

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

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Agenda for the

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

**20 June 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 20 June 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**

10 June 2016

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## REPORT SUMMARIES

### **1 21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION**

- A development application has been received to demolish the existing dwelling, to erect a two-storey attached dual occupancy and Torrens title subdivision.
- The application has been referred to the Independent Hearing and Assessment Panel for determination as it entails non-compliant minimum setbacks to Biara Avenue and to the rear boundary, and these variations are beyond officer delegations.
- The proposal is in the R3 Medium Density Residential zone and is permissible with Council consent.
- Apart from the setback variations, the proposal satisfies all other relevant provisions of the Canterbury Local Environmental Plan 2012 and the Canterbury Development Control Plan 2012.
- The proposal was notified in accordance with Part 7 of Canterbury Development Control Plan 2012. No submissions were received.
- It is recommended that the application be approved subject to conditions.

### **2 27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE**

- The applicant seeks approval for the demolition of unauthorised works, 1.5m vertical extension to the existing light industrial building and additions to the existing residence on site.
- The proposal is referred to IHAP as it seeks a departure from the control for side setbacks that is beyond the delegation of our officers. Despite this departure, the proposal has merit.
- The subject site is zoned IN2 Light Industrial under the provisions of the Canterbury Local Environmental Plan 2012. The existing light industrial building is permitted within the IN2 zone and the existing residential dwelling relies on existing use rights.
- The development application has been assessed against Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The proposed development generally complies with the requirements of these policies with the exception of our side setback control of Canterbury Development Control Plan 2012. This non-compliance is discussed in further detail 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. One submission was received. The submission raised concern regarding potential overshadowing impacts, dilapidation of adjoining properties during construction and general queries

regarding the proposal. These matters are addressed in detail within the body of the report.

- The development application is recommended for approval subject to conditions.

**3      22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS**

- A development application has been received for the demolition of existing structures and construction of a detached dual occupancy development with associated fencing and Torrens title subdivision into two lots.
- The application has been referred to the Independent Hearing and Assessment Panel for determination because the proposed variation to building separation and external wall height controls exceeds Council officer delegations.
- Dual occupancy development is permissible with our consent within the R3 Medium Density Residential zone under Canterbury Local Environmental Plan 2012 and other relevant statutes.
- The application has been assessed against the relevant provisions of Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. The development was found to satisfy the relevant controls, with the exception of the controls relating to the separation distance between buildings on one site and external wall height. Further examination of these non-compliances are discussed in the body of this report.
- The application was notified in accordance with Part 7 of Canterbury Development Control Plan 2012. One submission was received raising concerns of privacy, access during construction and compliance with the building code.
- It is recommended that the development application be approved subject to conditions.

**4      67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING**

- A modification application has been received seeking consent to widen the garage approved as part of an earlier development application for alterations and additions to the existing dwelling and construction of a secondary dwelling on site.
- The application is referred to the Independent Hearing and Assessment Panel for determination because the proposed variation to the minimum side setback control exceeds Council officer delegations.
- The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 and the proposed development is permissible with our consent.

- The application has been assessed against the relevant environmental planning instruments and policies including the Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. The development was found to satisfy the relevant controls, with the exception of our side setback control and further examination of this non-compliance is discussed in the body of this report.
- The application was notified in accordance with part 7 of the Canterbury Development Control Plan 2012. One submission was received, with the main issues raised being non-compliance with our side setback control and further loss of daylight and privacy as well as noise concerns. These issues are discussed in the main body of this report.
- It is recommended that the modification application be approved, subject to amended conditions.

**CANTERBURY WARD****1 21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION**

**FILE NO:** 99/21D  
**REPORT BY:** DIRECTOR CITY DEVELOPMENT  
**WARD:** CANTERBURY

<b>D/A No:</b>	<b>DA-359/2015</b>
<b>Applicant:</b> <b>Owner:</b>	<b>A&amp;K Engineering</b> <b>Rana Faour</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>13 August 2015, further information received 12 May 2016.</b>

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**Summary:**

- A development application has been received to demolish the existing dwelling, to erect a two-storey attached dual occupancy and Torrens title subdivision.
- The application has been referred to the Independent Hearing and Assessment Panel for determination as it entails non-compliant minimum setbacks to Biara Avenue and to the rear boundary, and these variations are beyond officer delegations.
- The proposal is in the R3 Medium Density Residential zone and is permissible with Council consent.
- Apart from the setback variations, the proposal satisfies all other relevant provisions of the Canterbury Local Environmental Plan 2012 and the Canterbury Development Control Plan 2012.
- The proposal was notified in accordance with Part 7 of Canterbury Development Control Plan 2012. No submissions were received.
- It is recommended that 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.

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### **Report:**

#### **Site Details**

The site is known as 21 Biara Avenue, Clemton Park and is located in a predominantly residential area, characterised mainly by single storey dwelling houses. There is a small number of newer, two-storey residences in the locality and a relatively large two-storey multi-dwelling housing complex west of the site at 5-15 Biara Avenue.



Aerial view of the site

The site and surrounding land is level, with a slight fall from the rear (southern) boundary to the Viking Avenue (northern) frontage, of 0.5 metres (a slope of 2%). Erected on the site is a single-storey dwelling house, a shed/garage and several exotic trees and shrubs, including five palm trees, which contribute to the locality's character. Two of these palm trees will be retained in the development. The land has an irregular shape and an area of 676.6m<sup>2</sup>.

The site is on the south-eastern side of the junction of Biara Avenue and Viking Street, Clemton Park. Vehicular access is available from Biara Avenue and Viking Street.

Due to these local conditions, the site enjoys considerable separation from neighbouring dwellings to the north and west, with an outlook over a mainly grassed area. Dwellings to the south and east are closer, although dwellings are well-set back from site boundaries by respective distances of 5 metres and 3 metres. A separation of 12 metres exists between the site's dwelling and the house to the east, due to this site's backyard being 9 metres deep and the neighbouring house being setback about 8 metres from the front boundary.

The site is flood-free and not known to be affected by any other constraints.

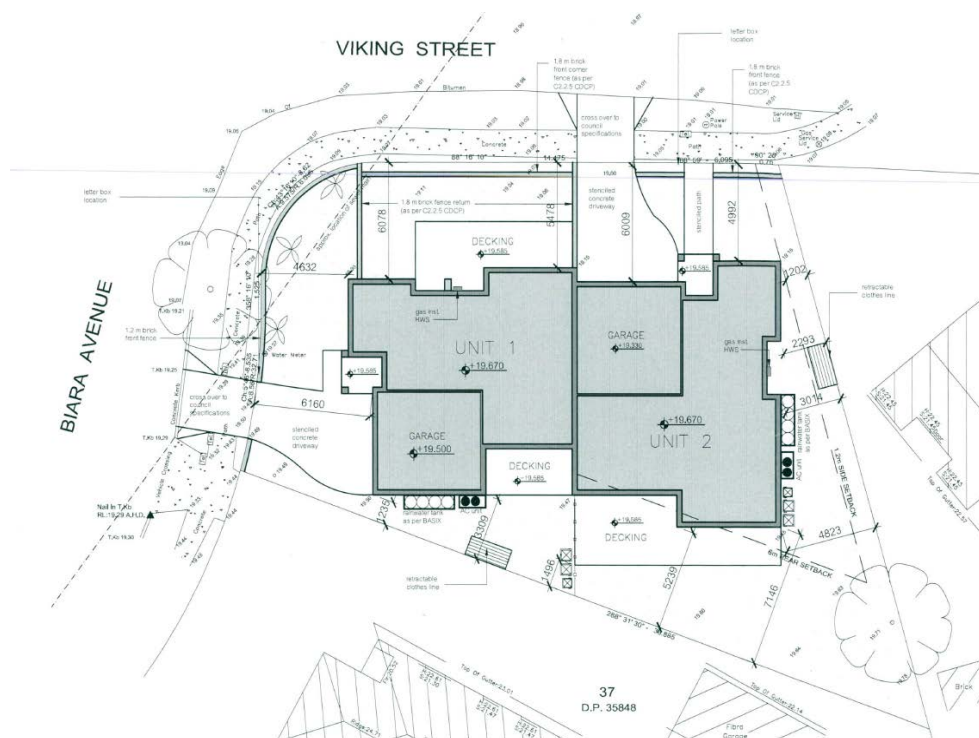


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The factors described above, particularly the site being on a corner with northern exposure and separation from adjacent dwellings, make the site ideally suited to a dual occupancy, with a single dwelling facing each street frontage.

### Proposal

An attached, two-storey dual occupancy building is proposed. Each unit faces a street, with the primary frontage being to Biara Avenue and the secondary frontage to Viking Street. Each unit has a double garage with vehicular and pedestrian access to each street. The site plan below shows how the each dwelling addresses each street.



Site plan of proposed development.

Private open space is provided for unit 1 (facing Biara Avenue) along the secondary (Viking Street) side of the dwelling. Unit 2 has private open space at the rear of the dwelling, where the site's shape enables greater depth than is possible for unit 1. If the principal private open space of unit 1 was not located on the street-side of the building, it would be located in a south-facing area of relatively poor usability and amenity.

For privacy and high-quality presentation to the streetscape, a combination of 1.2 and 1.8 metre, semi-transparent timber and masonry fences are planned along the street boundaries. These fences are set back 0.5 metres from the boundary, to enable shrubs to be planted in front of the fences, to soften and make their appearance less apparent from the public domain. A screen wall is aligned to be parallel with Biara Avenue frontage extending from the building to meet the boundary fence, forming the courtyard for unit 1. The wall is to be complemented by a screen of shrubs.

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The proposed setback for Unit 1 to Biara Avenue is 4.6 metres, and the adjoining screen wall is setback 5 metres from this street. Unit 2 is sited 4.9 metres from the street. Each garage and entry portico is setback, or recessed, about 6.1 metres from the street.

### Statutory Considerations

When determining this application, pertinent matters under section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments and plans 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 is assessed below, as required by section 79C of the Environmental Planning and Assessment Act, 1979.

- **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**  
BASIX Certificates accompany this application. A condition of consent is recommended to ensure BASIX commitments are satisfied in the development's construction.
- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**  
This site is zoned R3 Medium Density Residential under CLEP 2012. Controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	Dual occupancy	Yes, permissible with consent
FSR	0.5:1	0.47:1	Yes
Building height	8.5 metres	8.5 metres	Yes
Minimum lot size for dual occupancies	300m <sup>2</sup>	Lot A 306.6m <sup>2</sup> (unit 1) Lot B 370m <sup>2</sup> (unit 2)	Yes

The proposal complies with the standards of CLEP 2012. No other LEP provisions apply to the proposal or the site.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**  
The development has been assessed against our dual occupancy provisions in CDCP 2012. This assessment is provided in the table below:

Standards	Requirements	Proposal	Complies
Site Area	600m <sup>2</sup>	676.6 m <sup>2</sup>	Yes
Width of Site	15m	Frontage to Biara Ave is 19m at the proposed building line.	Yes

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Standards	Requirements	Proposal	Complies
Subdivision	Area of new lots = Min 300m <sup>2</sup> each lot	Unit 1 - 306.6m <sup>2</sup> Unit 2 - 370m <sup>2</sup>	Yes
	Min width = 7.5m	Unit 1 - 8.5m Unit 2 - 10.79m	Yes
	New lots have direct frontage and access to a public road	Separate driveways to Biara Ave and Viking St.	Yes
Cut and Fill	Max 1.0m Fill	0.5m	Yes
	Max. 0.6m Cut	Nil	Yes
Wall height	7m max	5.8m max	Yes
Footprint Depth	25m	23m	Yes
Front setback	Min. 6m	Unit 1 – 4.6m to Biara Ave	Unit 1: No – see comment [1] below
	Min 3.5m to longer side.	Unit 2 – 4.9m to Viking St	Unit 2: Yes
Side setbacks	Two storey = 1.2m	4.9m (Viking Street)	Yes
		1.2m (southern boundary).	Yes
Rear setback	Min 6m from rear boundary.	Min. 1.2m & Max 4.8m (eastern boundary)	No – See comment [2] below
Deep soil zones	Front and rear setbacks provided deep soil zones.	Setbacks along two street frontages and triangular south-eastern site corner provide adequate deep soil of 38% of the site area.	Yes
Setback encroachments	Eaves, awnings etc. permitted.	Eaves and decks extend into setbacks.	Yes
Car parking	Min. two spaces per dwelling.	Two spaces each dwelling.	Yes
Garage or carport	Not occupy more than 50% of width if each dwelling.	Unit 1 – 44% Unit 2 – 47% Double garage faces each street.	Yes
Driveway width	Max 3.5m.	3m.	Yes
Built form & character	Reflect and complement built form.	Form of attached dwellings is consistent with the locality.	Yes
Street address	Entries identifiable.	Entries clearly identified to each frontage.	Yes
Habitable rooms	Habitable rooms face the street.	A study and lounge room faces each street.	Yes

