet 2	Artmade Architects	29 January 2016
A05.01, Rev A	Building Sections	Artmade Architects	29 January 2016
L01, Rev C	Landscape Plan	RFA Landscape Architects	19 May 2016

- 5.1. The hours of operation are restricted to between 7am-7pm Mondays-Fridays excluding public holidays.
  - 5.2. The maximum number of children cared for on the site must not exceed 35 at any time.
  - 5.3. A Plan of Management Practices and Operations must be prepared for the child care centre detailing the operational matters of the facility including, but not limited to, clarification and designated times for the outdoor play area activities for the children, hours of operation, staff members, noise mitigation measures etc. this is to be done with consideration of the recommendations and conclusions of the Noise Impact Assessment prepared by Day Design Pty Limited dated 25 January 2016.
  - 5.4. The site is to provide provision for three car parking spaces on site (including one disabled space). These spaces are to be clearly linemarked.
  - 5.5. External sensor lighting is to be installed at all entry/exit points. Plans detailing the locations are to be provided to the Principal Certifying Authority prior to the issuing of the Construction Certificate.
6. Council has identified an additional demand for public amenities and services as a consequence of this development. Pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 and Canterbury Development Contributions Plan 2013, a levy of \$3,788.00 must be paid to the Council to meet the cost of providing ,

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

extending or augmenting various public amenities and services.

The levy amount is based on the estimate of the proposed cost of development being \$3,788.00.

2013 Plan Section 94 A Contributions	\$3,788.00
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Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

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.

Payment will only be accepted in the form of cash, bank cheque or EFTPOS. Personal cheque and credit card payments will not be accepted.

7. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
8. 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.
9. 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.
10. All building construction work must comply with the National Construction Code.
11. In accordance with Section 93 & 94 of the Environmental Planning and Assessment Regulations 2000, the premises is required to be up graded in accordance with the following conditions or an alternative solution be submitted which complies with the performance requirements of the National Construction Code Volume One
  - 11.1. The openings in the external walls being protected in accordance with NCC Clause C3.2.  
Protection may be by means of:
    - (i) Doorways – internal or external wall-wetting sprinklers as appropriate used with doors that are self-closing, or automatic closing, or -/60/30 fire doors (self-closing or automatic closing).
    - (ii) Windows – internal or external wall wetting sprinklers as appropriate used with windows that are automatic or permanently fixed in the closed position, -/60/- fire windows (automatic or permanently fixed in the closed position) or -/60/- automatic fire shutters.
    - (iii) Other openings – internal or external wall wetting sprinklers as appropriate or construction having a FRL not less than -/60/-.
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.
13. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
14. 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.

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

15. 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.
16. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
17. Stormwater from roof areas must be linked via a temporary downpipe to a council approved stormwater disposal system immediately after completion of the roof area.

ENGINEERING

18. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted 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 29 January 2016; drawing number 15MB6876/D01, prepared by United Consulting Engineers Pty Ltd.
  - (b) The proposed driveway access southern side shall have a kerb to direct Stormwater runoff away from adjacent neighbouring properties.
  - (c) The proposed onsite detention tank to be deleted because the subject site is partially flood affected.
  - (d) 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.
  - (e) 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.
  - (f) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
19. 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 Part 6.4 of Canterbury Council's DCP 2012. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.
20. The proposed butterfly pit cover conversion must not impact on the existing pit inlet capacity. Pit details must be shown on plan and made compliant with Councils specifications. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.
21. Any works over or adjacent to Sydney Water easements and infrastructure must be approved by Sydney Water Prior to the issue of Construction Certificate.
22. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues and must be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.
23. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- provided that these levels have been adopted in the design prior to the issuing of a construction certificate. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
24. 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. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.
  25. Prior to construction, 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.
  26. Prior to construction, any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily. If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.
  27. A Work Permit shall be obtained for all works carried out in public or Council controlled lands prior to construction. Contact Council's City Works Department for details.
  28. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 6 metres at the boundary line. This 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 Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
  29. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
  30. That the stormwater system be constructed in general, in accordance with the plans, specifications and details submitted with the Construction Certificate and as amended by the following conditions. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of an occupation certificate.
  31. Prior to the issuing of an occupation certificate, 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.

ENVIRONMENTAL HEALTH

32. The premises are to be constructed and fitted out strictly in accordance with by the Australian New Zealand Food Standards Code, Council's Code for Construction of Food Premises and the conditions of any Council consent.
33. Details with the Construction Certificate Application plans including the following items:
  - (a) mechanical ventilation systems (to AS 1668 and Food Premises Code)
  - (b) structural alterations, sections/elevations/interior layout/lighting
  - (c) location/method of installing fittings

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

- (d) wall, ceiling and floor finishes, including location of floor waste
  - (e) staff clothing/personal effects storage
  - (f) adequate food storage and trade waste areas
  - (g) hand wash basin (in food preparation area).
34. Noise emission from the proposed child care centre shall be controlled by complying to the recommendations outlined within Section 4 and 6 of the Environmental Noise Assessment Report prepared by Day Design Pty Ltd Acoustical Engineers dated 25 January 2016.
35. A sufficient number of approved garbage receptacles must be provided on the premises for the storage of garbage and trade waste. Such receptacles are to be fitted with close fitting and flyproof lids.

#### COMMUNITY SAFETY

36. Adequate and secure access control measures should be implemented to separate the foyer from play rooms, laundry, store room and kitchen i.e. doors that require pin code to access. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.
37. Ensure there are clear procedural instructions developed and provided parents/guardians, particularly for the process of signing children in and out. This should include the name and time of drop off and pick up.
38. Ensure that fencing is vertical and not capable of being used as a natural ladder. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.
39. In addition to existing lighting, sensor spot lights should be placed in areas of high pedestrian traffic. Such detail shall be provided to the Principal Certifying Authority prior to the issuing of a construction certificate.

#### DISABILITY

40. Accessible Car parking is to be identified and signposted as an Accessible Parking Space, to comply with AS2890.6 (2009). It is not to be designated Staff/Accessible, as shown on the drawing. (Note: If the Accessible Parking Space is not required by a member of staff or a Parent/Carer who has a disability, or who has a child with a disability, it is at the Manager's discretion to allow its use by others).
41. The Shared Area is not to be used for bicycle storage, as shown on the drawing. The Shared Area is to be used for transient use only and not for storage. A bicycle could impact on the ability of a person who has a disability to alight from their vehicle in the Accessible Space, particularly if the vehicle needs to reverse into the space to allow egress from the passenger side, or from the rear of the vehicle.
42. Item 7 of the Ergon Consulting Access Report addresses Threshold Ramps, but they are not indicated on the drawing. There is a level difference of 35 mm between the floor level of the main building and the Main Entry; the rear deck; and the landing at the top of the ramp from the car park. These locations should be identified on construction certificate drawings.
43. The sign-in desk; the desk in the Manager's Office; and a table in the Staff Room Sign-in desk; Desk in Manager's Office; and a table in the Staff Room will need to provide a wheelchair-accessible section 900 mm long, with a table top 850 +/- 20 mm above the floor level; and a clearance below of 820 +/- 20 mm.
44. A section of the baby change table is to be provided for a person who uses a

17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

wheelchair, with the same dimensions as in Condition 43.

45. To clarify the details in Item 13 of the Ergon Consulting Report, it is the operable part of the toilet paper dispenser that is to be located within the dimensions given in AS1428.1 (2009). This is to avoid the unhygienic possibility of dispensed paper from touching the floor.
46. There are no handrails indicated for the two sets of stairs, as shown on the drawing. They should be included on construction certificate drawings.
47. Door to Children's Toilets. The doors are to have viewing panels. (Note: Some Child Care Centres do not have doors to the Children's toilets as children may not be visible on either side of the viewing panel, and there is the potential for a swing door to collide with a child on the other side of the door).

#### WASTE

48. 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.
49. Unobstructed and unrestricted access must be provided to the waste bin presentation area on collection days from 5.00am. The bins must not be presented on the road.

#### TRAFFIC

50. The implementation of the on-street parking restrictions will require an application to, and approval of, the Canterbury Traffic Committee prior to the issuing of the Occupation Certificate for the proposed child care centre. If approved, the signposting is to be installed in accordance with Council's guidelines and at no cost to Council.

#### LANDSCAPE

51. The landscaping must be completed according to the submitted landscape plan (drawn by RFA Landscape Architects, drawing no. 3977c L-01 issue C, submitted to council on the 19 May 2016) except where amended by the conditions of consent.
52. 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).
53. 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.
54. An automatic watering system is to be installed 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.

#### SYDNEY WATER REQUIREMENTS

55. 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

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17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

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.

#### CRITICAL INSPECTIONS

56. Class 5, 6, 7, 8 or 9 Buildings

- 56.1. at the commencement of the building work, and
- 56.2. prior to covering any stormwater drainage connections, and
- 56.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

57. 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

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

#### WE ALSO ADVISE:

- 59. This application has been assessed in accordance with the National Construction Code.
- 60. 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.
- 61. 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
  - Waterproofing
  - Glazing
- 62. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
- 63. 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.
- 64. 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 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES, ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE (CONT.)

65. 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 021 199.
66. 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.
67. If you are not satisfied with this determination, you may:
  - 67.1. 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
  - 67.2. 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.

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**2 83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING**

**FILE NO:** 489/83D  
**REPORT BY:** DIRECTOR CITY DEVELOPMENT  
**WARD:** CANTERBURY

<b>D/A No:</b>	<b>DA-476/2015</b>
<b>Applicant:</b>	<b>Sydesign Pty Ltd</b>
<b>Owner:</b>	<b>M Dincer, M Dincer, F Dincer, T Unner, J Cogo and Y Cogo</b>
<b>Zoning:</b>	<b>R4 High Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>8 October 2015 (additional information received 4 February 2016, 3 March 2016, 7 April 2016, 29 April 2016, 26 May 2016 and 22 June 2016)</b>

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**Summary:**

- The applicant seeks approval for the consolidation of existing lots, demolition of existing structures and the construction of a two storey residential building comprising one x one bedroom apartment and eleven x one bedroom plus study apartments with associated basement parking and landscaping.
- The proposal is referred to the Independent Hearing and Assessment Panel as it seeks a departure from the control for building separation which is beyond the delegation of our officers. A minor departure from the building height control is also sought. Despite this departure, the proposal has merit and is worthy of support.
- The subject site is zoned R4 High Density Residential under the provisions of the Canterbury Local Environmental Plan 2012. The proposed development, defined as a Residential Flat Building is permissible in the subject zone.
- The development application has been assessed against State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The provisions of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development do not apply as this is not a three storey structure. The development generally complies with the requirements of these policies with the exception of the building separation control within Canterbury Development Control Plan 2012. This non-compliance is discussed in further detail in the body of the report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Canterbury Development Control Plan 2012. Two submissions were received. The submissions raised concern regarding on-site parking, drainage, damage during construction and isolation of 87 Knox Street.

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

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These matters are discussed within the body of the report.

- 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:**

##### **Background**

The application was received by Council on 8 October 2015. After undertaking a preliminary review of the application, a request for amended plans was made to the applicant on 23 December 2015 requesting clarification on a number of design elements as well as matters raised by our Landscape Architect and Waste Contracts Coordinator.

On 14 January 2016, a further additional information request letter was issued comprising matters raised by our Development Engineer. Additional information was received on 4 February 2016.

Upon review of the additional information provided, a further letter was issued on 23 February 2016. This letter requested some further design changes to improve solar access to some apartments as well as outstanding engineering and landscaping matters. Additional information was received 3 March 2016. A further additional information request letter was issued on 16 March 2016 outlining outstanding engineering and landscaping matters to be addressed. Additional information was received on 7 April 2016.

On 4 May 2016, a further additional information request letter was issued advising that the application resulted in the isolation of 81 and 87 Knox Street. It was acknowledged that the applicant provided valuation reports and a schematic plan for the redevelopment of 87 Knox Street, however no documentation was provided for 81 Knox Street. Furthermore, the treatment of these two sites did not satisfy our requirements in Part 2.1.1 of Canterbury Development Control Plan 2012 regarding the treatment for the isolation of sites. Information responding to our letter dated 4 May 2016 was received on 26 May 2016 and 22 June 2016.

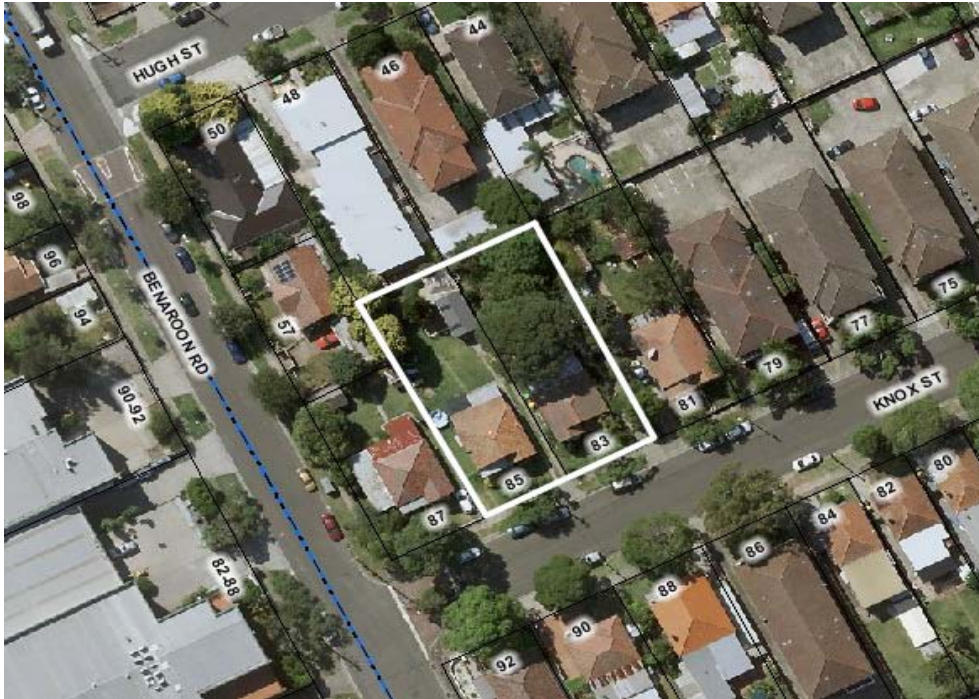
Furthermore, a pre-DA lodgement application was assessed for 81 Knox Street and issued on 20 June 2016. The assessment found that there is scope to develop the site, despite its isolated nature. However it will not be able to be developed to the maximum potential permitted in accordance with the relevant development controls.