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Standards	Requirements	Proposal	Complies
Façade Design	Articulation using various architectural techniques.	The building addresses each street frontage and its design is in character with the local vernacular. Façade design is complemented by use of varied roof lines, balconies and materials.	Yes
Roof design	Use simple pitched roof forms.	Roof form is consistent with roofs of surrounding dwellings.	Yes
Privacy	Minimise any direct overlooking into neighbouring windows and private open space area	The proposal achieves reasonable levels of privacy with adjacent properties. Screen-fencing and landscaping is used to ensure Unit 1's courtyard (principal open space) is private.	Yes
Fencing	Fencing on corner sites to be no taller than 1.2m.	A 1.2m high partly open fence to each street, with one section 1.8m high.	No – See comment [3] below
	Side and rear fencing to 1.8m.	1.8m side and rear fencing, along non-street boundaries, is proposed.	Yes
Services	Services are designed to integrate with the building or be located discreetly.	Services and utilities are generally out of sight from the public domain.	Yes
Privacy	Provide reasonable levels of visual and acoustic privacy.	Mainly bedrooms overlook adjoining development, with houses' garages and driveways located closest to the site, on each side boundary.	Yes
Open Space	50m <sup>2</sup> min.	Each unit's POS exceeds 50m <sup>2</sup> Unit 1 – 64m <sup>2</sup> Unit 2 – 85m <sup>2</sup>	Yes
	5m min dimension	Unit 1 – 5.4m Unit 2 – 7.1m	Yes

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Standards	Requirements	Proposal	Complies
	Private Open Space is accessible from living areas and able to be used as an outdoor room, with space for table and chairs. It is to be screened from view other dwellings and the public domain and has good solar access. Services areas are separate from leisure areas.	Design and layout conforms with these guidelines: <ul style="list-style-type: none"> <li>- There is decking 3.6m x 3.6m (unit 1) and 3.5 x 5.2 (unit 2) for a table and chairs,</li> <li>- Adequate screening is provided (see fencing section above),</li> <li>- Solar access for unit 1's open space is excellent with northerly aspect,</li> <li>- Unit 2's L-shaped open space is faces east and south. It will receive winter morning and afternoon sun, and</li> <li>- Bin storage and clothes lines are separated from decks and principal courtyard areas.</li> </ul>	Yes
Internal dwelling design	3.5 m min. dimension to living room and main bedroom 3m min. dimension to other bedrooms	Min dimensions: 4.5m - living rooms, 3.6m - main bedrooms, 3.2m - other bedrooms.	Yes
Storage	10m <sup>3</sup> min. for each dwelling.	Each dwelling has under-stair storage of 6m <sup>3</sup> .	No – See comment [4] below

As shown in the table above, the proposal is consistent with the numerical controls of CDCP 2012, except for those relating to front and rear setbacks, fence heights and storage requirements. Details of these variations are discussed below and found to be consistent with the objectives of CDCP 2012.

#### [1] Front Setback

Clause 2.1.7 (xx) of CDCP 2012 requires a minimum 6 metre setback from the Biara Avenue frontage. A 4.6 metre setback is proposed, a variation of 23% from the DCP's control. However, this setback only applies to half of the dwelling's façade to Biara Avenue. The other half which accommodates the garage and front door is setback 6.16 metres. In a corner location the proposed setback has minimal impact on the streetscape.

Another pertinent factor relating to the proposed setback variation is the existing dwelling's setback of 5 metres, one metre less than the minimum requirement of 6 metres. The proposed building will therefore only be 400mm closer to the street when compared with existing dwelling.

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Taking into account this insignificant variation to the established building line, the siting of the proposed building is consistent with that of other dwellings at the end of Biara Avenue. The proposed variation is reasonable, as it is consistent with the streetscape and the proposed building size does not impose upon the public domain. Landscaping is adequate and fencing to each street frontage complements siting of the building.

#### [2] Rear Setback

Clause 2.1.7 (xx) of CDCP 2012 requires a 6 metre rear setback to the rear boundary. In this case the Biara Avenue, western boundary forms the 'front' of the site. The rear of the site is therefore the eastern boundary, adjacent to the dwelling at 89 Viking Street. The minimum setback proposed to this boundary is 1.2 metres and the maximum is 4.8 metres. Respectively the variations are 80% and 20%.

Non-compliance with the numerical rear setback control of our DCP is acceptable. Despite variation to the numerical standard, the proposal is consistent with relevant objectives:

- A satisfactory spatial relationship with the adjoining dwelling is created, as there is a minimum building separation of 4 metres between the proposal and the dwelling at 89 Viking Street,
- The bulk and scale of the proposed building have acceptable impacts on adjacent development, as the siting of the building maintains solar access to the adjoining dwelling and a reasonable level of privacy, noting only bedrooms and a TV room on the first floor face the adjoining dwelling,
- There are sufficient areas for landscaping, noting that private open space exceed DCP requirements as noted in the table above,
- Building separation is adequate as noted above,
- There are ample deep soil zones on the site, including this setback, noting it increases to the south due to the site's irregular shape.

#### [3] Fencing

The majority of fencing along the western and northern boundaries is 1.2metres high. Part of the fence to the longer, Viking Street frontage (11m of a 22.5m frontage) is proposed to be 1.8 metres high with 50% transparency (equally spaced horizontal timber slats) above a height of 1.2 metres. Below 1.2 metres the fence is solid masonry.

This taller section of fence will screen the private open space of unit 1. To soften the taller fence's appearance when viewed from the public domain, the fence is to be set back 0.5 metres from the footpath to enable landscaping forward of the fence.

This design response is enabled by our DCP and is an effective means of preserving public domain quality and ensuring adequate privacy for residents of the proposed dwelling.

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**[4] Storage**

Each unit is provided internal storage of 6m<sup>3</sup> under the staircases and another 4m<sup>3</sup> is required to comply. A condition is recommended to increase storage to 10m<sup>3</sup> for each unit.

**Part 6.2 – Climate and Resource Efficiency**

This part of the DCP specifies minimum solar access requirements of a minimum two hours sunlight between 9.00am and 3.00pm on 21 June, for indoor living areas and at least 50% of principal private open space, for the proposal and for neighbouring dwellings.

These controls are complied with the by the proposal.

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

The proposal has been assessed with regard to this part of the DCP and is compliant as summarised in the table below:

Requirements	Proposal	Complies
Location of front door – visible to the street/ other properties	The front door of each dwelling is visible from adjoining streets and nearby dwellings.	Yes
Habitable rooms with windows to front street or adjacent to public areas	A study in unit 1 faces Biara Avenue and a lounge room in unit 2 faces Viking Street.	Yes
Visibility to street/ public areas - not obstructed by new/existing landscaping or fencing.	Visibility of proposed dwellings is not obstructed by proposed fencing or landscaping.	Yes

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

Our Development Engineer has reviewed the application and raised no objection to the development, subject to conditions.

**Part 6.6 – Landscaping**

Our Landscape Architect has reviewed the application and raised no objections to the development, subject to conditions.

- Canterbury Development Contributions Plan 2013**

A contribution of \$18,951.53 is payable for the proposed development, which replaces a three bedroom dwelling with two dwellings of more than three bedrooms.

**Other Considerations**

- Demolition**

The development includes demolishing an existing building/ structure or part of, to accommodate the proposed development. The provisions of AS2601-1991 The Demolition of Structures have been considered as required by Clause 92 of the EPAR

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(Compliance Table to AS2601-1991 is attached on file). Standard conditions regarding demolition will be included in the development consent.

- **Erosion and Sediment Control**

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

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

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

### **Notification**

The development application was placed on notification for 14 days as required by Part 7 of our DCP. No submissions were received.

### **Conclusion**

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies. The proposal is expected to have acceptable environmental impacts, the site is suitable for the proposed development and it is in the public interest to grant consent. Despite departures from our DCP controls, the proposed development is satisfactory and granting of conditional consent is recommended.

### **RECOMMENDATION:**

THAT the development application DA-359/2015 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:

1.1 Details of:

- Protection from Termites
- Structural Engineering Plan
- Landscape Plan
- Hydraulic Plan
- Building Specifications
- Firewall Separation
- Soil and Waste Management Plan
- Mechanical ventilation

1.2 Evidence of an Owner Builder Permit (Class 1 & 10 buildings only); or



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- Evidence of a Home Building (Private) Insurance Certificate.
- 1.3 Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
  - 1.4 Payment to Council of:
 

Kerb and Gutter Damage Deposit	\$2,723.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$1,602.30
Section 94 Development Contributions	\$18,951.53
  - 1.5 If you appoint Council as your Principal Certifying Authority, the following fees are payable:
 

Construction Certificate Application Fee	\$2,537.00
Inspection Fee	\$864.00
Occupation Certificate Fee	\$206.00

Note 1: Long Service Levy 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: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 3: 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 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.

2. The stormwater system is to be designed generally and conceptually in accordance with the plans, specifications and details received by Council on 13 August 2015; Project Number 15295 sheet number 2/2 revision O dated August 2015 prepared by C.K Engineering.
3. The total post development impervious areas must be designed, built and maintained at 70% of the total site area. This must include all roof areas, path and driveways, patios, tanks and pools. If this percentage of impervious areas exceeds 70% an on-site stormwater detention system OSD must be provided.
4. Should an OSD facility be required amended plans to include this facility will be required, this may require an additional application.
5. 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. The pipeline from the silt arrestor to legal point of discharge must drain by gravity, connection details to be provided and comply with council stormwater DCP Specification 9 "A Guide for Stormwater Drainage Design"
6. Stormwater management plans must be certified by an appropriately qualified and practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's Stormwater Management Manual – Specification 9.
7. An appropriately qualified and practicing Civil Engineer is to be registered on the NER

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- of Engineers Australia or be appropriately qualified to be on the register and be experienced in the design of stormwater drainage.
8. 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, otherwise as per above mentioned stormwater management plan.
  9. The charged system 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".
  10. All external surfaces to be graded to facilitate subterranean and drainage and excess surface waters to the overland flow path(s).
  11. 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.
  12. All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
  13. All pits to be minimum 450 x 450 with childproof lockable grated lids.
  14. Grated trench drain to be min 200mm wide.
  15. 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.
  16. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Car parking Facilities". In this regard the submitted design must be amended to address the following issues.
  17. 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.
  18. The driveway grades shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 – Car parking Facilities".
  19. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that headroom must be measured to the lowest projection from the ceiling, such as structural beams all pipes, lighting fixtures, the garage door housing, door motor, and to open garage doors to provide for the door hang down. In this regard the submitted plans do not comply with these requirements and must be amended, in particular to disabled parking.
  20. 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.
  21. Retaining walls greater than 1000 mm high or retaining more than 600 mm of cut or

21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

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 practicing structural engineer must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

BEFORE COMMENCING THE DEVELOPMENT

22. Before the erection of any building in accordance with this Development Consent;
- 22.1. Detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 22.2. You must appoint a Principal Certifying Authority (either Canterbury Bankstown City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
  - 22.3. 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).
  - 22.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
    - 22.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
    - 22.4.2. The name and permit number of the owner-builder who intends to do the work.

INSURANCE

23. 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

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

DEMOLITION

25. 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.

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21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

- 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 and works 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 [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 is recommended.
- p) Any existing accumulations of dust (e.g. 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

21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

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

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

Drawing Number/Issue	Drawing/Document Name	Prepared By	Received by Council on
001/B	Site Plan	Concetto Design & Associates	12 May 2016
01.2/A	Sediment Control	Concetto Design & Associates	13 August 2015
002/A	Demolition Plan	Concetto Design & Associates	13 August 2015
003/A	Ground Floor Plan	Concetto Design & Associates	13 August 2015
004/A	First Floor Plan	Concetto Design & Associates	13 August 2015
005/A	Front & Rear Elevations	Concetto Design & Associates	13 August 2015
006/A	Side Elevations	Concetto Design & Associates	13 August 2015
007/A	Sections A:B	Concetto Design & Associates	13 August 2015
008/A	Roof Plan	Concetto Design & Associates	13 August 2015
009/B	Landscape Plan	Concetto Design & Associates	12 May 2016
010/A	Subdivision Plan	Concetto Design & Associates	13 August 2015
NA	Schedule of external finishes	Concetto Design & Associates	13 August 2015
15295 (2 Sheets)/0	Stormwater Management Plan	CK Engineering Services	13 August 2015
NA	Waste Management Plan	Concetto Design & Associates	13 August 2015
NA	Demolition of Materials by Plant & Hands – Safe Work Method Statement	Concetto Design & Associates	13 August 2015

- 26.1. Storage within each unit being increased to a minimum 10m<sup>3</sup>.
- 26.2. Four (4) off-street car spaces being provided in accordance with the approved plans.
- 26.3. The existing street tree, a Ficus sp. is to be removed and replaced with 1 x Eucalyptus haemastoma (common name Scribbly Gum), to be planted in the grass verge a minimum of 2m away from the proposed driveway and existing power pole. The replacement tree must be provided in 75ltr container size. The planting of this tree is to be carried out upon the completion of

21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

construction by contractors in accordance with AUS-SPEC Specification 0257-Landscape – Roadways and Street Trees. This document is available for purchase from Council.

- 26.4. Two Palm trees as shown on the approved Site Plan must be retained and protected during construction. A suitable 3 metre radius (measured from the tree trunk) protective barrier must be erected around each tree's trunk prior to construction. This barrier must be well maintained during construction. No building material or construction activity shall be allowed to encroach within this tree protection zone.
27. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The amount of the contribution (as at the date of this consent) has been assessed as \$18,951.53. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$1,714.21
• Open Space and Recreation	\$16,755.16
• Plan Administration	\$482.16

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.