##### **Site Details**

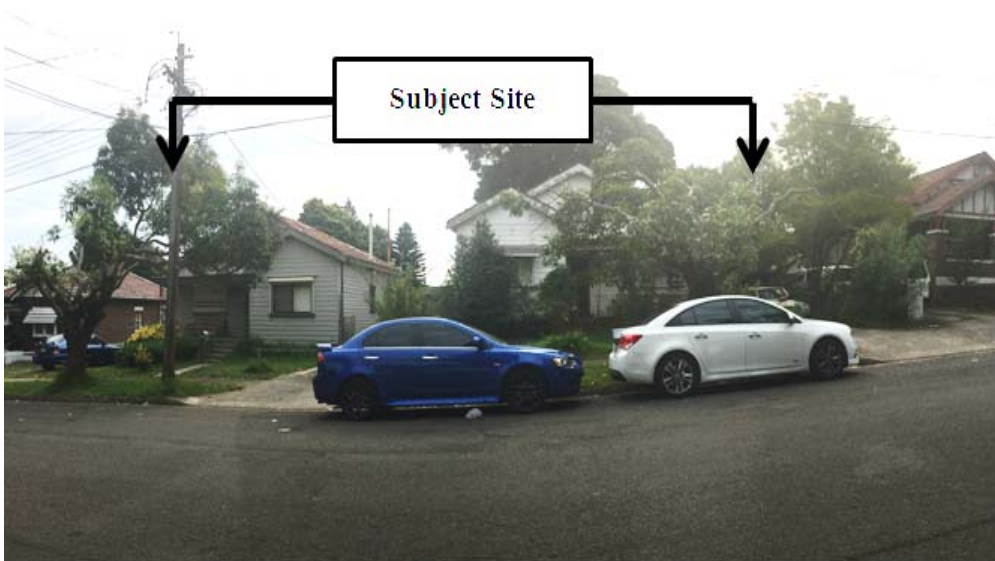
The subject site is rectangular in shape and comprises two separate allotments (Lot 36 and 37 in DP 8791), with a total site area of 1,300.58m<sup>2</sup>. The site is located on the northern side of Knox Street, Belmore. The site falls approximately 2.25m from the north-east corner to the south-west corner and has a frontage to Knox Street of 30.48m and a depth of 42.67m along the side boundaries.

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

In terms of surrounding land uses, a single storey brick detached dwelling directly adjoins the site to the east and west. A mix of single storey detached dwellings and two storey residential flat buildings are located opposite the site, on the southern side of Knox Street. A mix of single storey detached dwellings and two storey residential flat buildings adjoin the site to the north. These properties are accessed via Hugh Street to the north of the site.



Aerial view of site



83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)



Existing single storey dwelling and two storey residential flat buildings to the east of site



Existing single storey dwelling to the west of site



Existing two storey residential building and single storey dwelling opposite site on the southern side of Knox Street

### Proposal

The proposal involves the consolidation of the existing two lots into one allotment, demolition of existing structures and the construction of a two storey Residential Flat Building (RFB) containing one x one bedroom apartment and 11 x one bedroom plus study apartments with basement parking for 15 vehicles, front fence, removal of 14 trees and associated landscaping. Details are provided below as follows:

- Basement Floor Level
  - Direct vehicular access from Knox Street
  - A total of 15 car spaces (including two accessible spaces)
  - One x car wash bay
  - Plant Room
  - Four x bicycle spaces
  - One x toilet;
  - One x fire stairwell
  - One secure stairwell and lift providing access to the levels above and subsequently the proposed apartments
- Ground Floor Level
  - Two separate pedestrian access points direct from Knox Street

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- Shared stair and lift access to first floor level
- Screened bin storage area
- Landscaped area
- Post boxes located at the main entry point in the middle of the site
- Living room, dining room, bathroom, study, bedroom and the like for proposed apartments 1-6
- Private open space area ranging from 11.1sqm – 137.5sqm for apartments 1-6
- Communal open space of 115sqm along the western boundary of the site
- First Floor level
  - Living room, dining room, bathroom, study, bedroom and the like for proposed apartments 7-12
  - Mechanical / plant equipment storage
  - Private open space area ranging from 11.2sqm – 31.1sqm for apartments 7-12.

Strata subdivision of this building is not proposed and will form part of a separate application.

### **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 (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 (Building Sustainability Index: BASIX) 2004 (BASIX)**

BASIX Certificate No. 660159M dated 29 September 2015, accompanies this application. The commitments to be shown at DA stage include planting commitments, provision of a 7000L central water tank, 5 star instantaneous gas hot water system, ventilation and window and glazing commitments. The DA plans submitted illustrate that these commitments are made. The proposed development satisfies the objectives of SEPP 2004.
- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**

The site is zoned R4 High Density Residential under CLEP 2012. The controls applicable to this application are:

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
Zoning	R4 High Density Residential	The proposed development, defined as a 'residential flat building', is permissible with consent.	Yes
FSR	0.75:1	0.75:1	Yes
Building Height	8.5m	Max 7.175m	Yes

The proposed development is consistent with the zoning and other relevant provisions of CLEP 2012.

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

The proposed development has been compared to the requirements of CDCP 2012 as follows:

Standard	Requirement	Proposal	Complies
<b>Part 2.1 – Site and Envelope Controls</b>			
Isolated Sites	Do not isolate a neighbouring property so that it will be unable to reasonably accommodate redevelopment.	The proposed development will isolate 81 and 87 Knox Street.	No – refer comment [1] below
Site Requirements	Minimum 20m site width.	30.48m.	Yes
Height	Basement projection – max 1m above GL (otherwise included as storey)	<1m.	Yes
	Max 2 storeys and 7m wall height	The proposed development is 2 storey. The south-western corner of the development exceeds the 7m wall height maximum by 0.175m (2.5% variation).	No – refer to comment [2] below.
Depth/ Footprint	25m maximum, may be increased to 35m if development incorporates deep soil courtyards	31.2m. The building has been designed to incorporate deep soil areas parallel to the front and rear setbacks as required by Part 2.1.5(v) of CDCP 2012 and can therefore have a depth up to 35m.	Yes
Setbacks	Front: 6m	6m	Yes
	Rear: 6m	6m	Yes
	Side: 4m	East: 4m	Yes
		West: 4m	Yes
	Deep soil: minimum 2m wide along the side boundaries	East: 4m	Yes
		West: 4m (except for driveway and pedestrian access path).	Yes
	Deep soil: minimum 5m along front and rear boundaries	Front: 6m (except for the driveway and pedestrian access paths). Rear: 6m	Yes Yes



83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
Building separation	Minimum 6m between building and boundaries	4m.	No – refer comment [3] below
	Setback unscreened windows facing side or rear boundaries, at least 3m to boundary	The building and associated windows along the side elevations are setback 4m from the side boundaries.	Yes
	Provide deep soil or private open space in separation area	Separation areas comprise deep soil or private open space areas.	Yes
	Driveways may be located in separation area	Part of the driveway is located within the side (north-west) separation area.	Yes
<b>Part 2.2 - Design Controls</b>			
Street Address	Clearly identifiable entries	The site comprises two entry points from Knox Street. The main pedestrian point is located at the centre of the site and is differentiated through landscaping and incorporation of an open pathway to the main entry door.	Yes
	At least one habitable room window to face street	The living room windows of apartments 1, 2, 7 and 8 are orientated towards Knox Street.	Yes
	At least one habitable room window to face internal communal areas	The bedroom window of apartments 6 and 12 are orientated towards the communal open space area along the western boundary.	Yes
	No obstruction to views from street to development and vice versa	No obstruction to views to the street.	Yes
Façade Design and Articulation	Avoid long flat walls	No long flat walls. The building is articulated through the inclusion of alfresco areas along each elevation.	Yes
	Use non reflective materials, treat publicly accessible areas with anti-graffiti coating	The schedule of finishes submitted provides non-reflective materials.	Yes
Roof Design	No steep pitched roofs – use 10% pitch or less Emphasise building articulation with shape and alignment of roof	The roof design is acceptable.	Yes
	Relate roof design to building and respond to orientation of site	The roof design relates to the contemporary nature of the building.	Yes
Fences	Front fences within the front boundaries are no higher than 1.2m.	Max 1.2m	Yes – condition of consent



83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive Unscreened appliances not to be visible from the street, communal area or driveway on the site (air conditioning units behind balustrades, screened recesses for water heaters, meters in service cabinets)	All services are integrated within the design of the development. The air conditioning units are located on the first floor within a recessed section of the building along the eastern side of the building and these services are not visible from the street, communal area or driveway.	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	Clothes drying areas are located within the site, behind the main building line and are therefore screened from view from Knox Street. Storage areas are integrated within the design of each apartment.	Yes
	Discretely located mailbox in front of property	Mailboxes are integrated within the design of the building and are discretely located adjacent to the main pedestrian entry point.	Yes
<b>Part 2.3 - Performance Controls</b>			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings – if preferred orientations are not achievable use high sill windows or <600mm wide	Privacy mitigation measures such as fences around ground floor private open space areas have been integrated within the building design. Windows and alfresco areas facing side boundaries are located 4m from the side boundaries which comply with the minimum side setback controls.	Yes
Open Space	1 bedroom = 9m <sup>2</sup>	The proposed study rooms associated with 11 of the 12 apartments have adopted an open plan design and comprise a maximum dimension of 2.6m x 2.6m and therefore cannot be converted into another bedroom at a later date. On this basis, the one bedroom + study apartments have been assessed as one bedroom apartment. All 12 apartments comprise a private open space area greater than 9m <sup>2</sup> ranging from 11.1m <sup>2</sup> – 137.5 m <sup>2</sup> .	Yes
	Min 2.5m x 2.5m suitable for outdoor dining	The outdoor areas measure at least 4m x 2.8m.	Yes

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
	Communal open space = 15% of total setback area (approximately 91.587m <sup>2</sup> )	115m <sup>2</sup>	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans demonstrates compliance by way of minimum use of furniture.	Yes
	Living room and main bedroom minimum 3.5m dimension Secondary bedrooms to have minimum 3m width	All apartments comply with the minimum dimension for living room and bedrooms.	Yes
	Storage: Minimum 6m <sup>3</sup> /1bedroom.	The plans submitted identify that sufficient storage, in excess of the requirements, is integrated within the design of each apartment.	Yes – condition of consent
	Communal stairwells to receive natural daylight and ventilation	Natural light and ventilation available through the inclusion of the doors adjoining such space along the north-western elevation.	Yes
Housing Choice	10% of dwellings to be provided as accessible or adaptable units to suit residents with special needs	A total of two apartments (16.67%) are to be provided as accessible or adaptable units by way of condition of consent.	Yes – condition of consent
<b>Part 6.2 – Climate and Resource Efficiency</b>			
Site layout and building orientation	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load	The site has a north to south orientation, with the majority of apartments (9 of 12 apartments - 75% of all apartments) comprising a dual orientation. The greatest number of windows are located along the north-east and north-west elevations to maximise solar access and natural lighting.	Yes
	Design and site the building to avoid casting shadows onto neighbouring buildings, outdoor space and solar cells on the site and on adjoining land	The building has been designed to comply with our setback controls to minimise shadow impact on adjoining properties.	Yes
	Coordinate design for natural ventilation with passive solar design techniques	The design of the development allows for natural ventilation and incorporates passive solar design techniques through the appropriate design of internal living spaces and location of windows and openings.	Yes

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
	Provide adequate external clothes drying areas for all residents in the building	Adequate clothes drying facilities provided within the communal open space area. Clothes drying area for the ground level apartments are also incorporated into each individual private open space area.	Yes
Internal layout	Configure the building to maximise solar access to rooms that are occupied during the day. Locate service areas to the south and west of the building	The building is configured to maximise solar access. Service areas as well as access ramps are located along the south-western elevation.	Yes
Windows and glazing	Place more windows on the northern side than on other sides of the building, so that there are more windows gaining heat than there are losing heat in winter months, and sun penetration is reduced in summer	A greater number of windows have been incorporated along the north-east and north-west elevations.	Yes
Insulation and thermal mass	Use insulation in the roof, ceiling, walls and floors to deflect heat and prevent the building from heating up in summer, and to contain heat and prevent the building from cooling down in winter	This has been addressed in the BASIX Certificate.	Yes
Daylight and sun access	Where orientation permits, at least 2 hours of sunlight should be received daily by indoor living space and 50% of the principal private open space between 9.00am and 3.00pm on 21 June	Given the orientation of the site, it is inevitable that some of the south facing apartments will be in shadow during the day. The majority of apartments 9 of 12 (75% of all apartments) comprise a dual orientation to facilitate appropriate solar access and natural ventilation. The design incorporates skylights for all apartments on the first floor to ensure an appropriate level of solar access is provided to the internal living areas of these apartments. Four of the 12 apartments (33%), being apartments 1-4 located on the ground floor to the south of the development, will not receive a reasonable amount of sunlight between 9am-3pm. However at least 50% of the private open space areas of three of these apartments will not be overshadowed by the proposed	Yes