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

28. Where construction/building works require the use of a public place, including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
29. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
30. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
31. 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.
32. All building construction work must comply with the National Construction Code.
33. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls

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21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

- being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
34. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at ground and first floor slab levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
  35. The construction site must have soil and water management controls implemented as described in Specifications S1 and S2 of Council's Stormwater Management Manual.
  36. 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.
  37. 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.
  38. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
  39. 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.
  40. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
  41. The proposed structure being erected so as to stand wholly within the boundaries of the allotment.
  42. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  43. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
  44. Toilet facilities shall 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.
  45. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
  46. Erection of a hoarding/fence (for the class 2 - 9 building) or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
  47. Where excavation is proposed adjacent to existing dwellings or a vacant property, the works shall be carried out in accordance with Part 3.1.1-Earthworks BCA and, the person/company responsible for doing the excavation shall give 7 days notice of intention to carry out the excavation works to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work. (An allotment of land also includes a public road and any other public place.)
  48. Where erection or demolition of a building involves the closure of a public place, or where pedestrian or vehicular access is to be obstructed or rendered inconvenient, the premises is to be provided with a hoarding and or sufficient awning to be erected to prevent any substance from, or in connection with the work falling onto the public

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21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

- place. The site is also to be kept illuminated between sunset and sunrise where it is likely to be dangerous for people using the public place.
49. 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.
- 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).
50. Payment of an additional garbage levy for each new dwelling upon completion of work.
51. Under clause 97A(2) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.
- In this condition:
- a) relevant BASIX Certificate means:
    - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
  - b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

SYDNEY WATER REQUIREMENTS

52. 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.
53. The approved plans shall be submitted to the appropriate Sydney Water Quick Check agent to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details either visit Sydney Water's web site at [www.sydneywater.com.au/BuildingDeveloping/QuickCheck](http://www.sydneywater.com.au/BuildingDeveloping/QuickCheck), or telephone 13 20 92. The consent authority or a private accredited certifier must ensure that a Quick Check agent has appropriately stamped the plans before the issue of any Construction Certificate.



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21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

SUBDIVISION

- 54. Satisfactory completion of all conditions in this consent prior to release of Subdivision Certificate.
- 55. The submission of one final plan of subdivision and five copies.

CRITICAL INSPECTIONS

56. Class 1 and 10 Buildings

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

- 56.1. at the commencement of the building work, and
- 56.2. after excavation for, and prior to the placement of any footings, and
- 56.3. prior to paving any in-situ reinforced concrete building element, and
- 56.4. prior to covering of the framework for any floor, wall, roof or other building element, and
- 56.5. prior to covering waterproofing in any wet areas, and
- 56.6. prior to covering any stormwater drainage connections, and
- 56.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

ADDITIONAL INSPECTIONS

- 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.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

- 58. A Works-as-Executed plan must be submitted to Canterbury Bankstown City Council at the completion of the works, the plan must clearly illustrated dimensions and details of all pervious and impervious areas, as well as, the site drainage and the OSD system where applicable. The plan shall be prepared by a registered surveyor or an engineer. The plan shall record all the relevant site geometry and design levels and dimensions of the OSD system where applicable.
- 59. 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".
- 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, and
  - c) On completion of drainage works.
- 61. The reconstruction of any cracked or damaged sections of the concrete footpath paving and associated works along all areas of the site fronting the site is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the

21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

Construction by Private Contractors of:

- a) Vehicle Crossings,
  - b) Concrete Footpath,
  - c) Concrete Kerb & Gutter.
62. 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.
63. Certification from an appropriately qualified and practicing 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.

COMPLETION OF DEVELOPMENT

64. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.
65. Compliance with the requirements of Development Control Plan No. 37 - Energy Smart Homes Policy must be demonstrated by submitting to the Principal Certifying Authority relevant Certificates of Compliance (Hot water system, plumbing fittings, insulation, clothes dryer) before the issue of an Occupation Certificate. Copies of Certificates of Compliance may be found in the appendices of DCP 37 and must be completed by appropriately qualified persons.

WE ALSO ADVISE

66. This application has been assessed in accordance with the National Construction Code.
67. 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.
68. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- a) Structural engineering work
  - b) Air handling systems
  - c) Protection from termites
  - d) Smoke alarms
  - e) NatHERS/BASIX completion
69. Your attention is directed to the following construction requirements of the National Construction Code:
- a) Termite risk management complying with Part 3.1.3 BCA Vol 2; comprising a termite barrier or combination of barriers installed in accordance with:
    - (i) AS 3660.1:or
    - (ii) Part 3.1.3.3 of the BCA for concrete slabs on ground; or
    - (iii) Part 3.1.3.4 of the BCA for suspended floors
  - b) Installation of a durable notice permanently fixed to the building in a prominent location (such as a meter box or the like) indicating:
    - (i) the method of termite risk management: and
    - (ii) the date of installation of the system; and
    - (iii) where a chemical barrier is used its life expectancy as listed on the National Authority label; and

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21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

- (iv) the installers or manufacturers recommendations for future inspections.
  - c) Masonry construction complying with Part 3.3 BCA Vol.2.
  - d) Timber framing construction complying with Part 3.4.3 BCA Vol.2, inclusive of requirements for member sizes, spaces, bracing, spans, locations and stress grades. Where roof trusses are to be used, provide full details of same to the Principal Certifying Authority before erection of the roof frame, including bracing details.
  - e) Glazing complying with Part 3.6 BCA Vol.2.
  - f) Installation of an automatic smoke detection and alarm system in the Class 1a building complying with Part 3.7.2.2 BCA Vol.2, including smoke alarms:
    - (i) installed in on or near the ceiling in:
      - any storey containing bedrooms:
      - between each part of the dwelling containing bedrooms and the remainder of the dwelling, and
      - where bedrooms are served by a hallway, in that hallway; and
      - any other storey not containing bedrooms, and
    - (ii) complying with AS 3786
    - (iii) connected to the consumer mains power supply where consumer power is supplied to the building.
    - (iv) provide the Principal Certifying Authority upon completion of work with a certificate from an electrician certifying compliance with this condition.
  - g) Stair construction complying with Part 3.9.1 BCA Vol.2, including geometry and construction requirements.
  - h) Balustrades/barriers complying with Part 3.9.2 BCA Vol.2, and not allowing a sphere 125mm diameter to pass through them.
  - i) Waterproofing of wet areas including bathrooms, showers, laundries, sanitary compartments and the like complying with Part 3.8.1 BCA Vol.2 and Australian Standard 3740.
70. Australian Standards AS3500 Plumbing and Drainage and Part 5 Domestic Installations requires that eaves gutters are installed with continuous overflow measures that prevent water from overflowing gutters flowing back into the building.
71. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
72. 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.
73. 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.
74. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021
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21 BIARA AVENUE CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION (CONT.)

- 199.
75. 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.
76. If you are not satisfied with this determination, you may:
- 76.1. 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
  - 76.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

**ROSELANDS WARD****2 27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE****FILE NO: 432/27D PT2****REPORT BY: DIRECTOR CITY DEVELOPMENT****WARD: ROSELANDS**

<b>D/A No:</b>	<b>DA-584/2015</b>
<b>Applicant:</b>	<b>Australia Wide Consulting Services Pty Ltd</b>
<b>Owner:</b>	<b>A Mohammed</b>
<b>Zoning:</b>	<b>IN2 Light Industrial under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>30 November 2015. Additional information received 13 January 2016, 11 March 2016, 6 April 2016 and 13 May 2016.</b>

**Summary:**

- The applicant seeks approval for the demolition of unauthorised works, 1.5m vertical extension to the existing light industrial building and additions to the existing residence on site.
- The proposal is referred to IHAP as it seeks a departure from the control for side setbacks that is beyond the delegation of our officers. Despite this departure, the proposal has merit.
- The subject site is zoned IN2 Light Industrial under the provisions of the Canterbury Local Environmental Plan 2012. The existing light industrial building is permitted within the IN2 zone and the existing residential dwelling relies on existing use rights.
- The development application has been assessed against Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The proposed development generally complies with the requirements of these policies with the exception of our side setback control of Canterbury Development Control Plan 2012. This non-compliance is discussed in further detail 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. One submission was received. The submission raised concern regarding potential overshadowing impacts, dilapidation of adjoining properties during construction and general queries regarding the proposal. These matters are addressed in detail within the body of the report.
- The development application is recommended for approval subject to conditions.

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

**Council Delivery Program and Budget Implications:**

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

**Report:**

**Site Details**

The subject site is located at 27 Hugh Street, Belmore and is legally described as Lot A DP 321262. The site is rectangular in shape with a frontage to both Hugh Street and Minnie Street of 10.29m and 42.67m respectively and a total site area of 433.50m<sup>2</sup>. The site is currently occupied by a single storey residential dwelling with vehicle access off Hugh Street and a single storey light industrial building with vehicle access off Minnie Street.

Surrounding development to the east and south of the site consists of single and double storey residential dwellings. Surrounding development to the north and west of the site comprises a mix of predominately single and double storey industrial buildings as well as single and double storey residential dwellings. The development on the northern side of Hugh Street is zoned IN2 Light Industrial whilst the development on the southern side is zoned R4 High Density Residential.

The T3 Bankstown Railway Corridor is located approximately 45m north-east of the site.



Aerial image of subject site



27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)



Subject Site



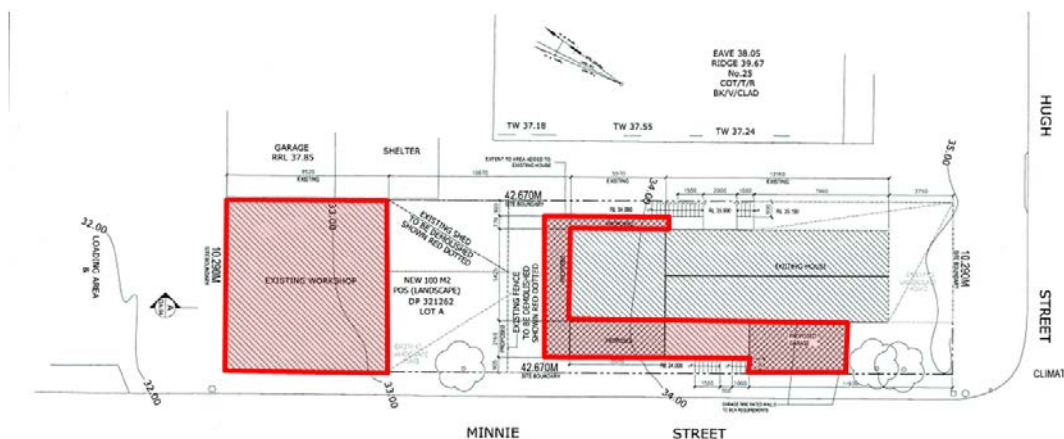
Existing development located to the south of the site, view south-east from Hugh Street



Existing development located to the north of the site, view north-east from Minnie Lane

### Proposal

The applicant seeks consent for the demolition of existing unauthorised works and alterations and additions to the existing residence and detached light industrial building on site.



Location of proposed works (shaded in red)

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

A detailed description of the proposal is provided below:

Alterations and additions to the existing residence:

- Construction of a new garage to enclose the existing car parking space
- Extension of the existing dwelling to comprise two balconies and a larger living/kitchen/bathroom area
- Increase in the floor area of the building from 101.59m<sup>2</sup> to 136.5m<sup>2</sup> (additional 34.91m<sup>2</sup>)
- Construction of a sub-floor area with associated retaining walls to comprise a storage area and laundry
- Demolition of the existing shed to the rear of the existing dwelling (to the east) and yellow colorbond fence along the eastern boundary in between the dwelling and the light industrial building

Alterations and additions to the existing light industrial building:

- Demolition of the existing mezzanine level within the existing building footprint, as it has been identified as unauthorised works
- Increase the height of the existing light industrial building by 1.5m and construct a new mezzanine level. The light industrial building will comprise an overall height of 5.5m (RL38.500)
- The mezzanine level results in an additional 33.83m<sup>2</sup> floor area and will be used for storage purposes
- The light industrial building will continue to be used for the fabrication of metal grates, grill and balustrades

**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
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- 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**  
The estimated cost of works for the proposed alternations and additions to the existing residence does not exceed \$50,000 and therefore is not required to be accompanied by a BASIX Certificate.



27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

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

The site comprises two uses (residential and light industrial). The proposed development application does not alter the existing use of the site and the uses will continue to be separated within the site.

No preliminary site investigation accompanied the development application and therefore Council is unable to determine whether the land is contaminated. However, given the fabrication of metal grates, grill and balustrades has been undertaken on a hardstand area within the exiting detached building and the remainder of the site has been used for residential purposes, it is unlikely that the site will be contaminated to an extent that will not be suitable for the continued use of the site. On this basis, no further assessment against the provisions of SEPP 55 is required.

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

The proposed development compares to the relevant provisions of Canterbury Local Environmental Plan 2012 (CLEP 2012) as follows:

Standard	Requirement	Proposal	Complies
Zoning	IN2 Light Industrial	Residential dwelling houses	No – refer to comment [1] below
		The existing industrial factory	Yes
FSR	1:1	0.62:1 (residential dwelling and home industry combined)	Yes
Acid Sulfate Soils	Class 5	The site is located greater than 500m from adjacent Class 1, 2, 3 and 4 land	Yes

[1] Permissibility

The subject site is zoned IN2 Light Industrial pursuant to CLEP 2012. The existing residential dwelling on site is classified as a “dwelling house” within CLEP 2012, which is ordinarily prohibited within the IN2 Zone, however, the site relies upon “existing use rights” provisions in accordance with Section 106 of the Act and is a permissible use under these provisions.