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
		development for at least 2 hours on 21 June. Further, more than 50% of the communal open space area along the western boundary will receive solar access for at least 2 hours on 21 June. Given the orientation of the site, the level of solar access provided to the majority of apartments (67%), and the level of solar access retained to private open space areas, the proposed level of solar access is acceptable in this instance.	
Daylight and sun access to adjoining properties	At least 2 hours of sunlight between 9am and 3pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of the existing open space	The proposed development will overshadow the property to the west (87 Knox Street) in the morning between 9am-11am. From noon onwards, the shadow cast from the proposed development is primarily south of the site, over Knox Street. Solar access to the eastern windows of 87 Knox Street and associated private open space will be provided for 3 hours from 12noon-3pm on 21 June.	Yes
Ventilation	Incorporate features to facilitate natural ventilation and convective currents – such as opening windows, high vents and grills, high level ventilation (ridge and roof vents) in conjunction with low-level air intake (windows or vents)	Satisfactory design features (opening windows) have been included to facilitate natural ventilation.	Yes
<b>Part 6.3 - Crime Prevention</b>			
Site and Building Layout	Some dwellings are to address the street	The building and apartments 1, 2, 7 and 8 are orientated towards Knox Street.	Yes
	Habitable rooms with windows at front of dwellings	The apartments have been configured to ensure windows of at least one habitable room associated with apartments 1, 2, 7 and 8 are orientated towards Knox Street.	Yes
	Avoid blind corners in pathways, stairwells, hallways and car parks	The proposed building layout avoids blind corners.	Yes

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
Access Control	Access to the individual units be clearly marked and apparent to visitors	The main pedestrian entrance and doors to each individual apartment are to be clearly marked.	Yes – condition of consent
	Install intercom, code or card locks or similar to main entries to buildings, including car parks	Controlled access measures to be installed at each building entry point, including basement car park.	Yes – condition of consent
	That concealment points be eliminated	The proposal eliminates concealment points by controlling access to the site. Appropriate lighting is to be installed within the basement, pathways and entry points to further eliminate any potential opportunity for concealment.	Yes – condition of consent
Ownership	Dwellings and communal areas to provide sense of ownership	A sense of ownership is achieved through the use of design features, including landscaping, building materials and site layout.	Yes
<b>Part 6.8 - Parking and Vehicle Access</b>			
Resident Parking	1 bedroom – 1 space <b>12 spaces required in total</b>	12 car parking spaces (one space for each apartment) are provided within the basement.	Yes
Visitor Parking	1 space per 5 dwellings (2.4) - <b>2 space required in total</b>	2 visitor parking spaces are provided within the basement.	Yes
Bicycle Parking	Residents: 1 space per 5 dwellings (2.4) - 2 spaces required Visitors: 1 space per 10 dwellings (0.83) - 1 space required (3.2) - <b>3 spaces required in total</b>	The basement incorporates 4 bicycle spaces.	Yes

The proposed development generally complies with the design and numerical requirements of CDCP 2012 with the following matters requiring further discussion:

[1] Isolation of Sites

Clause 2.1.1 of CDCP 2012 requires that development should not result in the isolation of an adjoining property which is incapable of accommodating any form of redevelopment.

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

The proposed development will result in the isolation of the adjoining properties to the east and west known as 81 Knox Street and 87 Knox Street, respectively. The proposal has been considered against the Planning Principles established by the Land and Environment Court in relation to isolated sites. It is noted that the applicant has satisfied the controls listed under Clause 2.1.1 of CDGP 2012 and provided documentary evidence to that effect. The applicant provided copies of two valuation reports prepared for each property as well as letters of offers sent to the corresponding land owners. The letters of offers were accompanied with a registered post receipt to indicate that both land owners were sent the letters of offers. The owner of 87 Knox Street advised that they did not wish to accept the offer for purchase in writing. No response was received from the land owners of 81 Knox Street. The applicant provided a Statutory Declaration to illustrate the sequence of events relating to 81 Knox Street.

The applicant demonstrated that 87 Knox Street could amalgamate with 27 Benaroon Road and 50 Hugh Street to facilitate a residential flat building development. Furthermore, a pre-DA application (pre-16/2016) was submitted to Council for consideration of a two storey residential flat building at 81 Knox Street. The pre-DA advice issued on 20 June 2016, acknowledged that 81 Knox Street has scope to develop a residential flat building; however it will not be able to be developed to the maximum potential permitted in accordance with the relevant development controls.

The adjoining sites will not be isolated as such as they can both accommodate some form of residential flat building development. Regardless, the following principles have been considered as a guide.

– Is amalgamation of the sites feasible?

The principles to be applied in determining the answer to the first question are set out by Brown C in *Melissa Grech v Auburn Council* [2004] NSWLEC 40. The Commissioner said:

- *Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*
- *Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*
- *Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the*

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

*development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*

Comment

With respect to the first question, 87 Knox Street and 81 Knox Street are both occupied by a single storey residential dwelling. It was our concern that the proposed development would render these sites as isolated in terms of accommodating a higher density (such as residential flat building) given both site widths are less than 20m and 87 Knox Street has a site area of only 525m<sup>2</sup>.

The applicant engaged two valuers to carry out a valuation of both sites. The valuations identified a value range between \$1,000,000-\$1,050,000 for 81 Knox Street and a value range between \$830,000-\$850,000 for 87 Knox Street. The applicant offered to purchase 81 Knox Street for \$1,050,000 and 87 Knox Street for \$850,000 to the respective land owners. The owner of 87 Knox Street declined the offer in writing, whilst no response was provided by the owner of 81 Knox Street. The subject land owner provided a Statutory Declaration providing a timeline of discussions with him and the land owner of 81 Knox Street. The declaration advised that the registered mail letter had been returned to the applicant on 31 May 2016 stating "RTS UNKNOWN AT ADDRESS". The subject land owner tried to deliver the letter in person on 18 June 2016, however there was no answer. The statutory declaration also outlined that the subject land owner had discussions with the land owner of 81 Knox Street on 4 May 2016 over the phone. During the phone discussion, it is claimed the land owner of 81 Knox Street advised that he was not interested in selling the property and is in the process of drawing up plans for the development of the property.

Details of the valuation and negotiations have been provided with this application.

The offers to purchase 81 and 87 Knox Streets are considered to be reasonable and weight can therefore be given to this offer in considering the subject application.

– Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

In the decision *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189, Commissioner Tudor extended the principles established by Commissioner Brown in *Melissa Grech v Auburn Council* to deal with the second question and stated that:

- *The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*
- *To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both*

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

*building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

Comment

In regard to this question, both sites have the potential in terms of site areas and frontages to provide a development which is consistent with the desired urban form.

The applicant submitted schematic drawings to indicate that 87 Knox Street can amalgamate with 27 Benaroon Road and 50 Hugh Street to facilitate a two storey residential flat building development. The schematic plans identify that a landscape area will be provided along the eastern boundary, adjoining the subject site, to maintain an appropriate level of privacy for the occupants of each site. The apartments would have vehicular access from Knox Street and travel through the basement car park to exit onto Hugh Street. The site will maintain the north-south orientation which would have minimal overshadowing impacts on the properties to the east.

In terms of 81 Knox Street, a schematic plan to develop a two storey residential flat building was submitted to Council as part of a pre-DA application (pre-16/2016). The pre-DA application was submitted by a different architect and applicant of the subject development application, however it is unknown whether the land owner of 81 Knox Street engaged the architect responsible for the design. Our assessment of the schematic plan found that there is scope to develop the site for the purposes of a two storey residential flat building; however it will not be able to be developed to the maximum potential permitted in accordance with the relevant development controls by virtue of being potentially isolated from 83-85 Knox Street.

Having considered this Planning Principle, it would be unreasonable to prevent the proposed development of the site due to these factors. The proposed development will not have any significant negative impacts on the adjoining properties which can still be developed in an orderly manner and therefore the proposal is acceptable in this regard.

[2] External Wall Height

Part 2.1.4(xi) of CDCP 2012 specifies that 2-3 storey residential flat buildings are to comprise a maximum external wall height of 7m. The south-western corner of the development comprises an external wall height of 7.175m which represents a 2.5% variation and can therefore be dealt with under delegation. The objective of this control is to ensure new buildings have a scale that is visually compatible with adjoining buildings and the intended character of the zone.



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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

The proposed two storey development complies with the maximum 8.5m building height requirement stipulated within CLEP 2012 and is in keeping with existing two storey residential flat buildings located along Knox Street as well as the future desired character of the zone. The overall height of the building respects the natural slope of Knox Street to the south-west and does not protrude above the height of the existing dwelling to the east of the site at 81 Knox Street and therefore contributes to the transition of building heights down Knox Street.

The minor variation to the external wall height will not result in any significant adverse solar access impacts as discussed earlier within this report. The design and scale of the proposed development will retain an appropriate level of solar access to adjoining properties in accordance with the minimum requirements stipulated in CDCP 2012.

Given the minor nature and in light of the abovementioned comments, the proposed variation is supported in this instance.

#### [3] Building Separation

Part 2.1.9(viii) of CDCP 2012 requires that residential flat buildings with five storeys or less, have a minimum setback of 6m from the side boundary. The proposed development is setback 4m from the side boundaries which represents a 33.3% variation. The 6m requirement is intended for residential flat buildings that are assessed against the provisions of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development and contradicts the 4m side setback control for two storey developments (including two storey residential flat buildings) specified within Part 2.1.7(xxxiii) of CDCP 2012.

In light of the low scale nature of the proposed development (maximum 2 storeys) and given it complies with the 4m side setback requirement and will not result in any significant overshadowing and/or privacy impacts, the proposed variation is supported.

#### **Part 6.4 - Development Engineering Flood and Stormwater**

The application was reviewed by our Development Engineer and was found to satisfy the requirements of Part 6.4 of CDCP 2012, subject to conditions being attached to any consent granted.

#### **Part 6.6 – Landscaping**

The application was reviewed by our Landscape Architect and was found to satisfy the requirements of Part 6.6 of CDCP 2012, subject to conditions being attached to any consent granted.

#### **Part 6.9 – Waste Management**

The application was reviewed by our Waste Services Coordinator and was found to satisfy the requirements of Part 6.9 of CDCP 2012, subject to conditions being attached to any consent granted.

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- **Canterbury Development Contributions Plan 2013**  
The provisions of our Development 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 \$67,836.43 in the event of an approval being issued. This has been included as a condition of development consent.

#### **Additional Considerations**

- **National Construction Code**  
The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed, including that full compliance with the National Construction Code is to be achieved.
- **Proposed excavation works**  
The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. It is recommended that a condition requiring the applicant to provide a dilapidation report for the adjoining property to the south, prior to the issue of the Construction Certificate be included on any consent issued. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant will be required to rectify all damages.
- **Sediment and Erosion Control**  
Standard conditions are 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.

The development will involve excavation of part of the site to accommodate the development. Any excavated material not utilised elsewhere on the property, will require proper disposal and transport in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition will be imposed in this regard.

- **Likely Impacts of the development**  
The proposed residential flat building is permissible within the R4 High Density Residential zone. The proposal will not result in any significant environmental, social, amenity or economic adverse impacts on the locality given the following:
  - The proposed development complies with the maximum building height and floor space development standards stipulated within CLEP 2012.
  - The proposed minor 2.5% variation to the maximum 7m external wall height will not result significant reduced solar access to the adjoining property. The proposed development complies with the maximum 8.5m building height limit, the design respects the natural slope of Knox Street and is in keeping

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- with existing two storey residential flat building developments along Knox Street.
- The proposed development is setback 4m from the side boundaries which complies with Part 2.1.7(xxxiii) of CDCP 2012 however it seeks a 33.3% variation to the minimum 6m building separation control stipulated within Part 2.1.9(viii) of CDCP 2012. As outlined within this report, the 6m requirement is intended for residential flat buildings that are to be assessed against the provisions of State Environmental Planning Policy 65 whereas this proposal is not subject to SEPP 65. The proposed two storey development is substantially separated from the side boundaries and will retain an appropriate level of privacy and solar access to adjoining properties and is therefore acceptable.
  - Given the north-south orientation of the site, the internal living areas for 4 of the 12 apartments do not receive two hours of solar access in mid-winter. The four apartments are located on the ground floor to the south of the development. At least 50% of private open space of three of these apartments as well as the communal open space will receive at least two hours of solar access in mid-winter. In light of the orientation of the site and nature of the proposed development, the level of solar access proposed is acceptable.
  - The proposed development will not result in the isolation of the adjoining sites (81 and 87 Knox Street) as it has been shown that these sites can be redeveloped for higher density residential purposes.
  - The proposed development achieves a high level of compliance with the key design controls stipulated within CDCP 2012 particularly in regards to car parking, private open space and overall landscaping.
  - A condition of consent will be imposed requiring at least two apartments be adaptable or accessible.
- **Suitability of Site**

The site is zoned R4 High Density Residential under CLEP 2012 where the proposed development is permissible. 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, it generally complies our controls with the exception to the external wall height and building separation and which have been assessed on their merit and are acceptable.
  - **The Public Interest**

The proposed residential flat building replaces two existing dwelling and therefore better utilises an existing underutilised site by providing greater housing opportunities for the locality. The building will consist of two adaptable dwellings which will provide for additional and affordable residential accommodation opportunities.

The design provides a positive contribution to the locality in terms of design quality and amenity for future occupants without creating an adverse impact on adjoining

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

land uses. The proposed development is therefore considered to be in the public interest.

### Notification

The development application was notified to all adjoining land owners and occupants in accordance with Part 7 of Canterbury Development Control Plan 2012. During the notification period two submissions were received raising the following issues:

- **The proposed development does not comprise any on-site parking spaces.**

#### Comment

The proposed development incorporates a basement car park comprising 15 car parking spaces (including two accessible parking spaces) and one car wash bay. The number of car parking spaces proposed complies with the car parking generation rates specified within Part 6.8 of Canterbury Development Control Plan 2012 and is sufficient for the proposed use of the site.

- **The proposed development will isolate 87 Knox Street, Belmore directly adjoining the site to the west.**

#### Comment

This matter was raised with the applicant. The applicant demonstrated, that they tried to purchase 87 Knox Street, but was unsuccessful. Furthermore, the applicant submitted a schematic plan which demonstrated that 87 Knox Street has the potential to amalgamate and be redeveloped with 57 Benaroon and 50 Hugh Street and therefore the proposed development would not result in isolating 87 Knox Street.

- **Stormwater from the access area along the western boundary is to be discharged to the front of the site.**

#### Comment

Should the application be approved, a condition of consent will be imposed to ensure all paved property side walkways stormwater runoff must be directed away from neighbouring properties.

- **If damage occurs to properties on adjoining sites, what guarantee is there for repair of the damage?**

#### Comment

Should the application be approved, a condition of consent will be imposed to ensure a Dilapidation Report/photographic survey is prepared by an appropriately qualified consultant for adjoining properties. On completion of the excavation and building works and prior to the issue of an Occupation Certificate, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties is to be submitted to the Principal Certifying Authority. If

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damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as practical and prior to occupation of the development. All costs associated in achieving compliance with this condition shall be borne by the person entitled to act on the consent.

### 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 variations to the external wall height and building separation controls will not result in any significant adverse impact on the amenity of future occupants of the site as well as existing residents on adjoining properties. The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the streetscape and indeed the local built environment. As such, it is recommended that the development application be approved subject to conditions.

### RECOMMENDATION:

THAT development application DA-476/2015 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:
    - Structural Engineering Plan including method of shoring during excavation
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Firewall Separation
    - Soil and Waste Management Plan
    - BASIX Certification
    - Ventilation of basement in accordance with AS 1668.2
  - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
  - 1.3. Payment to Council of:
 

Kerb and Gutter Damage Deposit	\$6,656.00
Section 94 Contributions	\$67,836.43
Certificate Registration Fee	\$36.00
Long Service Levy	\$9,460.15
  - 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Construction Certificate Application Fee	\$9,272.00
Inspection Fee	\$2,340.00
Occupation Certificate Fee	\$698.00

**Note 1:** Long Service Leave Levy payment; (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:** 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 licence 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

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

4.3. That unauthorised entry to the work site is prohibited.

DEMOLITION

5. 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.
- (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,

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

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.

#### GENERAL

6. The development being carried out in accordance with the plans, specifications and details outlined in the table below except where amended by the conditions specified in this Notice.

Drawing No.	Drawing Title	Prepared By	Received by Council on
2015.0908DA1, Issue D	Landscape Plan	TGS Landscape Architects	7 April 2016
DA00, Rev C	Cover Sheet	SYDesign	3 March 2016
DA01, Rev C	Window and Door Schedule	SYDesign	3 March 2016
DA02, Rev C	Site/Privacy Plan	SYDesign	3 March 2016
DA03, Rev C	Soil and Water Management Plan and Demolition Plan	SYDesign	3 March 2016
DA04, Rev C	Basement Floor Plan	SYDesign	3 March 2016
DA05, Rev C	Ground Floor Plan	SYDesign	3 March 2016
DA06, Rev C	First Floor Plan	SYDesign	3 March 2016
DA07, Rev C	Roof Plan	SYDesign	3 March 2016
DA08, Rev C	North East and South West Elevations	SYDesign	3 March 2016
DA09, Rev C	North West and South East Elevations	SYDesign	3 March 2016
DA10, Rev C	Section A-A	SYDesign	3 March 2016
DA11, Rev C	Section B-B	SYDesign	3 March 2016
DA15, Rev B	External Colours and Finishes Schedule	SYDesign	3 March 2016
DA16, Rev A	Streetscape Elevation	SYDesign	3 March 2016

- 6.1. A total of two apartments are to be adaptable or accessible. Details of these changes are to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- 6.2. Storage area of at least 6m<sup>3</sup> per one bedroom dwelling is to be provided in the development. Details of these changes are to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- 6.3. The front fence along the Knox Street boundary is to not exceed 1.2m in height from ground level.
- 6.4. All access points to the building (this would include street level pedestrian



83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

access, access to the mechanical plan on the first floor, lifts and stairwells) shall be restricted to residents only through a security system. Visitors to the residential complex shall be provided with access via the intercom.

- 6.5. The bathroom and ensuite window(s) being translucent glass.
- 6.6. The existing boundary treatment between the subject site and the adjoining properties is to be retained, or replaced (if damaged during the construction process) at the developer'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.
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 \$67,836.43. The amount payable is based on the following components:

2013 Contribution Element	Contribution
• Community Facilities	\$ 6,135.21
• Open Space and Recreation	\$ 59,979.68
• Plan Administration	\$ 1,721.54

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. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
9. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
10. 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.
11. All building construction work must comply with the National Construction Code.
12. 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.
13. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor levels and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
14. 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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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (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."
15. 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.
16. 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.
17. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
18. 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.
19. 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.
20. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
21. 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.  
The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
22. 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.

DILAPIDATION AND EXCAVATION

23. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repair or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate.
24. The applicant shall prepare a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for adjoining properties, 81 and 87 Knox Street and 46 and 48 Hugh Street detailing the physical condition of the property, both

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

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 the issue of an Occupation Certificate, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties is to be submitted to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as practical and prior to occupation of the development. All costs associated in achieving compliance with this condition shall be borne by the person entitled to act on this consent.

25. Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

ENGINEERING

26. Plans and specification to be prepared of the stormwater system and be designed conceptually, in general, in accordance with the plans, specifications and details received by Council on 7 April 2016; Project number 83KNOX/METS sheet number DA01 Revision A, DA02 Revision D, D03 Revision D dated 04/04/2016, Prepared by MLE Design.
27. All paved property side walkways stormwater runoff must be directed away from neighbouring lands.
28. The amended plans for Construction Certificate must include details
- (a) Stormwater management and OSD details (OSD facility dimensions), three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority (PCA) and Canterbury City Council, if Council is not the PCA. Stormwater management and OSD details, three (3) copies of plans and calculations must be submitted Canterbury City Council for approval prior to issuing the Construction certificate; it may be advantageous to amend the OSD facility to discharge as a High Early discharge system.
29. A plan and long section of the proposed connection and pipeline to be laid in Knox Street must be prepared by a practising Civil Engineer and include a detailed public utilities check. All existing services crossed by the proposed pipeline must be located and identified on the plan. Three (3) copies of plans and calculations, with levels reduced to Australian Height Datum (AHD) must be submitted and approved by Council prior to the issue of a Construction Certificate to determine compatibility with the Councils existing stormwater drainage system in Knox Street.
30. All overflows and emergency overflows from the site stormwater system must be directed to the overland path, the flowpath must **not** cause flood damage or flood nuisance to the site or neighbouring properties. The overflow capacity of the proposed overflow path is to be (2x) two times the 1:100 ARI peak flow rate.
31. All downpipes, pits and drainage pipes shall be designed and 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",

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- AS/NZS3500.3 and Council's Stormwater Management Manual - Specification 9 "A Guide for Stormwater Drainage Design".
32. All stormwater must pass through a silt arrestor pit prior to discharge to council system. Silt arrestor pit is to be sized in accordance with Canterbury Councils DCP 2012. Sump depth is to be a minimum of 300mm deep.
  33. 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.
  34. All external surfaces to be graded to facilitate subterranean drainage and all excess surface waters to the overland flow path(s).
  35. 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.
  36. All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
  37. All pits to be minimum 450 x 450 with childproof lockable grated lids.
  38. Grated trench drain to be min 200mm wide.
  39. Provide cross ventilation details for the OSD tank. The plans are to be provided to the Principal Certifying Authority prior to the issuing of a Construction Certificate.
  40. Any charged lines for the rainwater tanks must be a closed system without any pits or discharge points other than that at the clean out pit where the lines are terminated and capped for cleaning/clearing out after storms/rainfall. The system must comply with section 6.4.14 of Council's Stormwater Management Manual - Specification 9 "A Guide for Stormwater Drainage Design".
  41. The location of pits and inspection/cleaning points to comply with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
  42. The basement 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 be those generated by rainfall and seepage. If a groundwater table is present, the basement and pits 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.
  43. The basement pumps are not to drain any groundwater table encountered on the site.
  44. Prior to the issuing of a Construction Certificate, a 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 basement must be tanked to at least 1000 mm above measured groundwater levels.
  45. 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.
  46. A maintenance plan including maintenance schedule and inspection check list must be produced for the on-site detention facility. The maintenance plan must be submitted to the Principal Certifying Authority prior to the issue of a construction
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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

Certificate.

47. A full width **heavy** duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5 metres at the boundary line. This 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 Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
48. 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.
49. 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.
50. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
51. 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 and submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate to address the following issues:
  - (a) 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.
  - (b) A driveway long section scaled at 1:20 (both vertical & horizontal) is to be submitted indicating the appropriate grades, lengths, transitions and height clearances above the driveway. The existing street levels are to be included in the design of the driveway (The existing street levels include kerb & gutter, footpath and boundary line levels which cannot be altered). The driveway widths, grades, lengths and transitions shall be in accordance with Australian Standard AS 2890.1 - 2004 "Off-street Parking Part 1 - Carparking Facilities".
  - (c) The gradient of the access driveway must not exceed 5% (1 in 20) for the first six meters inside the boundary of the site in accordance with Clause 3.3(a) of AS/NZS 2890.1: 2004.
  - (d) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 – Car parking Facilities".
  - (e) 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

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- comply with these requirements and must be amended, in particular to disabled parking.
- (f) Swept path analysis is required to be submitted, particularly for entry and exit to the laneway. The swept path analysis is required to allow for swept path clearances as per Australian Standard AS 2890.1 – 2004 Section B3.2. And all circulation roadways intersections require a further 300mm structural clearance as per AS 2890.1 – 2004 Section 2.5.2(C)
52. Prior to issue of construction certificate the applicant is to prepare a pictorial survey of the surrounding infrastructure depicting the condition of the roadway, pathways kerb and guttering, driveways and other structures, a post development survey is to be carried out prior to completion, Cracked and damaged paved areas of the site are to be repaired and or replaced to the satisfaction of Councils Director of Environmental Services.
53. 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.
- (a) The Road Opening Permit must be provided prior to the issue of a Construction Certificate.
- (b) 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.
- (c) 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 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.
54. 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.
55. All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage plan. Such detail is to be provided to the Principal Certifying Authority prior to the issuing of an Construction Certificate.
56. The amended plans must be certified by an appropriately qualified and practising Civil Engineer and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 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.
57. 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 affect layout of garden beds and plantings. Such detail is to be provided to the Principal Certifying Authority prior to
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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- the issuing of an Construction Certificate.
58. 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". Such detail is to be provided to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
59. 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. Such detail is to be provided to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
60. The stormwater drainage works are to be inspected during construction by the Principal Certifying Authority at the following stages:
- (a) Prior to backfilling of trenches
  - (b) Prior to pouring concrete in OSD areas
  - (c) On completion of drainage works
61. Private contractors/applicants shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval. Such detail is to be provided to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
62. A Works-as-Executed plan must be submitted to Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system.  
The plan shall be prepared by a registered surveyor. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. 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.
63. 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.
64. The applicant shall provide an as-built drawing to Councils City Works Division detailing the public drainage system. The plan shall be prepared by a registered surveyor. The plan shall record all the relevant existing, proposed and actual levels and dimensions relative to the constructed drainage system. Such detail is to be provided to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
65. The required certification must be issued by 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. Such detail is to be provided to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

66. A sign shall be installed over every tap connected to the proposed rainwater stating "This water is not for drinking. This water is for landscaping purposes only".
67. A sign adjacent to and clearly visible at the OSD facility is to be placed permanently notifying the location of OSD tank/basin and its filling with stormwater after storms.
68. The OSD tank must comply with relevant work cover codes and confined space legislation.
69. 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.
  - (c) The Plan must be prepared by a an appropriately qualified and practising Civil Engineer and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
  - (d) The maintenance plan produced for the Occupation certificate must be kept in a visible place on-site at all times.