In accordance with Section 106 of the Act, “existing use” means:

- a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and*
- b) *the use of a building, work or land:*
  - i. *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
  - ii. *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

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Based on a review of our records, we were unable to identify the original consent relating to the existing residential dwelling, however DA No. 2470 was approved on 5 February 1986 for *extension and alteration of existing dwelling*, which in effect identifies that the existing residential dwelling was approved at some point in the past when it was permissible on the site. As confirmed by our site visit, the residential dwelling is still in use as a residence and therefore the existing use has not lapsed.

Clause 41 of the Environmental Planning and Assessment Regulations 2000 outlines the following requirements for alterations and additions to an existing use, which states:

- (1) *An existing use may, subject to this Division:*
- a) *be enlarged, expanded or intensified, or*
  - b) *be altered or extended, or*
  - c) *be rebuilt.*

In accordance with Clause 41 of the Regulations, the proposed alterations and additions to the existing residential dwelling is permissible by virtue of its existing use rights and can be expanded as proposed subject to Council consent. The proposed changes to the dwelling are not considered significant to prevent the long term plan of developing the site in accordance with the zone for industrial development.

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

The table below provides an assessment of the proposal against the relevant controls within Canterbury Development Control Plan (CDCP 2012). Given the site is located within an IN2 Zone, the controls outlined within Part 2 of CDCP 2012 will be used as a guide for the residential component of the proposal.

Standard	Numerical requirements	Proposal	Complies
<b>Part 2 – Residential Neighbourhoods</b>			
Retaining Walls – development without basement parking	Walls that would enclose any sub-floor area is to be a maximum of 1m	The proposal comprises a 1m high retaining wall along the eastern, western and southern boundaries of the sub-floor area.	Yes
Cut and fill – development without basement parking	No limit to cut below ground level where it will be contained entirely within the exterior walls of a building	No cut or fill is proposed	N/A
Height	Maximum 2 storeys	1 to 2 storeys	Yes
	External wall max.7m where height of buildings on the Map is 8.5m	The site is not identified on the Height of Buildings Map. Notwithstanding this a maximum external wall height of 5.9m (rear portion of the dwelling including the sub-floor area) is proposed.	N/A

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

Standard	Numerical requirements	Proposal	Complies
Setbacks: Detached dwelling on a narrow lot less than 12.5m width	5.5m from the front boundary.	The existing dwelling is located 3.75m from the front boundary and remains unchanged. The proposed garage is 6m from the front boundary.	Yes
	900mm from the side boundary	The rear extension is located 905mm from both side boundaries.	Yes
		The proposed garage has a nil setback to the site's southern boundary.	No – refer to comment [1] below
	6m from the rear boundary	The proposed rear extension is located approximately 18m from the rear boundary.	Yes
Maximum floor area	300m <sup>2</sup> if the site area is less than 450m <sup>2</sup> .	Site Area: 433.5m <sup>2</sup> Floor area of Residential Dwelling: 136.5m <sup>2</sup>	Yes
Maximum site coverage of all buildings on site	60% of the site area if that area is less than 450m <sup>2</sup>	The residential dwelling and existing light industrial building covers 53.8% of the site (233.32m <sup>2</sup> ).	Yes
Car parking provision	Two car spaces /dwelling	The proposed garage will enable one car to park undercover and a car to park in front.	Yes
Alterations and Additions complement architectural character of dwelling hours	A dwelling is to contain one kitchen and laundry facility	The proposal involves extending the existing kitchen. A new laundry is proposed within the sub-floor area under the proposed extensions.	Yes
	Retain and extend prominent elements of the existing roof	The proposal retains the existing gable roof of the dwelling and no alteration to the front façade is proposed. The height of the proposed garage will be below the existing gabled roof feature of the dwelling and therefore complements the existing prominent elements of the existing roof feature.  The roof of the proposed rear extension is acceptable as it does not extend above the existing gable roof and is unlikely to be visible from the main street frontage (Hugh Street).	Yes
Street address	Clearly identifiable entries	Front entry to the dwelling remains unchanged.	Yes

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

Standard	Numerical requirements	Proposal	Complies
Façade design & articulation	Avoid long flat wall	Front façade remains unchanged. The Minnie Street façade is appropriately articulated through the use of different setbacks and detailing.	Yes
Roof Design	Roof design to be consistent with existing streetscape no noticeably steep roof forms	The proposal retains the gable roof of the existing dwelling. The rear extension is to comprise a simple, relatively flat roof that minimises bulk and scale as well as complements the existing gabled roof.	Yes
Service and utilities	Integrate services and utility areas with the design of the whole development	Existing services and utilities will remain.	Yes
Visual privacy	Orientate windows of new living areas, balconies or terraces towards the street and rear of the lot to minimise direct overlooking of rooms and private space.	Majority of new windows are orientated towards Minnie Street or rear of the property. Further, given the single storey nature of the dwelling, it will not result in any significant adverse visual privacy. A 1.8m privacy screen is to be applied to the eastern boundary of the rear balcony of the residence to maintain an appropriate level of privacy. This requirement will be enforced via condition of consent.	Yes – subject to condition of consent
Open Space	Minimum private open space for each dwelling is 50m <sup>2</sup>	A 100m <sup>2</sup> landscaped area is provided at the rear of the dwelling.	Yes
Internal dwelling space and design	Dimensions and design interiors to accommodate the range of furniture that is typical for habitable rooms and work places.	The proposal includes extending the existing dining/bathroom and kitchen area. The amended primary living area has a width of 5m which will accommodate the range of furniture required for this space.	Yes
<b>Part 4 – Industrial Development</b>			
Height – Adjoining Residential	The height of the industrial building is to comply with the building height plane	The height of the industrial building at the residential boundary is 5.5m. The building does not step back as per the building height plane.	No – refer to comment [2] below.
Front Setback	5m from the front boundary	Front setback to Minnie street remains unchanged	N/A

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

Standard	Numerical requirements	Proposal	Complies
Maximum site coverage of all buildings	66% of the total site	The proposed additional floor area within the light industrial building will not exceed the existing building footprint. On this basis, the existing floor area of the industrial building (96.82m <sup>2</sup> ) and proposed residential floor area (136.5m <sup>2</sup> ) covers 53.8% of the site.	Yes
Car Parking	1/100m <sup>2</sup> or 1/2 staff	The additional floor space resulting from the proposed mezzanine level (33.83m <sup>2</sup> ) does not generate the need for an additional car space. No change to the number of staff is proposed and therefore the existing car parking arrangement on site (one space within the light industrial building) is sufficient.	Yes
	Position access driveway so that impacts on adjoining residential properties are minimised	No change to the existing access arrangements is proposed. Access to the light industrial building will continue to occur from Minnie Lane, which is separate to the residential access point off Hugh Street.	Yes
Façade Design and Articulation	Use contemporary façade design	The existing light industrial building is proposed to be extended 1.5m in height. Conditions of consent will ensure the proposed materials will match the existing façade.	Yes - subject to condition of consent
Open Space and Landscape Design	Minimum deep soil as follows: - 5m wide from front setback - 2m wide from land that has existing dwelling	The proposed development does not result in the reduction of existing landscaped area.	N/A
	Set aside a minimum of 10% of the site area for soft landscaping	At least 100m <sup>2</sup> of landscaped area (23% of site area) will be provided on site.	Yes - subject to conditions of consent
Storage and Handling Areas	Provide adequate space within buildings for storage and for the loading and unloading of vehicles	Additional storage area is proposed by virtue of the proposed mezzanine level. The loading and unloading of vehicles will occur as per existing arrangement.	Yes

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

Standard	Numerical requirements	Proposal	Complies
Visual Privacy	Redirect views towards the living areas of adjoining properties by using translucent or obscure glazing or deep soil planting for screening	No new windows are proposed along the elevations (south and east) facing adjoining residential dwellings.	Yes
Operating Hours	Restricted to 7:30am to 5:30pm Monday-Saturday where development adjoins residential zoned land	The site does not adjoin residential zoned land, however it does adjoin a residential dwelling to the east. The site currently operates in accordance with Council's controls. The continuation of these hours will be enforced via condition of consent.	Yes – subject to conditions of consent
<b>Part 6.2 Climate and Resource Efficiency</b>			
Daylight and Solar Access	At least one living room window and at least 50% or 35m <sup>2</sup> with minimum dimension of 2.5m (whichever is the lesser area), of the principal area of ground level private open space is to receive a minimum of two hours sunlight between 9am and 3pm on 21 June	Three windows are proposed along the northern elevation of the main living area. Solar access to these windows as well as the north facing balcony will be retained for at least 3 hours on 21 June (9am-12pm). More than 50% of the principle private open space area at the rear of the site will receive solar access for at least two hours on 21 June (9am-11am).  The overshadowing diagrams submitted identify that an appropriate level of solar access to the adjoining residential property to the east will be retained for at least three hours on 21 June (between 9am-12pm).	Yes
Daylight and Solar Access	New development shall provide at least two hours solar access to existing indoor living area and 50% of private open space for at least two hours between 9am and 3pm on 21 June	The shadow cast by the proposal is concentrated to the west (away from the adjoining property to the east) until after 12 noon. Therefore more than two hours of solar access will be retained to the existing dwelling at 25 Hugh Street.	Yes
Natural Ventilation	All habitable rooms have natural ventilation	All habitable rooms have appropriate openings to allow natural ventilation	Yes

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

Standard	Numerical requirements	Proposal	Complies
<b>Part 6.3 Crime Prevention Through Environmental Design (CPTED)</b>			
Communal/Public Areas	Provide natural surveillance for communal and public areas	Windows and a balcony are proposed at the rear of the residential dwelling which provides natural surveillance of the rear portion of the site The main entrance to each building on the site is orientated towards the street. In addition, habitable room windows also address the primary and secondary street frontages.	Yes
Entry Points	Provide clearly visible entries	The front door of the residential dwelling and front door of the industrial building is visible from the relevant street (Hugh Street and Minnie Street respectively)	Yes

#### [1] Setbacks

The proposed garage is not considered to be an outbuilding as it is attached to the principal dwelling and therefore, the design is to consider the controls relating to a dwelling house. Part 2.1.7(x) of CDCP 2012 requires dwellings to be setback 900mm from the side boundary. The proposed garage comprises a nil setback to the side southern boundary (100% variation). The objectives of our setback controls are to establish the desired spatial proportions of the street and define the street edge, limit the scale and bulk of a new building appropriate to the location and use, contribute to green landscape and provide sufficient separation between buildings.

The proposed garage fronts Hugh Street and the side boundary (southern elevation) adjoins Minnie Street. The nil setback of the proposed single storey garage defines the street edge and is consistent with the nil setback of the existing industrial development to the south of the site, on the opposite side of Minnie Street. The existing landscaped area within the front setback remains unchanged. Furthermore, the existing side setback comprises concrete and therefore the amount of green landscape visible from the adjoining streetscapes remains unchanged. The height of the proposed garage will be below the existing gabled roof feature of the dwelling and therefore complements the existing prominent elements of the existing roof feature of the dwelling. Given the corner location of the site and the proposed location of the garage within the site, it will not result in any visual or overshadowing impacts on the existing residential dwelling to the east of the site nor on the dwelling within the subject site itself.

In light of the above, the proposed garage is consistent with the objectives of our setback controls and therefore the proposed variation to our side setback controls is acceptable in this instance.

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

[2] Height of Industrial Building

Part 4.1.2(i) of CDCP 2012 outlines the building height plane for non-residential components of buildings that adjoin residential zones or the site of an existing dwelling. The subject site adjoins a site with an existing dwelling (located to the east of the site at 25 Hugh Street). The existing light industrial building has a nil setback to the eastern boundary which does not comply with the building height plane. The proposal is to increase the height of the light industrial building by 1.5m (to a total of 5.5m) and therefore would still not comply with the building height plane.

Despite the non-compliance with the building height plane, the proposed alterations and additions to the existing light industrial building maintains an appropriate level of solar access (at least three hours between 9am-3pm on 21 June) to the existing residence to the east as well as to the existing residence on the subject site. No windows are proposed along the eastern or southern elevations of the light industrial building and therefore visual privacy will be maintained to the existing residential property located to the east as well as within the site.

As previously mentioned, the site along the northern side of Hugh Street (including the adjoining 25 Hugh Street) are zoned IN2 Light Industrial. The long term aim of this zone is to develop the sites for industrial uses. The subject workshop is an industrial use and this needs to be considered as part of the merits of assessing this variation.

In light of the above comments, the variation to our building height plane control is acceptable in this instance as it does not impose any unreasonable amenity impacts onto neighbours or the local environment.

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

The application was referred to Council's Development Engineer who raised no concern to the proposal, subject to conditions of consent.

**Part 6.6 – Landscaping**

The application was referred to Council's Landscape Architect who has raised no objections to the proposal, subject to conditions.

**Part 6.9 – Waste Management**

A Waste Management Plan was submitted which adequately addresses waste management during the demolition, construction and on-going phases. In this regard, the proposal satisfies the requirements of Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed works do not intensify the residential use of the site and the estimated cost of works do not exceed \$100,000 (\$43,000). Therefore the Section 94A contribution rates within Canterbury Development Contributions Plan 2013 do not apply to the proposed development.



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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

### Other Considerations

- **Environmental Planning and Assessment Regulation 2000**

As outlined above, this dwelling enjoys existing use rights under clause 41 and 42 of the Environmental Planning and Assessment Regulation (EPAR) 2000 and can be expanded despite the industrial zoning of the site.

Clause 93 of the EPAR requires a consideration of the appropriateness of the fire protection and structural capacity of the building. The application was referred to Council's Fire Safety Officer, who deemed the proposal acceptable in this regard, subject to the imposition of conditions.

- **Demolition**

The development includes demolishing an existing building/ structure or part of, to accommodate the proposed development. The provisions of AS2601-1991 The Demolition of Structures have been considered as required by Clause 92 of the EPAR. Standard conditions regarding demolition will be included to the development consent.

- **Impacts of the Development**

#### Overshadowing

Although the height of the light industrial building does not comply with the building height plane controls within Part 4.1.2(i) of CDCP 2012 and the proposed garage does not comply with the minimum side setback controls within Part 2.1.7(x) of CDCP 2012, solar access to the existing residential dwelling to the east of the site will be retained for at least three hours in midwinter, which exceeds the minimum two hour solar access requirements specified within Part 6.2.6 of CDCP 2012. Furthermore, the principal living area and open space of the subject dwelling will receive at least two hours of solar access in midwinter. On this basis, the level of solar access retained as a result of the proposed works is acceptable.

#### Health, Safety and Amenity during Construction Phase

During the construction of the development, the health and amenity of workers, the public and adjoining properties alike need consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).

- **Suitability of the Site**

The proposed development is permissible in the subject site's current zoning and pursuant to existing use rights. 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

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

plans with the exception of side setback and building height of the light industrial building. The proposed variations to the building height and site setback 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 DA 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 subject development application was notified for 14 days in accordance with the provisions of Part 7 of CDCP 2012. One submission was received. The matters raised are discussed in detail below:

- **The proposed additional 1.5m height of the light industrial building could significantly overshadow existing properties to the east.**

#### Comment

Given the orientation of the site, the overshadowing created by the proposed development (including the additional 1.5m height to the existing light industrial building) will be concentrated to the west of the site (Minnie Street) and within the site itself. Overshadowing of the site to the east will occur after 12 noon and therefore solar access will be retained for at least three hours on 21 June to the western elevation and rear private open space of the existing property to the east. This level of solar access exceeds the minimum two hour requirement specified within Part 6.2 of Canterbury Development Control Plan 2102.

- **Given the close proximity of the existing light industrial building to the eastern boundary, existing structures on the adjoining site may be damaged during the construction phase.**

#### Comment

It is acknowledged that the existing light industrial building on the subject site abuts the existing structures located on the site to the east. The requirement for a dilapidation report will be imposed via condition of consent to ensure no damage to the existing structures on the adjoining property is caused as a result of the proposed works on the subject site. 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 possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on the Consent.

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

- **What material is to be used in the additions to the light industrial building?**

Comment

The materials to be used for the additions to the light industrial building will be the same as existing (brick). This will be imposed via condition of consent.

- **Which existing fence is to be demolished?**

Comment

The proposal includes demolition of the existing fences within the site. No boundary fences are proposed to be demolished.

- **Will the yellow colorbond fence within the site along the eastern boundary be demolished as part of the application?**

Comment

The applicant confirmed that the existing yellow colorbond fence within the site is to be demolished as part of the application.

### **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 setback and building height controls will not result in any significant adverse impact on the amenity of future occupants of the site as well as existing residents on the adjoining property. The design of the proposed development is compatible with the future and desired local character of the area and represents a development that will positively contribute to the streetscape and indeed the local built environment. The changes will allow the interim residential use to continue and still allow for the long term future desired character to redevelop the site for industrial development. As such, it is recommended that the development application be approved subject to conditions.

### **RECOMMENDATION:**

THAT Development Application DA-584/2015 be **APPROVED** subject to the following:  
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Protection from termites
    - Structural Engineering Plan
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

- Hydraulic Plan
- Soil and Waste Management Plan
- 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	\$1,814.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$150.50
- 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
 

Construction Certificate Application Fee	\$738.00
Inspection Fee	\$695.00
Occupation Certificate Fee	\$161.00

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 Bankstown 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

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

evidence of the insurance certificate or other documentation. Further information on insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

SITE SIGNAGE

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

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

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

- 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 [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 set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Drawing Title	Prepared By	Received by Council on
DA-104-01	Site Plan/Site Analysis	Eco Factor Pty Ltd	13 May 2016
DA-104-02	Floor Plan	Eco Factor Pty Ltd	13 May 2016
DA-104-03	Roof Plan	Eco Factor Pty Ltd	13 May 2016
DA-104-04	Elevation - House	Eco Factor Pty Ltd	13 May 2016
DA-104-05	Elevation & Section	Eco Factor Pty Ltd	13 May 2016
DA-104-07	Landscape Plan	Eco Factor Pty Ltd	13 May 2016
SW01	-	Australiawide Consulting Services Pty Ltd	30 November 2016
SW02	-	Australiawide Consulting Services Pty Ltd	30 November 2016

- 6.1 The colours and materials of the proposed additions to the light industrial building and residential dwelling are to match the existing colours and materials of the light industrial building and residential dwelling respectively.
- 6.2 The hours of operation of the light industrial building are restricted to between 7:30am-5:30pm Monday-Saturday.
- 6.3 A 1.8m privacy screen is to be applied to the eastern elevation of the rear balcony of the residence to maintain an appropriate level of privacy. Revised plans indicating this detail are to be provided to the Principal Certifying

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Authority prior to the issuing of a construction certificate.

7. The bathroom window(s) being translucent glass.
8. 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 applicant's expense. Any repairs or replacement must be made before the issue of any occupation certificate. Any damage caused during the works period is to be made good within 24 hours of damage.
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. 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. 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.
15. 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.
16. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
17. 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.
18. 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.
19. 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.
20. Services and equipment (other than gas/fuel/hot products chutes which are prohibited) installed in any non fire isolated exit or paths of travel to any exit complying with BCA Clause D2.7, including enclosure by non combustible construction or fire protective covering and doorways sealed against smoke spreading from the enclosure.
21. The space below any non fire isolated stairway (including an external stairway) serving as a required exit if enclosed to form a cupboard or other enclosed space must have, to BCA Clause D2.8:

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

- a) a fire resistance level of not less than 60/60/60 to enclosing walls/ceilings, and
  - b) any access doorway to the enclosed space fitted with a -/60/30 self-closing fire door.
- 22. Balustrades being provided in accordance with BCA Clause D2.16, including height and restriction of openings requirements.
- 23. Each exit door must swing in the direction of egress (unless it serves a building or part with a floor area not more than 200m<sup>2</sup>, it is the only required exit from the building or part and is fitted with device for holding it in the open position) to BCA Clause D2.20.
- 24. Exit doors in a required exit, forming part of a required exit or in the path of travel to a required exit must be readily openable:
  - a) without a key to a person seeking egress, and
  - b) by a single hand downward action or pushing action on a single device, and
  - c) located between 900mm and 1200mm from the floor, to BCA Clause D2.21.
- 25. Install portable fire extinguishers selected, located and distributed to BCA Clause E1.6/Table E1.6 and AS 2444. This item is an essential fire or other safety measure.

DILAPIDATION AND EXCAVATION

- 26. 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.
- 27. The applicant shall prepare a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for the adjoining property, 25 Hugh Street, Belmore detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. On completion of the excavation and building works and prior to 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.
- 28. 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

- 29. 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 30<sup>th</sup> November 2015; drawing number SW01



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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

- and SW02, prepared by Australiawide Consulting Services 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 Minnie Street.
  - c) 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.
  - d) 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.
  - e) If total impervious areas exceed 75% of the lot area on-site detention designed in accordance with Part 6.4 of Canterbury Councils DCP must be provided.

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

- 30. 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 details are to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 31. 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 Canterbury Councils DCP 2012. Such details are to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 32. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development prior to construction. Any such work being carried out at the applicant's cost.
- 33. 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 prior to construction. If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.
- 34. 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 details are to be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- 35. 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. The accredited engineer must specifically certify achievement of total impervious areas being less than 75% of the lot area. Such details are to be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- 36. 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

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

Structural Engineer and must have subsoil drainage connected to the site stormwater system. Design plans prepared by an appropriately qualified and practicing 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.

37. 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:
- 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 clear area must be provided within the proposed garage free of obstructions in accordance with Figure 5.2 of *AS/NZS 2890.1: 2004*. In this regard the internal width of the garage must be a minimum 3000 mm.
  - c) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
  - d) 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 lighting fixtures, and to open garage doors.
  - e) An off street parking space must be provided on the access driveway of the site. The gradient of the access driveway must not exceed 1 in 20 (5%) for the length of the parking space, in accordance with Clause 2.4.6.1 of *AS/NZS 2890.1-2004*.

The design must be certified by a suitably qualified Civil Engineer with NER registration with the Institution of Engineers Australia and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

38. A Work Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's City Works Department for details.
39. 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.

#### PUBLIC IMPROVEMENTS

40. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

#### LANDSCAPE

41. The existing property trees (2 x Palm trees) located adjacent to the front driveway may be removed to accommodate construction. This is conditional on their replacement with 1 x canopy tree to be a minimum 75 litre pot size and a mature height of greater than 5m. All new trees are to be planted in garden beds rather than turfed areas.
42. The existing street tree growing on the nature strip in front of the property may be

27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

removed to accommodate construction. The removal of this tree is conditional on its replacement with 1 x *Callistemon viminalis* (common name Weeping bottlebrush), to be planted in the grass verge one either side of the new crossover a minimum of 2m away from the proposed and existing driveways. The replacement tree must be provided in 75ltr container size. 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.

If the street tree is retained it must be protected during demolition and construction. A suitable 1 metre radius protective barrier must be erected around the tree's trunk prior to construction. This barrier must be well maintained during construction. No building material or construction activity shall be allowed to encroach within this tree protection zone.

43. The landscaping must be completed according to the submitted landscape plan (drawn by Eco Factor, drawing no. DA-104-07 revision A, submitted to council on the 13<sup>th</sup> May 2016) except where amended by the conditions of consent.

#### CRITICAL INSPECTIONS

44. Class 1 and 10 Buildings

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

- 44.1. at the commencement of the building work, and
- 44.2. after excavation for, and prior to the placement of any footings, and
- 44.3. prior to paving any in-situ reinforced concrete building element, and
- 44.4. prior to covering of the framework for any floor, wall, roof or other building element, and
- 44.5. prior to covering waterproofing in any wet areas, and
- 44.6. prior to covering any stormwater drainage connections, and
- 44.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

#### Class 5, 6, 7, 8 or 9 Buildings

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

45. 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

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

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27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE (CONT.)

WE ALSO ADVISE:

47. This application has been assessed in accordance with the National Construction Code.
48. 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.
49. 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
  - Final fire safety certificate
  - Glazing
  - Waterproofing
50. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
51. 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.
52. 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.
53. 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.
54. 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.
55. If you are not satisfied with this determination, you may:
  - 55.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of this Notice of Determination and be accompanied by the relevant fee; or
  - 55.2. 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 22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS**

**FILE NO:** 540/22D  
**REPORT BY:** DIRECTOR CITY DEVELOPMENT  
**WARD:** ROSELANDS

<b>D/A No:</b>	<b>DA-624/2015</b>
<b>Applicant:</b>	<b>Idizin Sydney Pty Ltd</b>
<b>Owner:</b>	<b>Hanna Malas</b>
<b>Zoning:</b>	<b>R3 Medium Density Residential under Canterbury LEP 2012</b>
<b>Application Date:</b>	<b>17 December 2015, further information received 5 May 2016</b>

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**Summary:**

- A development application has been received for the demolition of existing structures and construction of a detached dual occupancy development with associated fencing and Torrens title subdivision into two lots.
- The application has been referred to the Independent Hearing and Assessment Panel for determination because the proposed variation to building separation and external wall height controls exceeds Council officer delegations.
- Dual occupancy development is permissible with our consent within the R3 Medium Density Residential zone under Canterbury Local Environmental Plan 2012 and other relevant statutes.
- The application has been assessed against the relevant provisions of Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. The development was found to satisfy the relevant controls, with the exception of the controls relating to the separation distance between buildings on one site and external wall height. Further examination of these non-compliances are discussed in the body of this report.
- The application was notified in accordance with Part 7 of Canterbury Development Control Plan 2012. One submission was received raising concerns of privacy, access during construction and compliance with the building code.
- It is recommended that the development 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.

22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (CONT.)

**Report:**

**Site Details**

The subject site is located on the western side of Lumeah Avenue, Punchbowl and has a total area of 661.62m<sup>2</sup> and a frontage of 20.48 metres to Lumeah Avenue. The existing development on-site comprises a single storey dwelling and outbuildings. The surrounding development comprises residential dwellings along Lumeah Avenue and general industrial land to the west (rear) of the site.