#### LANDSCAPING

70. The landscaping must be completed according to the submitted landscape plan (drawn by TGS Landscape Architects, drawing no. 2015.0908DA1, submitted to council on 7<sup>th</sup> April 2016) except where amended by the conditions of consent.
71. 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).
72. 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.
73. 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.
74. All existing property trees may be removed to accommodate construction. This is conditional on the replacement planting of 14 x 75ltr major canopy trees as shown on the Landscape Plan. As well, there shall be a green offsets policy to compensate for the removal of Trees 11 and 12 as set out in the Arboricultural Assessment Report.
75. The existing street tree 2 (as identified in the Arboricultural Assessment report), *Lophostemon confertus* (common name Brushbox), growing on the nature strip in front of the property may be removed to accommodate construction. This removal is conditional on its replacement with 1 x 75ltr (container size) *Lophostemon confertus*



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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

(common name Brushbox), to be provided on the nature strip adjoining the property offset 3m from the existing power pole, eastern side.. The planting of this tree is to be carried out upon the completion of construction by contractors in accordance with AUS-SPEC Specification 0257-Landscape – Roadways and Street Trees. This document is available for purchase from Council.

76. The existing street tree 1 (as identified in the Arboricultural Assessment report) *Lophostemon confertus* (common name Brushbox), is to be retained and protected during demolition and construction. The tree is to be retained and protected in accordance with all advice, recommendations and guidelines provided in the Arboricultural Assessment Report. This includes the appointment of a Level 5 Project Arborist to supervise the protection of the tree.

#### WASTE

77. 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.
78. 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.

#### SYDNEY WATER REQUIREMENTS

79. 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 occupation of the development/release of the final plan of subdivision.

#### CONSOLIDATION OF LOTS

80. The site being 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 or occupation of the building.

#### STREET ADDRESSING

81. Allocation of street numbers has been based on the Rural and Urban Addressing Standard AS/NZS 4819:2011.
82. Future Street Addressing for the proposed development within DA-476/2015, is advised as follows: 83 Knox Street, Belmore NSW 2192.
83. All sub-property numbering must be unique. Sub-property numbering is advised as follows:

**Units: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.**

#### CRITICAL INSPECTIONS

84. Class 2, 3 or 4 Buildings
- 84.1. Prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 84.2. Prior to covering any stormwater drainage connections, and
- 84.3. After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

85. Class 5, 6, 7, 8 or 9 Buildings

85.1. Prior to covering any stormwater drainage connections, and

85.2. After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

86. 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

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

WE ALSO ADVISE:

88. This application has been assessed in accordance with the National Construction Code.

89. 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.

90. 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
- Glazing
- Waterproofing
- BASIX completion

91. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.

92. 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.

93. 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.

94. 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 021 199.

95. 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.

96. If you are not satisfied with this determination, you may:

83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING (CONT.)

- 96.1. 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 within 6 months of the date of this Notice of Determination and be accompanied by the relevant fee; or
- 96.2. 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.

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**3 56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE**

**FILE NO:** 737/56D PT2

**REPORT BY:** DIRECTOR CITY DEVELOPMENT

**WARD:** CANTERBURY

<b>D/A No:</b>	<b>RE-1/2016</b>
<b>Applicant:</b>	<b>S Khoury</b>
<b>Owner:</b>	<b>S Khoury and J Ioannou</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>7 April 2016. Additional Information received 15 June 2016.</b>

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**Summary:**

- The application is to review the determination of a refused application (DA-39/2013/A) which proposed internal and external alterations to the semi-detached dwelling, including the relocation of vehicular and pedestrian accessways and conversion of attic roof space into bedroom with ensuite.
- The application is referred to the Independent Hearing and Assessment Panel as the proposed design seeks a 44% variation to our minimum light well provisions within Canterbury Development Control Plan 2012.
- The review has considered the reasons for refusal of the original application, including ensuring the attic space cannot be used as a habitable room and by providing revised hydraulic plans.
- The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012, where semi-detached developments are permissible, subject to our consent.
- The proposal has been assessment under Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The proposal achieves a high level of compliance with the exception to the minimum light well dimensions of 1m x 3m. The proposed skylight measures 0.6 x 2.8m and therefore varies the minimum area requirement by 44%. This non-compliance is considered worthy of support and is discussed further in the body of the report.
- The proposal has been notified in accordance with the provisions of our notification policy. One submission was received. Concerns raised related to boundary fence materials and the location of the air conditioning unit. These matters are discussed further within the body of the report.
- As the applicant has amended the design to address the reasons for refusal, it is recommended the application be approved subject to conditions.

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56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (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:****Background**

We have previously approved DA-39/2013 for a two storey semi-detached dwelling on this site which is currently under construction (PCA-24/2016). On 10 February 2016 a modification application DA-39/2013/A was refused for the following reasons:

1. 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 controls of Canterbury Development Control Plan 2012, including:
  - a. Clause 2.1.4(i) – Maximum two storey height limit.
  - b. Clause 2.2.3(xvii) – Minimum separation distance of 2.5m between dormer windows on the building.
2. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, the proposed development is unsatisfactory as the form of the development is out of character with the existing development in the locality and adversely impact upon the existing and likely future character of the locality.
3. Approval of a semi-detached development which presents and has the capacity as a three storey development will set an undesirable precedent within the Canterbury Local Government Area.
4. The proposed development is deficient of information regarding stormwater to enable Council to carry out a proper and complete assessment of the application.
5. Having regard to the abovementioned non-compliance issues, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

**Current Application**

The subject application was submitted on 7 April 2016 requesting Council review the determination of DA-39/2013/A. The application is required to be determined by 10 August 2016 in accordance with the six month timeframe for review applications. Minor amendments have been made to the design to address the reasons for refusal of DA-39/2013/A, including ensuring the attic space cannot be used as a habitable room.

The proposed modifications, now under review are associated with the semi-detached dwelling now under construction.

**Site Details**

The subject site is located on the western side of Richmond Street, Earlwood between Caroline Street and Louisa Street. The site has a frontage of 6.095m and a total lot size of 174.6m<sup>2</sup>. Currently existing on the site is a single storey weatherboard detached dwelling which spans across the subject site and 56A Richmond Street, Earlwood.

56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

In terms of surrounding development, the site is located within an R3 Medium Density Zone and is subsequently surrounded by a mix of single and two storey detached and semi-detached dwellings.



Aerial view of site



Subject Site



Existing single storey dwellings to the south, view south-east from Richmond Street



56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)



Existing single storey residential dwellings to the north of the site, view east from Richmond Street



Existing development located opposite the site, view south-west from Richmond Street

### Proposal

Council has received an application under Section 96AB(1) of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:

- Ground Floor
  - Relocate the approved vehicle accessway to the centre of the site.
  - Reduce the setback from the southern boundary from 1m to 900mm.
  - Relocate the pedestrian pathway and associated entrance from the northern elevation to the western elevation.
  - Establish a landscaped area separating the relocated pathway from the neighbouring property to the south.
  - Introduction of a new door with direct access to the northern side setback.
  - Reconfiguration of the internal ground floor plan including entry, porch, kitchen, toilet, laundry and stairwell.
  - Removal of light well along the northern elevation and revision to the size and location of some windows.
  - Installation of a skylight along the northern elevation to replace the previously approved light well.
  - Change of materials of the approved awning over the patio.
  - Revision to the ground floor level results in a gross floor area is 55.5m<sup>2</sup> (reduced by 1.7m<sup>2</sup> from approved design).
- First Floor
  - Reconfiguration of the internal first floor plan including stairwell, bathroom and storage area within bedroom 1.
  - Conversion of approved bedroom 2 into an open study.
  - Installation of a skylight along the northern elevation to provide additional light into the ground floor level.
  - The revisions to the first floor level result in a gross floor area of 56.5m<sup>2</sup> (addition of 0.3m<sup>2</sup> from approved design).
- Attic
  - Conversion of the attic roof space into storage area as well as construction of a permanent stairwell. Drawing No. DA301 indicates that a false ceiling at a

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56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

- height of 1.35m will be incorporated in the design, which results in the room being un-habitable and therefore does not contribute to any additional floor space ratio.
- The conversion of the attic roof spaces results in an increase to the overall approved building height of 150mm.

### Statutory Considerations

When determining this application, the relevant matters listed in Section 96AB(1) and 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments and development control plan are relevant:

- Section 96AB(1) of the Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

### Assessment

- **Section 96AB(1) of the Environmental Planning and Assessment Act 1979**  
An applicant for the modification of a development consent for which a council is the consent authority may request council to review a determination by the council under Section 96 of the application. Section 96 of the Environmental Planning and Assessment Act, 1979 allows Council to modify development consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)*

### Comment

The proposal will not alter the residential use of the development. The overshadowing impacts resulting from the proposal remain consistent with those approved as part of DA-39/2013 and will not result in any reduced amenity impacts on adjoining residents.

The modifications sought will result in a minor increase in building height of 150mm from the approved development to make way for the proposed use of the attic for storage. However, the proposed building height of 8.465m complies with the maximum 8.5m building height specified within Canterbury Local Environmental Plan 2012. No new windows or openings are proposed to accommodate the attic and therefore the development will continue to present as a two storey development and will not result in any significant additional privacy impacts.

The proposal is therefore considered to be substantially the same as the originally approved development application.



56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*

Comment

The application did not require any consultation with a Minister, public authority or other approval body.

- (c) *it has notified the application in accordance with:*
- i. *the regulations, if the regulations so require, or*
  - ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*

Comment

The application has been notified in accordance with the requirements of Part 7 of the Canterbury Development Control Plan 2012. The application was publically notified between 22 April – 9 May 2016. One submission was received by Council during the notification period, which is discussed in the notification section of this report.

- **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**  
The application is accompanied by a BASIX Certificate No. 664676S\_03 dated 6 June 2016 which indicates a series of commitments for the DA including the provision for low water use vegetation and insulation and cooling and heating commitments. The project scores a pass for water, energy and thermal comfort commitments. As such, the design of the proposed development is consistent with the commitments made in the submitted BASIX Certificate. In this regard, the proposed development satisfies the requirements of BASIX.
- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**  
The subject site is zoned R3 Medium Density Residential pursuant to CLEP 2012. Semi-detached dwellings are permissible within the zone with development consent. The proposal is assessed against the relevant provisions as follows:

Standard	Requirement	Proposal	Complies
Building Height	8.5m	8.465m	Yes
Floor Space Ratio	0.5:1	No change. The proposal does not alter the approved FSR of 0.64:1 for the site as approved within DA-39/2013.	N/A

The proposed development is consistent with the relevant zoning and numerical provisions of CLEP 2012.

56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

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

The application has been compared to the relevant requirements of CDCP 2012 as follows:

**Part 2 Residential Neighbourhoods**

Standard	Requirement	Proposal	Complies
<b>Site and Envelope Controls</b>			
Cut and fill	Max 1m cut	Max 1m.	Yes
Building height	Max 2 storeys Note: Attics do not comprise a storey.	The development will continue to present as a two storey dwelling. No windows or openings are proposed in association with the attic.	Yes
	Max 7m wall height	<7m.	Yes
Depth/ footprint	Max 25m	18.5m.	Yes
Front setback	Min 5.5m	No change from the approved.	Yes
Rear setback	Min 6m	The existing rear setback remains as approved by the original consent. The main building line is setback 6.49m.	Yes
Side setback	Min 900mm	900mm.	Yes
Recess for front entrance	2m	2m.	Yes
Provide unroofed light well	Light well to measure 1m x 3m and setback 2m from side boundary	A skylight measuring approx. 600mm x 2800mm is located along the northern elevation.	No - see comment [1] below
Max floor area and site coverage	Max floor area: 300m <sup>2</sup> Max site coverage: 60%	The proposed modification does not increase the approved floor area of the development.	N/A
<b>Car Parking Controls</b>			
Garage	As the site is less than 12.5m, parking is to be provided in a carport or single-width garage.	A single-width garage is provided.	Yes
<b>Design Controls</b>			
Street Address	Clearly identifiable entries on side or front of building	Clear entry area is maintained.	Yes
	At least one habitable room facing the street	First floor bedroom sliding door and balcony faces Richmond Street.	Yes
	No obstruction of sight lines to street	The design does not obstruct sight lines to Richmond Street.	Yes
Façade Design & Articulation	Avoid long flat walls along street frontage	The front elevation is articulated through the inclusion of balconies and use of different materials.	Yes
	Do not use identical facades	The facades of each dwelling are not identical.	Yes
Roof Design	Maximum 30 degree pitch	<30 degree pitch.	Yes

56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

Standard	Requirement	Proposal	Complies
<b>Performance Controls</b>			
Visual Privacy	Reasonable levels of visual privacy available for residents. Visual privacy is not compromised.	The modification maintains the same number of windows along the northern elevation (total of eight windows). The side windows on the first floor are highlight windows or will comprise translucent glass and therefore, an appropriate level of amenity will be maintained to residents both on site and adjoining properties.	Yes
Open Space	Min area of 50m <sup>2</sup>	No change to amount of private open space area approved as part of DA-39/2013.	Yes
Internal Dwelling Space and Design	Living area and principal bedrooms – min width 3.5m	Living room >3.5m wide Main bedroom >3.5m wide	Yes Yes
	Secondary bedrooms – min width 3m	Secondary bedroom >3m wide	Yes

As highlighted in the table above, the proposed modification is consistent with the relevant objectives and controls outlined in CDCP 2012, with the exception of the control relating to minimum dimensions of the skylight. This matter is discussed below:

[1] Light Well

Part 2.1.7(xi) of CDCP 2012 states that semi-detached dwellings are comprise an unroofed light well with minimum dimensions of 1m x 3m, by setting back part of the external side wall. The proposed design comprises replacing the existing light well at ground level (measuring 1m x 3m) with a skylight along the northern elevation measuring approximately approx. 0.6m x 2.8m (44% variation to area requirement). The lightwell is maintained for the first floor, albeit at the reduced dimensions. The proposed skylight therefore does not comply with the minimum dimension specified within Part 2.1.7(xi). Although the proposed skylight does not meet the minimum dimension requirements, it is considered to be a better design outcome as it is integrated within the building design and therefore allows for greater sunlight penetration into the building footprint.