Aerial view of site and surrounding development



Existing dwelling on subject site



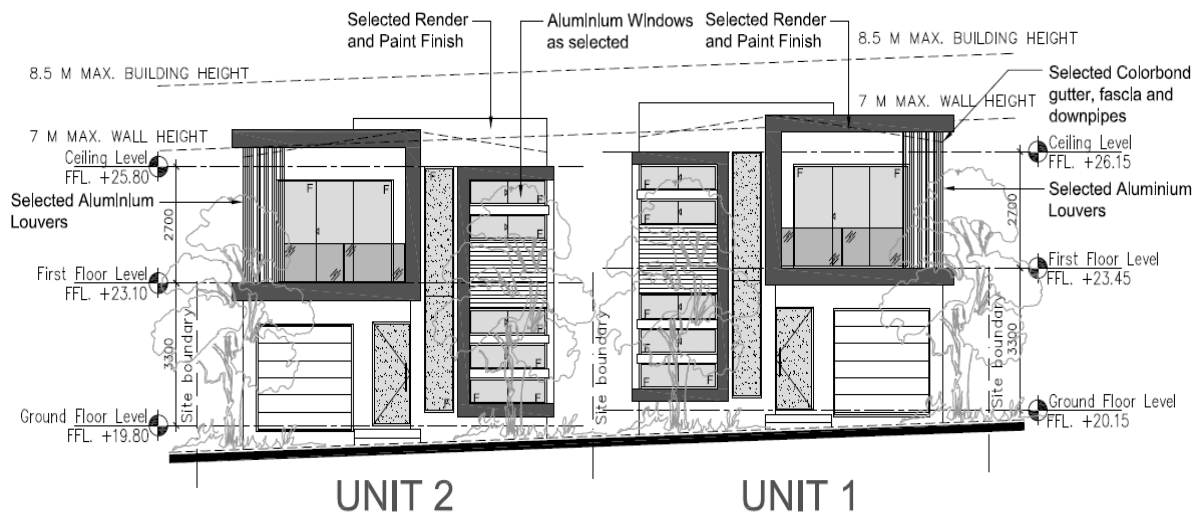
Streetscape showing neighbouring properties 20 Lumeah Avenue (left) and 24 Lumeah Avenue (right)

22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (CONT.)

### Proposal

The application seeks consent to demolish the existing structures on site and construct a two storey detached dual occupancy development comprising two five-bedroom dwellings and new a 1.2 metre high front fence. Two parking spaces are provided for each dwelling, one space accommodated within a garage and one space on the driveway within the front setback area. The front elevation and site plan are shown below.

Torrens title subdivision of the dual occupancy into two lots is also proposed. Each new lot would be 10.24 metres wide and 330.82m<sup>2</sup>.



Proposed front elevation facing Lumeah Avenue



[illegible]

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22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (CONT.)

consent. The proposal also meets the relevant residential objectives of this zone which is to provide for housing needs of the community and a variety of housing types. The proposal will provide two new dwellings for the area and contribute to the variety of housing types available in the area.

The proposed development is consistent with the relevant numerical provisions of CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Minimum lot size for dual occupancies	600m <sup>2</sup>	661.62m <sup>2</sup>	Yes
Building height	8.5m	Dwelling 1 – 7.5m Dwelling 2 – 7.9m	Yes
Floor Space Ratio	0.5:1	0.5:1	Yes

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

The proposed development is generally consistent with the objectives and controls outlined in CDCP 2012, except for a non-compliance relating to external wall height and building separation between buildings on one lot which is discussed in detail after the table below.

Standard	Requirement	Proposal	Complies
<b>Part 2 Residential Neighbourhoods</b>			
<b>Site and Envelope Controls</b>			
Width of site	15m	20.48m	Yes
Subdivision of dual occupancy	Min 300m <sup>2</sup> for each dwelling	Each new lot 330.82m <sup>2</sup>	Yes
	Min 7.5m width after construction	Each new lot 10.24m wide	Yes
Access to detached dwelling lots	All lots have frontage to a public road.	Both lots have frontages to a public road being Lumeah Ave	Yes
Building height	Max 2 storeys	2 storeys	Yes
	Max 7m wall height	Dwelling 1 - 7.5m (7% variation) Dwelling 2 - 7.9m (13% variation)	No, see comment [1]
	Max 8.5m ridge height	7.9m	Yes
	Finished floor level no more than 1m above natural ground level	Dwelling 1 - 550mm Dwelling 2 - 1m	Yes
Cut and fill	Max 1m cut	Cut – less than 1m	Yes
	Max 600m fill	Fill – 600mm	Yes
Building Separation	Minimum 5m separation between buildings that are on one site	2.4m – 4.4m	No, see comment [2]
Depth/ footprint	Max 25m	Each dwelling – 18m	Yes
Front setback	Min 6m, 4.5m for balconies/ architectural elements	6m to wall, 5.8m to architectural projections	Yes
Rear setback	Min 6m	Each dwelling – 9.69m to rear wall (ground), 8.5m to terrace	Yes

22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (CONT.)

Standard	Requirement	Proposal	Complies
Side setback	Min 1.2m	Each dwelling setback 1.2m (min) from all side boundaries	Yes
Rear and side setback of outbuilding	2.7m wall height – Min 450mm. Less than 2.7m wall height, encroachment permitted.	2.1m height – Nil setback proposed. Rear boundary adjoins industrial unit. Side setback adjoins other proposed lot.	Yes
Deep soil	Front and rear setbacks provided as deep soil areas (excluding driveways and paths)	Font and rear setbacks provided as deep soil areas (excluding driveways and paths).	Yes
Car parking	Two spaces per dwelling	Two spaces per dwelling – one in garage and one space forward of building line.	Yes
Garage or Carport	Not to occupy more than 50% of width of each dwelling.	Each dwelling – 42%	Yes
<b>Design Controls</b>			
Context	Features of existing buildings that influence streetscape and local character are either maintained or reflected in adjacent and nearby new buildings.	Proposed development is a contemporary design which is compatible with the built character of the existing industrial development to the rear and changing character of the local residential area. Finishes and materials will reflect the surrounding character of development in the area.	Yes
Street Address	Facilitate positive interaction between the private and public domain. Promote casual surveillance.	Main entrance to each dual occupancy dwelling faces the street and area clearly identifiable. Balconies on the first floor front elevation of the proposed dual occupancy promote casual surveillance.	Yes
Façade Design and Articulation	Effective modulation and variation of building design. All elements of the façade and roof are integrated into the architectural form and detail of the building, and present an appealing streetscape appearance. Do not use identical façades for each dwelling – use variations in terms of plan dimensions and shape, plus height and wall alignment.	The proposed dwellings are modulated, presenting a satisfactory streetscape appearance. The development will appear from the street as if it has a flat roof. This is acceptable as it is compatible with building style and designed to limit building height, bulk and overshadowing within the site and to southern property.	Yes
Front fence	Height max 1.2m	1.2m	Yes

22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (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 proposed development is designed so that it does not compromise visual privacy enjoyed by future occupants and neighbouring residents.	Yes
Open Space	Min area of 50m <sup>2</sup> for each dwelling	Each dwelling has 83m <sup>2</sup> excluding patio area, min dimension 8.5m	Yes
	Private open space directly accessible from a living room, dining room or a family room.	Private open space is directly accessible from the living areas of both dwellings.	Yes
	Provide one area at least 2.5m by 2.5m that is suitable for outdoor dining.	Each dwelling – 19.6m <sup>2</sup> outdoor dining area each (2.5m x 7.84m)	Yes
	One additional area of 4m <sup>2</sup> suitable for clothes drying concealed by shutters, screens, fences or tall opaque balustrades.	Adequate clothes drying facilities provided in the garden of each dwelling, screened from public view.	Yes
	Waste storage incorporated into development design	Bins located in side setback behind building line, not visible from street.	Yes
Internal Dwelling Space and Design	Living area and principal bedrooms – min width 3.5m	Living room and main bedroom >3.5m wide	Yes
	Secondary bedrooms – min width 3m	Secondary bedrooms >3m wide	Yes
	Min. storage area 10m <sup>3</sup>	Each dwelling has shed at rear 8.4m <sup>3</sup> . Condition for additional 1.6m <sup>3</sup> to be provided in dwelling or garage.	Yes – subject to condition
<b>Part 6.2 Climate and Resource Efficiency</b>			
<b>Daylight and Sun Access</b>			
Proposed dwellings	At least 2 hours sunlight received by indoor living areas and 50% of principal private open space between 9.00am and 3.00pm on 21 June	At least 2 hours sunlight received by indoor living areas and 50% of principal private open space between 9.00am and 3.00pm on 21 June	Yes
Adjoining dwelling - 20 Lumeah Ave	At least 2 hours sunlight received to existing indoor living areas and 50% of existing private open space between 9.00am and 3.00pm on 21 June	At least 2 hours sunlight received to front living room and 50% of existing private open space between 9.00am and 3.00pm on 21 June	Yes

[1] External wall height

The proposal complies with the overall height limit of two storeys and 8.5 metres. A variation is proposed to the maximum 7 metre wall height control to accommodate a roof parapet design. As a result, Dwelling 1 will have a wall height of 7.5 metres,

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which represents a 7% departure. Dwelling 2 will have wall height of 7.9 metres which is a 13% departure.

The wall height non-compliance is a result of the parapet style design of the development. The proposed development (with heights of 7.5 and 7.9 metres) would be well within the overall permitted height limit of 8.5 metres. The objective of the height control is to ensure new buildings have a scale that is visually compatible with adjacent buildings and the intended character of the zone. The proposal would be visually compatible with existing and future residential development in the area which is likely to include more two storey dwellings and the industrial development to the rear. Shadow diagrams have been submitted with the application to demonstrate that a departure to this control would not adversely impact the southern neighbour's solar access. The proposal therefore meets the objective of the height control and the variation should therefore be supported in this instance.

[2] Building separation between buildings on one lot

The subject land is relatively wide for a dual occupancy site, with a frontage of 20.48m. As a result, the application proposes a detached dual occupancy with the dwellings being located side by side. With this arrangement, Part 2.1.9(vi) of CDCP 2012 requires the proposed dwellings be separated by a minimum of 5 metres. The application proposes a minimum building separation of 2.4 metres and 4.4 metres between the new dwellings.

This control relates to buildings on one site and its objective is to ensure reasonable sunlight and privacy is available to residents and distances between buildings are proportional to their heights.

The proposed dwellings have been designed to preserve the privacy of future residents through the use of high level windows or frosted glass to limit views from windows directly facing each other. Rooms have also been positioned to ensure living areas will receive the minimum daylight and solar access required by our policy.

The proposed building separation is not considered to be a significant issue from a visual amenity and building form perspective as the proposed development presents well from the street. If approved the proposed dual occupancy will be subdivided meaning the two buildings will no longer be on one site. The resultant building separation will then be proportional to other two storey dwellings.

The proposal therefore meets the objectives of the control despite not strictly meeting the numerical standards. A variation should therefore be supported in this instance.

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

The site is not located within a flood planning area or acid sulphate soils risk area. Our Development Engineer has reviewed the application and raised no objection to the development, subject to conditions of consent.

**Parts 6.6 and 6.7 – Landscaping and Preservation of Trees and Vegetation**

There are no significant trees or landscaping on site. The application proposes boundary landscaping in the rear gardens. Our Landscape Architect has reviewed the application and raised no objections to the development, subject to conditions of consent, including the requirement for one major canopy tree be provided in the front yard of each unit and a street tree be provided on the nature strip.

**Part 6.9 – Waste Management**

A waste management plan for demolition and construction has been submitted which identifies how waste will be reused, recycled and disposed to satisfy the requirements of Part 6.9 of the CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

Consent is sought for demolition of existing structures and the construction of a detached dual occupancy with associated Torrens title subdivision. In accordance with Section 94, the proposed development attracts a contribution of \$18,951.53. This will be included as a condition of development consent.

**Other Considerations**

- **Likely Impacts and Suitability of the Site**

The development itself is reasonable and does not pose a negative impact onto the local environment. However, as there are two point encroachments beyond our development controls relating to external wall height and building separation, consideration should be given as to the impact this proposal may have on the local amenity, particularly with regard to visual scale, overlooking and overshadowing.

Despite the height and separation non-compliances, the buildings are designed in such a way that the shadow they cast onto southern adjoining properties still allows the neighbour to enjoy good access to mid-winter sun. The first floor is occupied by bedrooms and bathrooms and suitable treatment has been incorporated into the design of the development to limit opportunities for overlooking. The development once constructed will have the appearance of two single dwellings, consistent with the scale of development permitted for new dwellings.

The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979. As demonstrated throughout this report, the proposal does not represent an unreasonable loss of amenity to neighbours despite some departures from our DCP and the overall design response is suitable for this site.

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- **Public Interest**

The public interest was taken into consideration whilst assessing this development application. The recommendation to support an increased wall height and reduced building separation is for reasons that are specific to this site and any approval is not considered to set an undesirable precedent for other development in the locality. The current proposal, subject to conditions would not have a negative impact on the residential amenity of the neighbourhood and is therefore considered to be acceptable.

- **Referrals**

The proposal was referred to our Development Engineer, Landscape Architect, Building Surveyor and Strategic GIS (Mapping) Officer who have reviewed the application and raised no objection to the development, subject to conditions of consent.

- **Sediment and Erosion Control**

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions 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.

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

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

### **Notification**

The development application was notified to all adjoining owners and occupiers in accordance with Part 7 of CDCP 2012. One submission was received which raised the following concerns:

- **Ensure the proposal will comply with the Building Code and is setback 1.2 metres from the side boundary**

Comment

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

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- **Request rear windows for Unit 1 are high sill to limit overlooking to rooms of the adjoining dwelling and garden**

Comment

Requirements for screening or high sills for windows in bedrooms are generally more relaxed to allow sunlight and ventilation, and because these rooms are used less frequently and have less impact on neighbouring houses. Bathroom windows are generally obscure.