Given the east-west orientation of the site and existing location of the principal living room within the eastern corner of the dwelling, the proposed minor variation to the skylight requirements will not result in a reduction of solar access to this area. On this basis, the proposed minor variation to the minimum dimensions of the light well is acceptable in this instance.

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56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

### **Part 6.2 Climate and Resource Efficiency**

Solar access to the principle living area of the development was assessed as part of the original application. The proposed modification does not alter the location of the principle living area at the rear of the building (to the east) and therefore no further assessment is required as part of this application.

Part 6.2.6 (iii) of CDCP 2012 requires new development to maintain at least two hours of solar access to the principle living space and at least 50% of the principle private open space area of adjoining properties in mid-winter. The proposal maintains the approved front and rear setbacks as well as satisfies the minimum side setback requirements (900mm) and maximum 8.5m building height limit. The subject development is a semi-detached dwelling and therefore shares a party wall with the adjoining property to the south (56A Richmond Street). On this basis, the development will not reduce the level of solar access to indoor living areas of the property 56A Richmond Street. As demonstrated within the shadow diagrams submitted, at least 50% of the principal open space at the rear of 56A Richmond Street will receive solar access between 9am-12noon in mid-winter. An assessment of the solar impacts of the property further south, known as 60 Richmond Street, is undertaken in the application for 56 Richmond Street (RE-2/2016). The proposed modification complies with the minimum solar access requirements of Part 6.2.6.

### **Part 6.4 Development Engineering, Flood and Stormwater**

Our Development Engineer has reviewed the application and raises no objection to the proposed modification, subject to conditions of consent.

- **Canterbury Development Contributions Plan 2013**  
The application originally comprised converting the approved 'bedroom 2' on the first floor to an open study and therefore the proposal reduced the number of approved bedrooms from three bedrooms to two bedrooms. However, as confirmed by the applicant on 23 June 2016, the study room was included in error and is supposed to be utilised as a bedroom. This was re-iterated via email with the applicant on 23 June 2016. On this basis, the proposed modification does not alter the number of bedrooms approved (three) and subsequently, the contributions remain as approved as part of the original application.

### **Other Consideration**

- **Likely impacts of the development**  
The proposal will not result in any significant environmental, social, amenity or economic adverse impacts on the locality given the following:
  - The modification complies with the maximum building height and floor space ratio development standards stipulated within CLEP 2012.
  - No additional windows or openings are proposed and therefore an appropriate level of privacy is retained.
  - The development will continue to present as a two storey development.

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56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

- It will not result in any additional significant overshadowing impacts on adjoining properties.
  - The proposed development achieves a high level of compliance with the key design controls stipulated within CDCP 2012 particularly in regards to car parking, private open space, landscaping and setbacks.
- **The suitability of the site**

The site is zoned R3 Medium Density Residential under CLEP 2012 where semi-detached dwellings are permissible with development consent. 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 achieves a high level of compliance with the relevant statutory and non-statutory controls with the exception of the dimensions of the skylight. The design and size of the skylight has been assessed on merit and is acceptable for the reasons outlined within the body of the report.
- **The Public Interest**

The proposed modification does not result in any additional environmental impacts from that approved as part of the original DA. The modifications are permissible and generally comply with the relevant key development controls stipulated within CLEP 2012 and CDCP 2012. On this basis, the development is considered to be in the public interest.

Having regard to the matters discussed above, the proposed modification is considered to be satisfactory and worthy of support.

### **Notification**

One submission was received by Council during the notification period. The following matters were raised within the submission:

- **Removal of the colorbond steel boundary fence and replacement with a brick/render wall is out of character with existing boundary fences**

Comment  
The proposed modifications do not alter the existing/approved boundary fences.
- **The air-conditioning unit mounted on the first floor should be moved to the ground floor to minimise any amenity impacts on neighbouring properties**

Comment  
The air conditioning unit has been relocated to the ground floor within the side setback.

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56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

### Conclusion

The proposed modification is substantially the same development that was originally considered and approved by Council. The proposed modification is considered acceptable having regard to the provision of Sections 79C and 96 of the Environmental Planning and Assessment Act, 1979. The proposed building envelope is consistent with our controls and the use of the roof space for storage, while not encouraged, is not supported in this instance as it has a low ceiling that does not provide floor area.

### RECOMMENDATION:

THAT the Development Consent DA-39/2013 be **MODIFIED** by revising Conditions 7, 9 and 37 to read as follows:

7. That the development being carried out in accordance with the plans, specifications and details prepared by Virtual Y Designs, Project No. 12-1264, Drawing Nos. DA010, DA102, DA103, DA104, DA105, DA201, DA202, DA301 and DA701, Issue F and received by Council on 15 June 2016; Survey Plan prepared by Lawrence Group Surveyors and Development Consultants, Job No. 122382, Drawing No. DETL-001/A, Sheet 1 of 1, Dated: 23 February 2012 and received by Council on 5 February 2013; Stormwater Concept Plans prepared by CAM Consulting Pty Ltd, Drawing Nos. C15207-SW01, C15207-SW02 and C15207-SW03, Revision 3 and received by Council on 15 June 2016; Landscape Plan prepared by Virtual Y Designs, Revision A, Drawing No. L101, Project No. 12-1263, Dated: January 2013 and received by Council on 5 February 2013, except where modified by conditions specified in this notice.
  - 7.1 The parapet to be provided along the western elevation of the dwelling, facing Richmond Street, must be reduced so that it is no more than 0.5m above the upper ceiling height.
9. Finishes and materials including the treatment of external walls, roofing, balustrades, and doors being in accordance with the Schedule of Finishes prepared by Virtual Y Designs, Drawing No. DA701, Revision F and received by Council on 15 June 2016. 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.
37. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted 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 15th June 2016; drawing number C15207 SW01-SW03 Rev. 3, prepared by CAM Consulting Pty Ltd.
  - b) 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) to the kerb and gutter of Richmond Street.
  - c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. Runoff from uphill lands must be collected and discharged to the kerb and gutter of Richmond Street. The development must not obstruct/divert runoff from uphill lands and must not concentrate runoff onto neighbouring lands.

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56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

- d) An overland flowpath must be provided from the rear of the property to the Street frontage. This area must be graded so that bypass flow does not enter the proposed dwelling nor divert runoff to neighbouring lands. Note - All paved property side walkways stormwater runoff must be directed away from neighbouring lands.
- e) 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 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.
- g) If total impervious areas exceed 70% of the lot area on-site detention designed in accordance with Part 6.4 of Canterbury Councils DCP must be provided.
- h) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- i) 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.

Note - 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.

All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage concept plan.

**WE ALSO ADVISE:**

- 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.
- If you are not satisfied with this determination, you may:
  - Apply for a review of an Application to Modify a Development Consent which may be sought under Section 96AB of the Environmental Planning and Assessment Act 1979 but only within 28 days of the modification determination; or
  - 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.

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**4 56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE**

**FILE NO:** 737/56AD PT2

**REPORT BY:** DIRECTOR CITY DEVELOPMENT

**WARD:** CANTERBURY

<b>D/A No:</b>	<b>RE-2/2016</b>
<b>Applicant:</b>	<b>J Ioannou</b>
<b>Owner:</b>	<b>S Khoury and J Ioannou</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>7 April 2016. Additional Information received 15 June 2016</b>

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**Summary:**

- The application is to review the determination of a refused application (DA-40/2013/A) which proposed internal and external alterations to the semi-detached dwelling, including the relocation of vehicular and pedestrian accessways and conversion of attic roof space into bedroom with ensuite.
- The application is referred to the Independent Hearing and Assessment Panel as the proposed design seeks a 44% variation to our minimum light well provisions within Canterbury Development Control Plan 2012.
- The review has considered the reasons for refusal of the original application, including ensuring the attic space cannot be used as a habitable room and by providing revised hydraulic plans.
- The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012, where semi-detached developments are permissible, subject to our consent.
- The proposal has been assessment under Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The proposal achieves a high level of compliance with the exception to the minimum light well dimensions of 1m x 3m. The proposed skylight measures 0.6 x 2.8m and therefore varies the minimum area requirement by 44%. This non-compliance is considered worthy of support and is discussed further in the body of the report.
- The proposal has been notified in accordance with the provisions of our notification policy. One submission was received. Concerns raised related to boundary fence materials and the location of the air conditioning unit. These matters are discussed further within the body of the report.
- As the applicant has amended the design to address the reasons for refusal, it is recommended the application be approved subject to conditions.



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56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (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:****Background**

We have previously approved DA-40/2013 for a two storey semi-detached dwelling on this site which is currently under construction (PCA-25/2016). On 10 February 2016 a modification application DA-39/2013/A was refused for the following reasons:

1. 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 controls of Canterbury Development Control Plan 2012, including:
  - a. Clause 2.1.4(i) – Maximum two storey height limit.
  - b. Clause 2.2.3(xvii) – Minimum separation distance of 2.5m between dormer windows on the building.
2. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, the proposed development is unsatisfactory as the form of the development is out of character with the existing development in the locality and adversely impact upon the existing and likely future character of the locality.
3. Approval of a semi-detached development which presents and has capacity as a three storey development will set an undesirable precedent within the Canterbury Local Government Area.
4. The proposed development is deficient of information regarding stormwater to enable Council to carry out a proper and complete assessment of the application.
5. Having regard to the abovementioned non-compliance issues, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

**Current Application**

The subject application was submitted on 7 April 2016 requesting Council to review the determination of DA-40/2013/A. The application is required to be determined by 10 August 2016 in accordance with the six month timeframe for review applications. Minor amendments have been made to the design to address the reasons for refusal of DA-40/2013/A, including ensuring the attic space cannot be used as a habitable room.

The proposed modifications now under review, are associated with the semi-detached dwelling now under construction.

**Site Details**

The subject site is located on the western side of Richmond Street, Earlwood between Caroline Street and Louisa Street. The site has a frontage of 6.095m and a total lot size of 174.6m<sup>2</sup>. Currently existing on the site is a single storey weatherboard detached dwelling which spans across the subject site and 56 Richmond Street, Earlwood.

56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

In terms of surrounding development, the site is located within an R3 Medium Density Zone and is subsequently surrounded by a mix of single and two storey detached and semi-detached dwellings.



Aerial view of site



Subject Site



Existing single storey dwellings to the south, view south-east from Richmond Street

56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)



Existing single storey residential dwellings to the north of the site, view east from Richmond Street



Existing development located opposite the site, view south-west from Richmond Street

### Proposal

Council has received an application under Section 96AB(1) of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:

- Ground Floor
  - Relocate the approved vehicle accessway to the centre of the site.
  - Reduce the setback of the setback from the southern boundary from 1m to 900mm.
  - Relocate the pedestrian pathway and associated entrance from the southern elevation to the western elevation.
  - Establish a landscaped area separating the relocated pathway from the neighbouring property to the north.
  - Introduction of a new door with direct access to the southern side setback.
  - Reconfiguration of the internal ground floor plan including entry, porch, kitchen, toilet, laundry and stairwell.
  - Removal of light well along the southern elevation and revision to the size and location of some windows.
  - Installation of a skylight along the southern elevation to replace the previously approved light well.
  - Change of materials of the approved awning over the patio.
  - Revision to the ground floor level results in a gross floor area of 55.5m<sup>2</sup> (reduced by 1.7m<sup>2</sup> from approved design).
- First Floor
  - Reconfiguration of the internal first floor plan including stairwell, bathroom and storage area within bedroom 1.
  - Conversion of approved bedroom 2 into an open study.
  - Installation of a skylight along the southern elevation to provide additional light into the ground floor level.
  - The revisions to the first floor level result in a gross floor area of 56.5m<sup>2</sup> (addition of 0.3m<sup>2</sup> from approved design).

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56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

- Attic
  - Conversion of the attic roof space into storage area as well as construction of a permanent stairwell. Drawing No. DA301 indicates that a false ceiling at a height of 1.35m will be incorporated in the design, which results in the room being un-habitable and therefore does not contribute to any additional floor space ratio.
  - The conversion of the attic roof space results in an increase to the overall approved building height of 150mm.

### Statutory Considerations

When determining this application, the relevant matters listed in Sections 96AB(1) and 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments and development control plan are relevant:

- Section 96AB(1) of the Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013.

### Assessment

- **Section 96AB(1) of the Environmental Planning and Assessment Act 1979**

An applicant for the modification of a development consent for which a council is the consent authority may request council to review a determination by the council under Section 96 of the application. Section 96 of the Environmental Planning and Assessment Act, 1979 allows Council to modify development consent if:

(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)*

### Comment

The proposal will not alter the residential use of the development. The overshadowing impacts resulting from the proposal remain consistent with those approved as part of DA-40/2013 and therefore it will not result in any reduced amenity impacts on adjoining residents.

The modifications sought will result in a minor increase in building height of 150mm from the approved development to make way for the proposed use of the attic for storage. However, the proposed building height of 7.92m complies with the maximum 8.5m building height specified within Canterbury Local Environmental Plan 2012. No new windows or openings are proposed to accommodate the attic and therefore the development will continue to present as a two storey development and will not result in any significant additional privacy impacts.

56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

The proposal is therefore considered to be substantially the same as the originally approved development application.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*

Comment

The application did not require any consultation with a Minister, public authority or other approval body.

- (c) *it has notified the application in accordance with:*
- i. *the regulations, if the regulations so require, or*
  - ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*

Comment

The application has been notified in accordance with the requirements of Part 7 of the Canterbury Development Control Plan 2012. The application was publically notified between 22 April – 9 May 2016. One submission was received by Council during the notification period, which is discussed in the notification section of this report.

- **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**  
The application is accompanied by a BASIX Certificate No. 46621S\_02 dated 6 June 2016 which indicates a series of commitments for the DA including the provision for low water use vegetation and insulation and cooling and heating commitments. The project scores a pass for water, energy and thermal comfort commitments. As such, the design of the proposed development is consistent with the commitments made in the submitted BASIX Certificate. In this regard, the proposed development satisfies the requirements of BASIX.
- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**  
The subject site is zoned R3 Medium Density Residential pursuant to CLEP 2012. Semi-detached dwellings are permissible within the zone with development consent. The proposal is assessed against the relevant provisions as follows:

Standard	Requirement	Proposal	Complies
Building Height	8.5m	7.92m	Yes
Floor Space Ratio	0.5:1	No change. The proposal does not alter the approved FSR of 0.64:1 for the site as approved within DA-40/2013.	N/A

56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

The proposed development is consistent with the relevant zoning and numerical provisions of CLEP 2012.

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

The application has been compared to the relevant requirements of CDCP 2012 as follows:

**Part 2 Residential Neighbourhoods**

Standard	Requirement	Proposal	Complies
<b>Site and Envelope Controls</b>			
Cut and fill	Max 1m cut	Max 1m.	Yes
Building height	Max 2 storeys Note: Attics do not comprise a storey.	The development will continue to present as a two storey dwelling. No windows or openings are proposed in association with the attic.	Yes
	Max 7m wall height	<7m.	Yes
Depth/ footprint	Max 25m	18.5m.	Yes
Front setback	Min 5.5m	No change from the approved.	Yes
Rear setback	Min 6m	The existing rear setback remains as approved by the original consent. The main building line is setback 6.49m.	Yes
Side setback	Min 900mm	900mm.	Yes
Recess for front entrance	2m	2m.	Yes
Provide unroofed light well	Light well to measure 1m x 3m and setback 2m from side boundary	A skylight measuring approx. 600mm x 2800mm is located along the southern elevation.	No - see comment [1] below
Max floor area and site coverage	Max floor area: 300m <sup>2</sup> Max site coverage: 60%	The proposed modification does not increase the approved floor area of the development.	N/A
<b>Car Parking Controls</b>			
Garage	As the site is less than 12.5m, parking is to be provided in a carport or single-width garage.	A single-width garage is provided.	Yes
<b>Design Controls</b>			
Street Address	Clearly identifiable entries on side or front of building	Clear entry area is maintained.	Yes
	At least one habitable room facing the street	First floor bedroom sliding door and balcony faces Richmond Street.	Yes
	No obstruction of sight lines to street	The design does not obstruct sight lines to Richmond Street.	Yes

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Standard	Requirement	Proposal	Complies
Façade Design & Articulation	Avoid long flat walls along street frontage	The front elevation is articulated through the inclusion of balconies and use of different materials.	Yes
	Do not use identical facades	The facades of each dwelling are not identical.	Yes
Roof Design	Maximum 30 degree pitch	<30 degree pitch.	Yes
<b>Performance Controls</b>			
Visual Privacy	Reasonable levels of visual privacy available for residents. Visual privacy is not compromised.	The modification maintains the same number of windows along the southern elevation (total of eight windows). The side windows on the first floor are highlight windows or will comprise translucent glass and therefore, an appropriate level of amenity will be maintained to residents both on site and adjoining properties.	Yes
Open Space	Min area of 50m <sup>2</sup>	No change to amount of private open space area approved as part of DA-40/2013.	Yes
Internal Dwelling Space and Design	Living area and principal bedrooms – min width 3.5m	Living room >3.5m wide Main bedroom >3.5m wide	Yes Yes
	Secondary bedrooms – min width 3m	Secondary bedroom >3m wide	Yes

As highlighted in the table above, the proposed modification is consistent with the relevant objectives and controls outlined in CDCP 2012, with the exception of the control relating to minimum dimensions of the skylight. This matter is discussed below:

[1] Light Well

Part 2.1.7(xi) of CDCP 2012 states that semi-detached dwellings are comprise an unroofed light well with minimum dimensions of 1m x 3m, by setting back part of the external side wall. The proposed design comprises replacing the existing light well at ground level (measuring 1m x 3m) with a skylight along the southern elevation measuring approximately approx. 0.6m x 2.8m (44% variation to area requirement). The lightwell is maintained for the first floor, albeit at the reduced dimensions. The proposed skylight therefore does not comply with the minimum dimension specified within Part 2.1.7(xi). Although the proposed skylight does not meet the minimum dimension requirements, it is considered to be a better design outcome as it is integrated within the building design and therefore allows for greater sunlight penetration into the building footprint, specifically on the ground floor.



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56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

Given the east-west orientation of the site and existing location of the principal living room within the eastern corner of the dwelling, the proposed minor variation to the skylight requirements will not result in a reduction of solar access to this area. On this basis, the proposed minor variation to the minimum dimensions of the light well is acceptable in this instance.

### **Part 6.2 Climate and Resource Efficiency**

Solar access to the principle living area of the development was assessed as part of the original application. The proposed modification does not alter the location of the principle living area at the rear of the building (to the east) and therefore no further assessment is required as part of this application.

Part 6.2.6 (iii) of CDCP 2012 requires new development to maintain at least two hours of solar access to the principle living space and at least 50% of the principle private open space area of adjoining properties in mid-winter. If a neighbouring property receives less than two hours sunlight, then the siting and form of proposed buildings shall be adjusted to maintain existing sunlight. The proposal maintains the approved front and rear setbacks as well as satisfies the minimum side setback requirements (900mm) and maximum 8.5m building height limit. As demonstrated within the shadow diagrams submitted, the northern window of the property to the south (60 Richmond Street) will be in shadow from 9am to 1pm on 21 June. This non-compliance was assessed as part of the original application and the proposed modification does not further reduce solar access to this window significantly as solar access is retained to the window between 2pm and 3pm in mid-winter. The proposed modification will maintain solar access for at least two hours to 50% of the private open space at 60 Richmond Street between 9am and 11am. The proposed modification complies with the minimum solar access requirements of Part 6.2.6.

### **Part 6.4 Development Engineering, Flood and Stormwater**

Our Development Engineer has reviewed the application and raises no objection to the proposed modification.

- **Canterbury Development Contributions Plan 2013**  
The application originally comprised converting the approved 'bedroom 2' on the first floor to an open study and therefore the proposal reduced the number of approved bedrooms from three bedrooms to two bedrooms. However, as confirmed by the applicant on 23 June 2016, the study room was included in error and is supposed to be utilised as a bedroom. This was re-iterated via email with the applicant on 24 June 2016. On this basis, the proposed modification does not alter the number of bedrooms approved (three) and subsequently, the contributions remain as approved as part of the original application.



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56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

### Other Consideration

- **Likely impacts of the development**

The proposal will not result in any significant environmental, social, amenity or economic adverse impacts on the locality given the following:

- The modification complies with the maximum building height and floor space ratio development standards stipulated within CLEP 2012.
- No additional windows or openings are proposed and therefore an appropriate level of privacy is retained.
- The development will continue to present as a two storey development.
- It will not result in any additional significant overshadowing impacts on adjoining properties.
- The proposed development achieves a high level of compliance with the key design controls stipulated within CDCP 2012 particularly in regards to car parking, private open space, landscaping and setbacks.

- **Suitability of the site**

The site is zoned R3 Medium Density Residential under CLEP 2012 where semi-detached dwellings are permissible with development consent. 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 achieves a high level of compliance with the relevant statutory and non-statutory controls with the exception of the dimensions of the skylight. The design and size of the skylight has been assessed on merit and is acceptable for the reasons outlined within the body of the report.

- **The Public Interest**

The proposed modification does not result in any additional environmental impacts from that approved as part of the original DA. The modifications are permissible and generally comply with the relevant key development controls stipulated within CLEP 2012 and CDCP 2012. On this basis, the development is considered to be in the public interest.

### Notification

One submission was received by Council during the notification period. The following matters were raised within the submission:

- **Removal of the colorbond steel boundary fence and replacement with a brick/render wall is out of character with existing boundary fences**

Comment

The proposed modifications do not alter the existing/approved boundary fences.

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56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE (CONT.)

- **The air-conditioning unit mounted on the first floor should be moved to the ground floor to minimise any amenity impacts on neighbouring properties**

Comment

The air conditioning unit has been relocated to the ground floor within the side setback.

**Conclusion**

Having regard to the matters discussed above, the proposed modification is considered to be satisfactory and worthy of support. The proposed modification is substantially the same development that was originally considered and approved by Council. The proposed modification is considered acceptable having regard to the provision of Sections 79C and 96 of the Environmental Planning and Assessment Act, 1979. The proposed building envelope is consistent with our controls and the use of the roof space for storage, while not encouraged, is supported in this instance as it has a low ceiling that does not provide floor area.

**RECOMMENDATION:**

THAT the Development Consent DA-40/2013 be **MODIFIED** by revising Conditions 7, 9 and 37 to read as follows:

7. That the development being carried out in accordance with the plans, specifications and details prepared by Virtual Y Designs, Project No. 12-1264, Drawing Nos. DA102, DA103, DA104, DA105, DA201, DA202, DA301 and DA701, Issue F and received by Council on 15 June 2016; Survey Plan prepared by Lawrence Group Surveyors and Development Consultants, Job No. 122382, Drawing No. DETL-001/A, Sheet 1 of 1, Dated: 23 February 2012 and received by Council on 5 February 2013; Stormwater Concept Plans prepared by CAM Consulting, Drawing Nos. C15207-SW01, C15207-SW02 and C15207-SW03, Revision 3 and received by Council on 15 June 2016; Landscape Plan prepared by Virtual Y Designs, Revision A, Drawing No. L101, Project No. 12-1263, Dated: January 2013 and received by Council on 5 February 2013, except where modified by conditions specified in this notice.
9. Finishes and materials including the treatment of external walls, roofing, balustrades, and doors being in accordance with the Schedule of Finishes prepared by Virtual Y Designs, Drawing No. DA701, Revision F and received by Council on 15 June 2016. 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.
37. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted 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 15th June 2016; drawing number C15207 SW01-SW03 Rev. 3, prepared by CAM Consulting Pty Ltd.
  - b) 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

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- with overflow pipelines from any rainwater tank(s) to the kerb and gutter of Richmond Street.
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. Runoff from uphill lands must be collected and discharged to the kerb and gutter of Richmond Street. The development must not obstruct/divert runoff from uphill lands and must not concentrate runoff onto neighbouring lands.
  - d) An overland flowpath must be provided from the rear of the property to the Street frontage. This area must be graded so that bypass flow does not enter the proposed dwelling nor divert runoff to neighbouring lands. Note - All paved property side walkways stormwater runoff must be directed away from neighbouring lands.
  - e) 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 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.
  - g) If total impervious areas exceed 70% of the lot area on-site detention designed in accordance with Part 6.4 of Canterbury Councils DCP must be provided.
  - h) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
  - i) 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.

Note - 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.

All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage concept plan.

**WE ALSO ADVISE:**

- 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.
- If you are not satisfied with this determination, you may:
  - Apply for a review of an Application to Modify a Development Consent which may be sought under Section 96AB of the Environmental Planning and Assessment Act 1979 but only within 28 days of the modification determination; or

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- 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.

**ROSELANDS WARD****5 105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING****FILE NO:** 295/105D**REPORT BY:** DIRECTOR CITY DEVELOPMENT**WARD:** ROSELANDS

<b>D/A No:</b>	<b>RE -3/2016</b>
<b>Applicant:</b> <b>Owner:</b>	<b>Mr A A Sattar</b> <b>As above</b>
<b>Zoning:</b>	<b>R4 High Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>28 April 2016</b>

**Summary:**

- The applicant seeks a review of determination, pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979, of our decision to refuse Development Application DA-324/2015 for the construction of a two storey dwelling, with basement parking and front fence (before being amended this development application sought a two storey dwelling and granny flat with basement parking).
- Development Application DA-324/2015 was refused on grounds of non-complying height, visual privacy, solar access and façade design.
- The applicant has submitted the subject review with some minor changes to the proposal, namely a reduction in height, change in window configuration and increased front setback. The changes also include dedication of the entire basement area for garage/mechanical/storage purposes, whereas the previous basement comprised approximately half this area.
- The Section 82A review includes a re-assessment of the proposal against the relevant objectives and policy requirements and is considered to have not adequately addressed our previous concerns.
- It is recommended the refusal of the application be confirmed.

**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.

105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

### **Report:**

#### **Background**

- On 11 June 2015 DA-27/2015, sought demolition of the existing dwelling and construction of two storey dwelling with attached secondary dwelling and rear storage shed, was withdrawn due to a number of non-compliances with State Environmental Planning Policy (Affordable Rental Housing) 2009, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.
- On 23 July 2015 DA-324/2015 was lodged seeking a similar development for a primary and secondary dwelling, making minor changes which included changing the vehicular access arrangement from the shared driveway to its own access from Ernest Street. Issues were raised with the application including excessive floor space, height and non-compliant setbacks. Amended plans were submitted deleting the secondary dwelling but mostly retaining the proposed building envelope.
- On 22 February 2016 DA-324/2015 was refused on grounds including non-complying height, visual privacy, solar access and façade design.