The proposed first floor is occupied by bedrooms and bathrooms. Bedrooms 1, 2 and 4 have windows in the northern elevation that face the adjoining property, setback at least 1.2 metres from the boundary. Bedroom 2 also has a window facing the new dwellings' gardens and industrial unit to the rear, setback more than 10.5 metres from the rear boundary. There is existing established landscaping along the neighbours side boundary which partially limits views to their garden.

Part 2.3.1 of the CDCP 2012 which relates to visual privacy states that where overlooking of neighbouring properties from bedroom windows is less significant, screening is optional and dimensions are not restricted.

The north facing windows in Bedrooms 1 and 2 are high sill windows to restrict views to the front and rear of the neighbouring property. The rear window for Bedroom 2 faces west and oblique views from this window to the adjoining property will be limited, especially considering the established boundary landscaping on the neighbour's property. Increasing the sill height of this window would reduce the internal amenity of the room by decreasing opportunities for sunlight and ventilation, for a bedroom which is acknowledged as posing less privacy concerns based on their less frequent use. Given privacy impacts are limited, increased sill heights for the rear bedroom windows are not considered necessary. Similarly views from the only window of Bedroom 4 will be primarily over the neighbour's carport and house roof. No modifications are considered necessary to this window to preserve the privacy of the adjoining neighbour. The proposal is considered to satisfy the privacy provisions of Part 2.3.1 of the CDCP 2012.

- **No access will be permitted over adjoining properties during construction**

Comment

The application does not propose access through any adjoining properties.

**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 codes and policies.

Our Local Environmental Plan permits this type of development in the zone and the design is broadly consistent with our Development Control Plan, though some departures are sought.

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These departures do not represent an unreasonable loss of amenity to either future occupants of the development or to neighbours. In this regard the proposal is considered to be a suitable development for the site.

It is recommended that we support the application, subject to the following conditions.

### RECOMMENDATION:

THAT the Development Application DA-624/2015 be **APPROVED** subject to the following;  
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

Kerb and Gutter Damage Deposit	\$2,723.00
Section 94 Contributions	\$18,951.53
Certificate Registration Fee	\$36.00
Long Service Levy	\$1,905.20
Long Service Levy Commission	\$19.80
  - 1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
 

Construction Certificate Application Fee	\$2,813.00
Inspection Fee	\$1,230.00
Occupation Certificate Fee	\$252.00

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

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

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

Note 4: 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.



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2. An amended ground floor plan must be submitted to Council or certifier prior to the issue of a Construction Certificate which makes provision for 1.7 cubic metres of storage within the garage/dwelling to satisfy the storage requirements of part 2.3.5 of the Canterbury Development Control Plan 2012. The storage area must not impact the ability for the garage to accommodate a car space for each dwelling.
3. An amended landscape plan to address the issues outlined below is to be submitted to Council or certifier prior to the issue of the Construction Certificate;
  - 3.1. All new trees are to be a minimum 75 litre pot size.
  - 3.2. Provide boundary hedging to the front setback side boundaries to provide continuous evergreen planting with a minimum of 2 metre mature height.
  - 3.3. Provide at least one major canopy tree to the front yard of each unit. All canopy trees are to be a mature height of greater than 5 metres.
4. 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:
  - 4.1. The design must be generally in accordance with the plans, specifications and details received by Council on 27th April 2016; drawing number UMB15132.SW.DA 101 and 102 Rev. B, prepared by Umbrella Civil Consulting Engineers Pty Ltd.
  - 4.2. 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 Lumeah Avenue.
  - 4.3. All paved property side walkways stormwater runoff must be directed away from neighbouring lands.
  - 4.4. 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.
  - 4.5. 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.
  - 4.6. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
  - 4.7. 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.
5. 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.
6. 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 Canterbury Councils DCP 2012.
7. 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

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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.

8. 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:
  - 8.1. The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
  - 8.2. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
  - 8.3. 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 lighting fixtures, and to open garage doors.

BEFORE COMMENCING THE DEVELOPMENT

9. Before the erection of any building in accordance with this Development Consent;
  - 9.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 9.2. 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
  - 9.3. 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).
  - 9.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
    - 9.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
    - 9.4.2. The name and permit number of the owner-builder who intends to do the work.
10. 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.
11. A Work Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's City Works Department for details.
12. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 3.0 metres at the boundary line for each dwelling. 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".

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13. If the vehicle access is to be reconstructed 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.
14. 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.

#### INSURANCE

15. 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

16. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 16.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 16.2. 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
  - 16.3. That unauthorised entry to the work site is prohibited.

#### DEMOLITION

17. 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
  - f) No demolition is to be carried out on Sundays or Public Holidays.

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- g) Burning of demolished building materials is prohibited.
- h) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- i) 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.
- j) 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.
- k) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- l) 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.
- m) 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).
- n) 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.
- o) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](http://www.lead.org.au).
- p) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- q) 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

18. The development being carried out in accordance with the following plans, specifications and details except where amended by the conditions specified in this Notice.

Drawing Name	Drawing No.	Prepared by	Date received
Site Plan	DA-101 Issue C	Idizin Sydney	1 June 2016
Ground Floor Plan	DA-201 Issue B	Idizin Sydney	5 May 2016
First Floor Plan DA	DA-202 Issue B	Idizin Sydney	5 May 2016

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Elevations	DA-301 Issue B, DA-302 Issue B and DA-303 Issue B	Idizin Sydney	5 May 2016
Section A-A	DA-401 Issue B	Idizin Sydney	5 May 2016
Sediment and Waste Management Plan	DA-503 Issue A	Idizin Sydney	17 December 2015
Subdivision and Demolition Plan	DA-504 Issue B	Idizin Sydney	5 May 2016
BASIX Certificates	Certificate Numbers 688417S and 688431S	Energy Rite	17 December 2015
Colour and Materials Scheme	Unnumbered	Idizin Sydney	17 December 2015
Landscape Concept Plan	LD 100 Issue C	Iyanscape Landscape Design	1 June 2016
Stormwater Concept Plan	101 Issue B	Umbrella Civil Consulting Engineers	27 April 2016
Miscellaneous Details Sheet	102 Issue B	Umbrella Civil Consulting Engineers	27 April 2016

19. Finishes and materials include the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the Colour and Materials Scheme prepared by Idizin Sydney received by Council on 17 December 2015. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
20. Two parking spaces being provided and maintained for each dwelling, being one space within the garage and one open car space on the driveway, wholly within the boundaries of the site.
21. 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 monetary contribution of \$18951.53 shall be paid to Canterbury Bankstown Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Open Space and Recreation	\$16755.16
• Community Facilities	\$1714.21
• Plan Administration	\$482.16

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

22. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.

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23. 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.
  24. All building construction work must comply with the National Construction Code.
  25. 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.
  26. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at all floor levels and roof indicating the finished levels to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
  27. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. In this condition:
    - a) relevant BASIX Certificate means:
      - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
      - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
    - b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
  28. 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.
  29. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
  30. 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.
  31. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
  32. 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.
  33. 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.
- SYDNEY WATER REQUIREMENTS
34. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For help either visit Sydney Water's web site at [www.sydneywater.com.au/SW/plumbing-building-developing](http://www.sydneywater.com.au/SW/plumbing-building-developing), Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of

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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.

#### LANDSCAPING REQUIREMENTS

35. The landscaping must be completed according to the submitted landscape plan (drawn by Iyanascape Landscape Designs, drawing no. 34-2015 LD100 issue C, submitted to council on 1 June 2016) except where amended by the conditions of consent.
36. 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).
37. One street tree is to be provided on the nature strip adjoining the development. This tree is to be of a *Callistemon viminalis* (common name Weeping bottlebrush) species and be provided in 75ltr size (container size). 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.

#### PUBLIC IMPROVEMENTS

38. 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”.
39. The reconstruction of the kerb and gutter along all areas of the site fronting Lumeah Avenue is required. 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”.

#### SUBDIVISION

40. The submission of one final plan of subdivision and five copies.
41. Satisfactory completion of all conditions in this consent prior to the release of the Subdivision Certificate.
42. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
43. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.
44. The proposed Lot 2, being the dwelling on the left hand side when viewed from Lumeah Street, is to be known as 22A Lumeah Road, Punchbowl. The proposed Lot 1, being the dwelling on the right hand side when viewed from Lumeah Street, is to be known as 22B Lumeah Road, Punchbowl.

#### CRITICAL INSPECTIONS

45. Class 1 and 10 Buildings  
The following critical stage inspections must be carried out by the Principal Certifying

22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (CONT.)

Authority (either Council or the Accredited Certifier):

- 45.1. at the commencement of the building work, and
  - 45.2. after excavation for, and prior to the placement of any footings, and
  - 45.3. prior to paving any in-situ reinforced concrete building element, and
  - 45.4. prior to covering of the framework for any floor, wall, roof or other building element, and
  - 45.5. prior to covering waterproofing in any wet areas, and
  - 45.6. prior to covering any stormwater drainage connections, and
  - 45.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
46. 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

47. Prior to the issue of the Occupation Certificate, certification from an accredited engineer must be provided to either Council or an Accredited Certifier to certify that all stormwater system works has been carried out in accordance with the approved plan(s), relevant codes and standards. The accredited engineer must specifically certify achievement of total impervious areas being less than 70% of the lot area.
48. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

WE ALSO ADVISE:

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

49. 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.
50. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
  - a) Structural engineering work
  - b) Fire separation
  - c) Protection from termites
  - d) Smoke alarms
  - e) BASIX completion
  - f) Glazing
  - g) Waterproofing
51. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
52. 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.



22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS (CONT.)

- 53. 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.
- 54. 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.
- 55. If you are not satisfied with this determination, you may:
  - 55.1. 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
  - 55.2. 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.

**4 67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING**

**FILE NO:** 764/67D  
**REPORT BY:** DIRECTOR CITY DEVELOPMENT  
**WARD:** ROSELANDS

<b>D/A No:</b>	<b>DA-35/2015/A</b>
<b>Applicant:</b> <b>Owner:</b>	<b>Muhya Dean Mohamad</b> <b>As above</b>
<b>Zoning:</b>	<b>R3 – Medium Density Residential under the Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>23 February 2016, further information submitted 9 May 2016</b>

**Summary:**

- A modification application has been received seeking consent to widen the garage approved as part of an earlier development application for alterations and additions to the existing dwelling and construction of a secondary dwelling on site.
- The application is referred to the Independent Hearing and Assessment Panel for determination because the proposed variation to the minimum side setback control exceeds Council officer delegations.
- The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 and the proposed development is permissible with our consent.
- The application has been assessed against the relevant environmental planning instruments and policies including the Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. The development was found to satisfy the relevant controls, with the exception of our side setback control and further examination of this non-compliance is discussed in the body of this report.
- The application was notified in accordance with part 7 of the Canterbury Development Control Plan 2012. One submission was received, with the main issues raised being non-compliance with our side setback control and further loss of daylight and privacy as well as noise concerns. These issues are discussed in the main body of this report.
- It is recommended that the modification application be approved, subject to amended conditions.

**Council Delivery Program and Budget Implications:**

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

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

The site is located on the western side of Rosemont Street South, Punchbowl and contains a single storey dwelling. The site has a frontage of 10.06 metres, a depth of 45.11 metres and an overall area of 453.8m<sup>2</sup>. The site falls by approximately 2 metres from the rear to the front of the site. The surrounding land use is residential.



67 Rosemont Street (left) and 65 Rosemont Street (right), South Punchbowl



Location of proposed garage and proximity to adjoining dwelling 65 Rosemont Street South



Site Context

**Background**

On 13 August 2015 the former Canterbury Council City Development Committee approved DA-35/2015 for alterations and additions to the existing dwelling and construction of a secondary dwelling subject to conditions including conditions 6 and 7 which relate to the approved layout, colours and finishes. Preliminary works have commenced on site in relation to the approved development.

67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING (CONT.)

### Proposal

Council has received an application under Section 96 (1A) of the Environmental Planning and Assessment Act, 1979 to modify the development to increase the width of the garage to 2.905 metres. To facilitate this change the following design amendments are proposed:

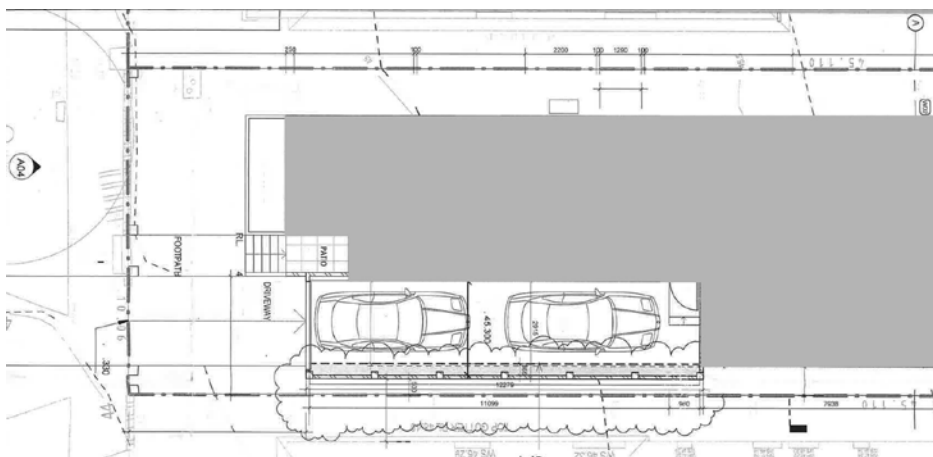
- The existing brick veneer side wall (250mm wide) would be retained;
- The existing north western side setback would be reduced from 900mm to 500mm; and
- The two windows in the north western wall would be deleted.