This Section 82A Review of Determination Application makes minor changes to the proposal including:

1. Lowering the first floor by 200mm from RL48.4 to RL48.2;
2. Lowering the ground floor by 100mm from RL45.4 to RL45.3;
3. The front setback of the ground floor home office has been increased from 9m to 10.2m, decreasing the size of this room;
4. All windows in the lower ground north-west and south-east elevations have been deleted except one window located in the south-east elevation;
5. The floor to ceiling height at ground level has been reduced from 2.7m to 2.6m, and at first floor level from 2.6m to 2.4m;
6. The basement area has been increased to include the full building footprint, although specified areas of use have not been identified.

#### **Site Details**

The subject site is located on the western side of Ernest Street, between Canterbury Road and Edge Street. The site is rectangular in shape with a frontage of 12.19m to Ernest Street, a depth of 52.45m and a total site area of 639.37m<sup>2</sup>. The site falls 4.24m to the rear (west) at an average gradient of 8%.

The surrounding built environment comprises a mix of single and two storey dwellings of varying heights and styles.

105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)



Aerial view of site

### Proposal

- Demolition of existing dwelling and outbuilding on the site.
- Construction of a three storey dwelling house comprising:
  1. Lower ground floor: garage, mechanical and storage room utilising the full footprint of the building.
  2. Ground Floor: family, living and dining area comprising elevated rear deck (comprising BBQ), formal living/dining area, kitchen, laundry, bathroom, study and home office, front porch.
  3. First Floor: four bedrooms each with balcony, three bathrooms, and lounge room.

### 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 and development control plan are relevant:

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

### 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:

105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)**  
 Clause 7 of SEPP 55 – Remediation of Land requires us to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose. As the land has historically been used for residential purposes only there is no suggestion of contamination, and remediation is not required.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**  
 A BASIX Certificate has not been submitted for the amended design and therefore an assessment cannot be properly made under this State Environmental Planning Policy.
- Canterbury Local Environmental Plan 2012 (CLEP 2012)**  
 This site is zoned R4 High Density Residential under CLEP 2012. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R4 High Density	Dwelling house permissible with consent	Yes
FSR	0.75:1	0.765:1*	No -see comment [1] below
Building height	8.5m	8.54m	No - see comment [2] below

\* There is no delineation between the various uses in the basement. In the absence of this clarity the entire basement area is calculable as floor space minus 36sqm for car parking in accordance with our controls.

#### [1] Floor Space Ratio

The floor space ratio of the proposal cannot be precisely determined due to the lack of information with regards to the lower ground floor. In particular, the lower ground floor level lacks specificity as to the layout and dimensions of spaces attributed to car parking, plant and storage.

The lower ground floor does not constitute a 'basement' by definition, since the height from the existing ground level to the floor above exceeds 1m, and therefore any storage within it is calculable as floor space. Any parking in excess of two car parking spaces is calculable as floor space. Areas dedicated to plant or infrastructure purposes are not calculable to floor space.

In the Statement of Environmental Effects the applicant states the proposed floor space is 318.33m<sup>2</sup>. However, this cannot be correct as the ground and first floors alone are 346.11m<sup>2</sup>.



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**[2] Building Height**

The height of the proposal exceeds our maximum control for building height. The projection of the roof over a sloping site peaks at 8.54m, resulting in a 0.04m departure which equates to a 0.5% departure. Although the non-compliance is numerically minor, it is representative of the inappropriate design response. The height of the building causes shadow impacts on the adjoining property where reasonable design modifications are available to mitigate this impact.

A clause 4.6 variation has not been submitted with the application.

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

The proposed development performs against the requirements of CDCP 2012 as follows:

**Part 2 - Residential Neighbourhoods**

Standard	Requirement	Proposal	Complies
Minimum Frontage	15m	12.19m (existing)	No - see comment [3]
Height	Basement projection – 1m maximum (otherwise included as storey).	Basement >1m	No - see comment [4]
	Basement permissible for single dwellings in R4 zone.	Basement proposed – permitted for dwelling. Driveway grade does not comply	No - see comment [5]
	Maximum 2 storeys	3 storeys	No - see comment [6]
	Wall height 7m	8.54m	No - see comment [7]
Setbacks (narrow sites)	Front: 5.5m min	Front: 5.1m (allowable balcony encroachment)	Yes - see comment [8]
	Side: 0.9m min	1m south 1.5m north	Yes
	Rear: 6m min	Rear: 20.17m	Yes
Maximum floor area	380m <sup>2</sup>	489.13m <sup>2</sup>	No - see comment [9]
Maximum site coverage	40%	40%	Yes
<b>Car Parking</b>			
Dwelling house	2 spaces	Not specified	No - see comment [10]
<b>Design Controls</b>			
Context	New buildings do not have to mimic traditional features but should reflect them in a contemporary design	The proposal does not satisfactorily reflect traditional features in a contemporary design	No - see comment [11]
Street address	Clearly identifiable entries on side or front of building	Clear entry area	Yes

105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

Standard	Requirement	Proposal	Complies
	At least one habitable room facing the street	Living room faces street at ground level	Yes
Façade design & articulation	Width of articulating panels not to exceed 10-15m	Length of side elevations exceed 15m with no modulation of façade	No - see comment [12]
Roof design	Relate roof to desired built form and context	The flat roofed response does not relate well with the overall design response	No - see comment [13]
Visual privacy	Locate and orient new development to maximise visual privacy between buildings – provide effective screening with louvres, shutters etc	Insufficient privacy screening afforded to first floor lounge room and decks	No - see comment [14]
Internal space and design	Living areas and principal bedrooms minimum 3.5m wide	Achieved	Yes
	Secondary bedrooms minimum 3m wide	Achieved	Yes
Sunlight to living rooms in proposed building	Minimum 2 hours of sunlight between 9.00am and 3.00pm on 21 June	Achieved	Yes
Sunlight to adjoining properties	Minimum 2 hours of sunlight between 9.00am and 3.00pm on 21 June	< 2 hours	No - see comment [15]

### [3] Minimum Frontage

The frontage of the site is 12.19m which is a substantial departure from the 15m frontage stipulated by the Canterbury Development Control Plan 2012. This non-compliant frontage is existing and whilst it does not preclude development, it does create a development constraint. The arrangement of bulk and the scale of any development must respect the narrowness of the site so as to protect the amenity to adjoining properties. This proposal does not do this, evidenced by an excessive bulk and scale and an unreasonable shadow impact on adjoining properties.

### [4] Basement projection

The basement projects more than 1m above the natural ground level for its entirety, and constitutes a storey. The three storey massing is contrary to our desired future character for dwellings in this zone. The projection of the basement, coupled with other departures from CDCP 2012, results in a building development that, in totality, cannot be supported.

### [5] Basement permissible

Basement parking is permissible for this site however the driveway grade into the basement garage does not comply with our controls. Further, it has not been adequately demonstrated that there will be no adverse impacts on adjoining properties. It is considered that a superior design response that better responds to the constraints of the site is available.

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105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

[6] Maximum two storeys

The proposal is three storeys and exceeds the maximum two storey control. The lower ground (basement) floor is excessive in floor space, is impractical for parking by virtue of its inaccessibility, and contributes to an unattractive three storey box-like design.

[7] Wall height 7m

The wall height of the proposal is 8.54m and exceeds our 7m control by 1.54m or 22%. This is a significant departure and is indicative of the overdevelopment of the proposal. Coupled with the proposal's lack of modulation this height is unacceptable and contributes to the appearance of bulk and overshadowing to adjoining properties.

[8] Setbacks

Our controls stipulate a minimum 5.5m front setback with allowable encroachments by 1.5m of balconies and porches so that the front setback to these elements is 4 metres (Section 2.1.8 (xi) CDCP 2012). This proposal has a front setback of 7.1 with 2m deep porches and balconies, resulting in a front setback of 5.1m, which complies.

[9] Maximum floor area

Our controls stipulate a maximum 380m<sup>2</sup> floor area however the proposal seeks a gross floor area of 489m<sup>2</sup> (the exact gross floor area is difficult to determine as a result of the non-specificity of the rooms in the lower ground [basement] floor level), exceeding this control by 109m<sup>2</sup> or 28.7%. This is a significant departure and clearly indicates an overdevelopment of the site. The ground and first floors alone total 346.11m<sup>2</sup> and suggest that an additional lower storey occupying the entire building footprint, is unacceptable.

[10] Parking

Our controls stipulate two spaces required for dwellings and although the lower ground floor is shown as parking, the number or arrangement of spaces is not specified. This creates complexities with calculating gross floor area and doubt as to the compliance of otherwise with the control. The extent of the lower ground floor area suggests an ease in achieving the minimum number of spaces, however the driveway grade does not comply and renders this floor unusable for parking in any case. These points qualify the inappropriateness of the design and the incompleteness of the application.

[11] Context

The overall design response of the proposal is not satisfactory and results in amenity impacts on adjoining properties and causes the proposal to be incongruent with the existing streetscape where pitched roofs dominate.

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105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

[12] Façade design & articulation

The length of the side elevations devoid of modulations of any kind is detrimental to the appearance of the building. Fenestration alone is not sufficient to visually soften the side elevations and additional measures (including shortening the walls) would offer a superior outcome.

[13] Roof design

The contemporary, flat-roofed design approach contributes to a height non-compliance and shadow and visual impacts to adjoining properties.

[14] Visual privacy

The proposal does not afford adequate privacy to adjoining properties by a lack of privacy screening or transparency to windows.

[15] Sunlight to adjoining properties

It has not been adequately demonstrated that the proposal permits at least two hours of sunlight to the living areas of the adjacent property between 9.00am and 3.00pm on 21 June.

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

The application does not demonstrate that a minimum two hours of sunlight is received to adjoining properties in accordance with Section 6.2.6(iii) of the Canterbury Development Control Plan.

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

The development application was referred to our Development Engineer, who deemed the proposal unsatisfactory with regards to stormwater disposal, as well as vehicular access.

**Part 6.6 – Landscape**

The development application was referred to our Landscape Architect, who provided conditions in the event the application were to be approved.

**Notification**

The subject Development Application was placed on notification in accordance with Part 7 of CDCP 2012. One submission was received raising the following concerns:

- **Privacy**

Comment

Concerns are raised that the rear decks will cause a loss of privacy to the private open space on adjoining properties. The spatial separation of the decks assists with reducing impacts, however more could be done to minimise privacy impacts to adjoining sites.

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105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

- **Stormwater**

Comment

Concerns are raised that stormwater drainage will create impacts to downstream properties. Our engineers have assessed the proposal as satisfactory on stormwater grounds.

**Conclusion**

The application has been assessed pursuant to the provisions of Sections 79C and 82A of the Environmental Planning and Assessment Act, 1979 and all relevant State Environmental Planning Policies as well as our LEP and DCP.

The proposed development is permissible in the zone subject to consent under the provisions of Canterbury Local Environmental Plan 2012. However, the proposed development is inconsistent with the relevant State Environmental Planning Policies and our Development Control Plan. There is a lack of specificity in relation to the basement and the height and floor space ratio both exceed our controls. The facades of the building are not well modulated and the overall design response does not achieve the objectives of our controls.

The Section 82A application has not demonstrated that the proposal is worthy of support and the application should be determined by way of confirming the refusal.

**RECOMMENDATION:**

THAT as a consequence of the review of the Section 82A Application RE-3/2016, the original determination to **REFUSE** development application DA-324/2015 be confirmed for the following reasons:

1. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal exceeds the maximum numerical floor space ratio stipulated by the Canterbury Local Environmental Plan. The bulk of the development has not been satisfactorily minimised.
2. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal exceeds the maximum height requirements stipulated by the Canterbury Local Environmental Plan.
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 maximum two storey controls that apply to the site under Section 2.1.4 of the Canterbury Development Control Plan, and is not congruent with the intended character of the zone.
4. 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 maximum 7m wall height controls that apply to the site under Section 2.1.4 of the Canterbury Development Control Plan, and is not congruent with

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105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING (CONT.)

- the intended character of the zone.
5. 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 maximum floor space controls that apply to the site that apply to the site under Section 2.1.10 of the Canterbury Development Control Plan, and is not congruent with the intended character of the zone.
  6. A BASIX Certificate has not been submitted for the amended design and therefore an assessment cannot be properly made under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
  7. It has not been adequately demonstrated that a minimum 2 hours of sunlight between 9.00am and 3.00pm on 21 June is retained to the adjacent property in accordance with Section 6.2.6 (Daylight and sun access) of the Canterbury Development Control Plan, and the proposal is therefore unsatisfactory pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
  8. It has not been adequately demonstrated that vehicular access to the basement area complies with the requirements of Part 6.8 (Parking and Vehicle Access) of the Canterbury Development Control Plan.
  9. The side walls of the proposal are not considered to be adequately modulated, and the proposal does not comply with the objectives of Part 2.2 (Design Controls) of the Canterbury Development Control Plan.
  10. The proposal lacks detail, particularly in relation to no delineation of use and space in the basement garage, the lack of provision of profile shadow diagrams, and the BASIX Certificate.

WE ALSO ADVISE:

11. 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.
12. If you are not satisfied with this determination, you may 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.