The modifications are proposed because the width of approved garage is under the current standards for enclosed parking spaces and users would be unable to adequately open their car doors. The applicant maintains this would result in residents not using the garage for parking and having to park on the street. The proposed changes are shown below.

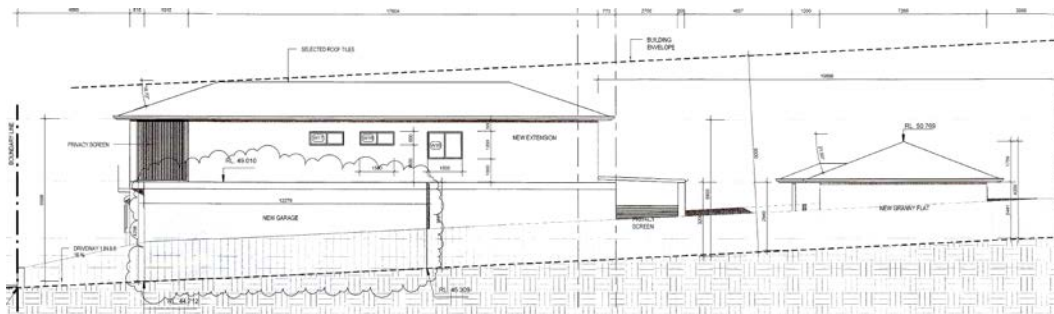
If supported, Conditions 6 and 7 of the existing approval would be modified to refer to the revised plans.



Front elevation showing proposed garage widening



Site plan showing proposed garage widening



Side elevation of proposed garage as would be seen  
from adjoining property 65 Rosemont Street

### Assessment of Section 96(1A) Application

Section 96(1A) of the Environmental Planning and Assessment Act, 1979 allows Council to modify development consent if:

- a) *it is satisfied that the proposed modification is of minimal environmental impact*  
The impact of the proposed modification is discussed in detail below and is considered to have minimal environmental impact.
- b) *it is satisfied that the development to which the consent as modified relates is substantially the same development,*  
The proposed modification is minor and would be substantially the same development.
- c) *it has notified the Section 96 application (if required) and has considered any submissions concerning the proposed modification,*  
Neighbouring properties were notified and one submission was received. This submission is discussed in the Notification section of this report, as part of our assessment against the provisions of Section 79C.

### Other Considerations

In determining an application for modification of the development consent, Council must also take into consideration relevant matters referred to in Section 79C (1) of the Environmental Planning and Assessment Act 1979. The following is a discussion of matters under Section 79C as being relevant to the current Section 96 application.

- **The provisions of any environmental planning instrument**

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

This site is zoned R3 Medium Density Residential under the CLEP 2012 and the proposed development for alterations to a dwelling is permissible with consent.

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67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING (CONT.)

**State Environmental Planning Policy - Affordable Rental Housing 2009 (ARH SEPP)  
and State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)**

The proposed modifications will have no impact on the proposal's original assessment against the provisions of the ARH SEPP and BASIX.

- **The provisions of any development control plan**

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

Part 6.8.5 - Parking requirements and design modifications

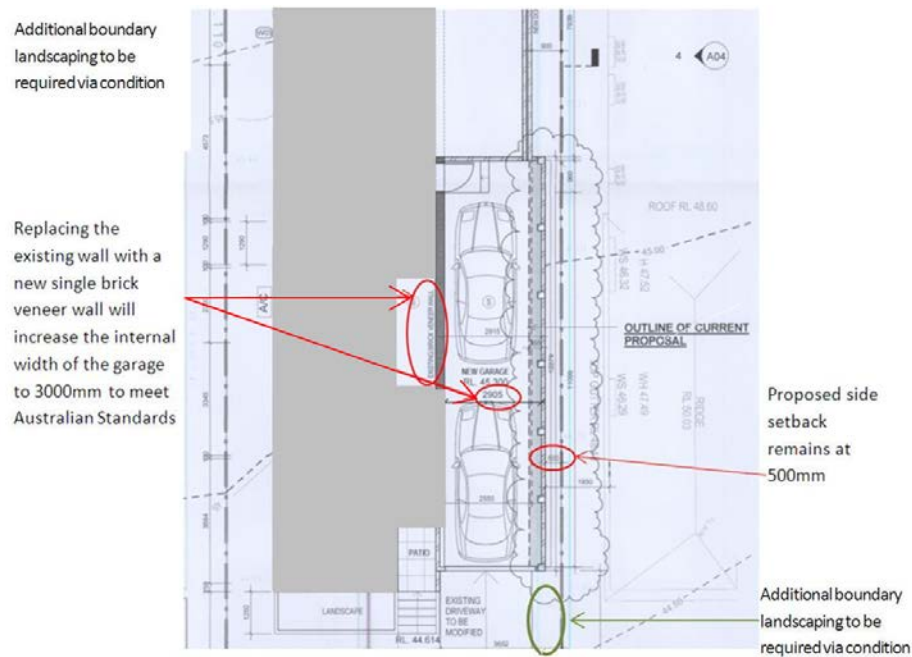
CDCP 2012 requires dwellings provide two on-site parking spaces. The two parking spaces within the approved garage satisfy this requirement, however the width of the garage is not wide enough to adequately access these car spaces. This modification application has been submitted to address this issue and ensure the proposal can genuinely comply with our parking provisions.

In assessing the proposal our Development Engineer advised the proposed modified garage, with a width of 2.905 metres would still not comply with the current design standards of AS/NZS 2890.1:2004 which requires the internal width of the garage be a minimum of 3 metres wide. It was noted however that the amended proposal would improve the practicality of the garage in contrast to the current approved garage, which is undersized with an internal width of 2.7 metres.

On this basis we have sought the written agreement of the owner/applicant to amend the proposal to ensure the internal width of the garage can be 3 metres to meet Australian Standards. The necessary changes are marked in red in the image below.

To ensure no further encroachment into the side setback would be necessary, the current 250mm wide side wall of the existing dwelling would need to be replaced with a single brick veneer wall. This would increase the internal width of the garage by some 110mm to provide the necessary 3 metre wide clearance. The proposed side setback of 500mm would remain. The applicant has agreed to these changes and it is this modified scheme which is the subject of the remaining assessment.

## 67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING (CONT.)



Proposed changes shown in red to increase the internal width of the garage to 3 metres. Landscaping shown in green discussed below.

#### Parts 2.1.6 and 2.1.7 - Merit assessment of reduced side setback

The modification application proposes to reduce the garage's setback from the side (northern) boundary from 900mm to 500mm. The rest of the ground level and upper level would still be setback 900mm. This change represents a 44% variation to our setback control which states dwellings should be setback a minimum of 900mm from a side boundary.

Our Building Surveyor has advised that a reduced setback is not usually supported where the garage is incorporated under the dwelling roof as is the case here and that the proposal should be setback 900mm. Garages or carports that are located closer to the boundary usually comprise single storey outbuilding style constructions with independent roof structures.

Although reduced side setbacks are not usually encouraged for these dwelling types, the setback encroachment is a result of the narrowness of the site and the development is limited by the layout of the existing dwelling which will be largely retained.

The impact of not supporting the proposal would mean future occupants are unlikely to use the garage for parking and would park on the street. This would be a poor outcome both for the future occupants and surrounding properties that rely on on-street parking and the proposal would not be capable of meeting our parking requirements.



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67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING (CONT.)

Another option would be that the applicant considers an open carport style structure that would provide undercover parking while not needing to encroach into the setback area. The disadvantages of a carport however is that the noise from cars using this area is likely to be greater than what is currently proposed as it would no longer be buffered by the garage wall. The applicant has also indicated they would like secure parking, which a carport would not provide.

The relevant objectives of the setback control are to establish the desired spatial proportions of the street, limit the scale and bulk of new building by retaining landscaped open space around and provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely impacts of new development.

The existing streetscape in this part of Rosemont Street is predominately single storey brick dwellings on narrow sites (10.06 metres), some with single storey carport or garage outbuildings within the side setback area. The portion of the building that would be within the side setback area would be single storey and only for the length of the garage. When viewed from the street this additional 400mm would not be sufficiently discernible to disrupt the spatial proportions of the street or have an adverse visual impact on the streetscape. The current approval does not provide any substantial landscaping within this side setback area however additional boundary landscaping will now be required to be provided in the front setback area along the northern boundary as a condition of consent to soften the appearance of building.

The proposal would reduce the separation distance between the neighbouring property by 400mm and we have received a submission objecting to the proposal citing concerns of non-compliance with our policies and additional impacts in relation to noise, acoustic privacy and daylight. The proposed garage would adjoin bedroom windows and there is concern that bringing the structure closer would result in additional noise impacts and further loss of acoustic privacy.

In terms of acoustic privacy and noise, the proposal would remove the two windows that are currently approved in the side wall of the garage which would assist in restricting noise transmission from the garage. Ensuring parking for this site remains within a garage (rather than on the driveway or street) would also go some way to limiting noise and acoustic privacy impacts associated with vehicles on site. Shadows from the garage structure will fall within the subject site itself meaning it will have no impact on the solar access of adjoining properties.

Although the proposal is seeking a departure from our setback control that we rarely support, the circumstances of the site mean that the proposal would improve the practicality of the garage and support its use for parking purposes. The additional impacts on the adjoining property are not considered to be significant enough to outweigh the benefit of providing useable on-site parking or warrant refusal of the application on privacy or noise grounds. Subject to the internal design modifications and additional boundary landscaping requirements, the proposal is considered to be



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67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING (CONT.)

consistent with the objectives of the setback control. In this instance the reduced setback should be supported.

- **The likely impacts of the development and the suitability of the site for the development**

The proposed modifications relate to an approved dwelling which is a permissible form of development within the zone. The impacts of the development have been considered as part of the CDCP 2012 assessment above. The setback encroachment is a result of the narrowness of the site and is seeking to ensure the garage is useable so that future occupants will not park on the street. The proposal is considered to be suitable for the site.

- **The Public Interest**

The public interest was taken into consideration whilst assessing this development application. The recommendation to support a reduced side setback is for reasons that are specific to this site, and its approval is not considered to set an undesirable precedent for other development in the locality. Having regard to the matters discussed above, the proposed modification is considered to be satisfactory and worthy of support.

### **Notification**

The application was notified to all adjoining owners and occupiers in accordance with Part 7 of the CDCP 2012. One submission was received which raised the following concerns:

- **Additional noise and acoustic privacy impacts to bedrooms**

Comment

This matter has been addressed above as part of the consideration of the application against the provisions of CDCP 2012. The removal of the two windows in the side wall of the garage will assist in restricting noise transmission from the garage and addressing acoustic privacy concerns. Relocating the garage 400mm closer to the side boundary is not considered to result in a significantly adverse impact on the acoustic amenity of the neighbour to warrant refusal of the application.

- **Loss of daylight**

Comment

Shadows from the garage structure will fall within the subject site itself meaning a closer structure would not impact the solar access of adjoining properties.

- **The proposal does not comply with Council's own policies**

Comment

The proposal seeks to vary a setback control within CDCP 2012, which is a non-legal document that supports CLEP 2012 with more detailed planning and design guidelines. While there is an expectation that applications should comply with the

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67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING (CONT.)

controls, some departures may be acceptable where it can be justified that the departure or non-compliance:

- results in a development that on its merits still achieves the objectives of the control that is proposed to be varied; and
- will not result in any greater amenity impacts on surrounding properties than a compliant development.

The amenity impact on surrounding properties has been considered and found to be acceptable given the design changes to the garage and location of the structure on the northern side of the site. The application has been assessed against the objectives of the setback control and found to be consistent. A variation to the setback control in this instance is considered to be justified.

### Conclusion

The proposed modification is substantially the same development that was originally considered and approved by the former Canterbury Council City Development Committee. The proposed modification is considered acceptable having regard to the provision of Sections 79C and 96 of the Environmental Planning and Assessment Act, 1979. Approval of the application under Section 96 is recommended.

### RECOMMENDATION:

THAT the modification to Development Consent DA-35/2015 be **APPROVED** by replacing Condition numbers 6 and 7 with the following:

6. The development being carried out in accordance with the plans, specifications and details prepared by Mhanna Architects, dated 16 February 2016 and marked Drawing Plan No.: A01 Issue S96, A02 Issue S96, A03 Issue S96 and A07 as received by Council on 19 February 2016 except where amended by the conditions specified in this Notice, including the following:
  - (i) Drawing Number A02 Issue S96 shall be amended to replace the existing brick veneer side wall with a new single brick veneer side wall to increase the internal width of the garage to at least 3000mm wide. This is to comply with Figure 5.2 of AS/NZS 2890.1: 2004. The setback of the garage from the north western boundary must remain at 500mm.
  - (ii) Drawing Number A07 shall be amended to provide additional screening planting along the northern boundary within the front setback area. Screening shrubs are to reach minimum height of 2 metres at maturity.
7. Finishes and materials including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the schedule of materials prepared by Mhanna Architects labelled Drawing A06 as received by Council on 19 February 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.